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IMPOUNDMENT CONTROL ACT

Use and Impact of Rescission Procedures

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Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss the General Accounting Office's role in the congressional rescission process and to provide some perspective on the use and impact of rescissions.

The Impoundment Control Act of 1974 (ICA) was enacted to tighten congressional control over Presidential impoundments and establish a procedure under which Congress could consider the merits of impoundments proposed by the President. Under the ICA the President may propose a rescission when he wishes to withhold funds from obligation permanently or submit a deferral when the withholding of funds is temporary. Funds proposed for rescission may be withheld from obligation for 45 days of continuous congressional session. If Congress does not approve the rescission during this period, the President must release the funds on the 46th day. The ICA also provides a special discharge procedure permitting 20 percent of the members of either house to force a floor vote on any presidential rescission proposal.

Rescissions under the ICA have not historically served as a significant spending reduction tool. Since enactment of the ICA in 1974, Presidents have proposed 1,172 rescissions totaling \$75.8 billion dollars. The Congress has accepted 459 of those proposals (39%), totaling \$24.9 billion (33%). During this period, Congress has initiated \$104.8 billion in rescissions to revise spending decisions.

The Comptroller General's Role

As you know, the President is required to send a copy of the special message proposing rescissions or deferrals to the Comptroller General on the same day it is sent to the Congress. Under the ICA, the Comptroller General is required to review each special message and report his findings to the Congress as soon as practicable. We review each message to verify the facts surrounding, as well as the justification for, and the estimated program effect of, the proposed impoundment. We do this by talking with program officials, reviewing the latest agency budget documents and discussing the proposed rescission with Office of Management and Budget (OMB) officials. We also review each message to ensure that it is not misclassified, such as a rescission proposal reported as a deferral. We report our findings on each special message to the Congress, typically within 25 working days after receipt of the President's message.

The ICA also requires the Comptroller General to report to the Congress any impoundment which the President has failed to report. Obviously, it would be impractical to attempt to continuously review every account of the government, but we have found that this is unnecessary. When an unreported withholding takes place, concerned Members or Committees of the Congress, intended recipients, or our auditors typically bring it to our attention.

After the President submits an impoundment message to the Congress, we are responsible for monitoring the status of affected funds. For example, we monitor deferred budget authority to ensure that the funds are released in time to allow for prudent obligation. Well before the expiration of deferred appropriations, we initiate inquiries at OMB to verify that the funds will not be permitted to lapse. If it appears that a lapse may occur, we report the deferral to the Congress as a *de facto* rescission. We also monitor the 45-day statutory time limit associated with proposed rescissions to ensure that funds are released promptly following congressional disapproval or the expiration of the 45-day time limit.

If the funds are not promptly released after the expiration of the 45-day period, the Comptroller General is empowered to bring a civil action in the United States District Court for the District of Columbia to require release of the budget authority. Prior to bringing suit, the Comptroller General must report to the Speaker of the House of Representatives and the President of the Senate the circumstances giving rise to the need to bring suit. We may not initiate a suit until the passage of 25 days of continuous session of Congress.

During the initial years of the ICA, we filed suit on one occasion and filed 25-day reports on several other occasions. In each case, the funds were released. In recent years, it has not been necessary to resort to these procedures.

Finally, we provide statistical summaries and analyses on the impoundment process, as an adjunct to the above roles. In the past, we informally provided a variety of data to the Congress. As the level of interest in this area has increased, we have prepared and periodically submitted to the Congress formal summaries of the number and dollar amounts of the President's proposed and enacted rescissions, and of congressionally initiated rescissions. Attachment I summarizes all proposed and enacted rescissions since 1974.

Mr. Chairman, I would now like to turn to our rescission data to provide some perspective on the use of rescissions by both the President and the Congress since the ICA was enacted.

Use of the Rescission Process

Both Republican and Democratic presidents have submitted substantial rescission proposals in each year, save one, since 1974. However, the number and dollar values proposed have varied widely with each administration. See attachment II. For example, the Reagan administration proposed the highest number (245 in 1985) and highest dollar value (\$15.4 billion in 1981) as well as the lowest (zero in 1988).

Since 1974, the Congress has approved about 39 percent of Presidential rescission proposals, totaling about 33 percent of the budget authority proposed for rescission. The approval rate varies by administration. In the Clinton administration, Congress has approved about 68 percent of the proposals, covering 55 percent of the budget authority proposed for rescission. In the Bush administration, Congress approved about 20 percent of the proposals, covering 18 percent of the budget authority proposed for rescission. The comparable numbers for the Reagan administration were about 36 percent of both the rescissions proposed and the associated budget authority. In the Carter administration, the comparable numbers were 56 percent of the rescissions proposed and 46 percent of the budget authority.

The Congress, on its own initiative, has made increasing use of rescissions as a tool to revise enacted budget authority¹. As shown in attachment I, the Congress has not merely reacted to presidential proposals, but has also initiated its own rescissions. Overall, since 1974, congressionally initiated rescissions total nearly \$105 billion. When this is added to the presidential proposals accepted by the Congress, the total of nearly \$130 billion of enacted rescissions exceeds the nearly \$76 billion proposed by all presidents since 1974.²

This data suggest an evolution in the use of rescissions as a budgetary tool. In 1974, at the time of enactment of the Impoundment Control Act, the rescission procedure was envisioned as a mechanism to accommodate a President's desire to impound funds by providing for congressional review

¹These congressionally initiated "rescissions" are independent of the Impoundment Control Act of 1974.

²These estimates do not include rescissions of an indefinite amount of budget authority; that is, rescissions that do not cancel a specific dollar value at the time of enactment.

and approval of presidential rescission proposals. Congress, of course, can always rescind enacted budget authority on its own initiative, either to reduce spending or to adjust spending priorities. Over time, the share of total rescissions enacted each year which were originally proposed by the president has fallen and the share originating in the Congress has increased.

Prior to the enactment of the Balanced Budget and Emergency Deficit Control Act of 1985, Congress enacted approximately \$18.6 billion (or about \$1.7 billion/year) of the \$38 billion proposed for rescission by the president, while enacting approximately \$11.2 billion (or \$1 billion/year) in congressionally initiated rescissions. From 1985 through 1990, the years under the Balanced Budget Act, Congress enacted approximately \$355 million (or \$59 million/year) of the \$18.5 billion proposed for rescission by the president, while enacting approximately \$29.7 billion (or about \$5 billion/year) in congressionally initiated rescissions. From 1991 through 1998 under the Budget Enforcement Act of 1990, Congress enacted approximately \$5.9 billion (or about \$737 million/year) of the \$19.3 billion proposed for rescission by the president, while enacting approximately \$63.9 billion (or about \$8 billion/year) in congressionally initiated rescissions.

The Fiscal and Programmatic Effects of Rescissions

While these statistics highlight Congress' increasing use of rescissions, the relatively small amounts rescinded make clear that rescissions have not been a major tool to reduce spending. Under the ICA, the President can propose rescissions only for funding provided by annual appropriations or supplementals - referred to as discretionary spending. Today this spending represents only about one-third of the budget and is constrained by statutory caps. However, it is the remaining two thirds of the budget, which is spent on such programs as Social Security and Medicare, and interest on federal debt, which has driven the deficits. Under the ICA, the President cannot propose rescissions in mandatory spending.

Also, enacted rescissions do not reduce total spending if the rescinded amount is used to offset spending of an equivalent amount of budget authority in another account. In such cases, the rescission in effect transfers funds from one program to another, thereby shifting budget priorities rather than reducing spending. It is our sense that rescissions are often used to offset new appropriations under the discretionary spending caps. Although not required, Congress has recently offset some or all of

emergency appropriations with reductions in other discretionary spending.

Expedited Rescission Proposals

This is not to say that rescissions are unimportant. Certainly, the President's rescission proposals can foster debate between the President and the Congress over funding priorities and cuts in specific programs. To enhance accountability and further public debate over spending priorities, there have been a number of proposals presented in Congress over the years for an expedited rescission process. Although the details of the proposals vary, expedited rescission proposals are designed to ensure rapid and formal congressional consideration of rescissions proposed by the President. An essential element of an expedited rescission procedure is a prompt up-or-down vote in the Congress on the President's proposals to reduce enacted spending authority. Since budget authority is not canceled unless a law rescinding existing budget authority is enacted in accordance with Article I, Section 7 of the Constitution, an expedited rescission process does not present the constitutional issues that led the Supreme Court to strike down the Line Item Veto Act. (Clinton v. City of New York, 118 S.Ct.2091 (1998).)

The necessity for, and the form of, an expedited rescission process are, of course, a matter for Congress to decide. We have one logistical concern. As noted earlier, an expedited rescission process requires a prompt vote, for example, within 10 days of receipt of the President's proposal. Such a timeframe will limit our ability to support congressional review of the President's proposed rescissions.

Conclusion

In summary, Mr. Chairman, we believe that 25 years of experience show that the rescission process has been used, as designed, by presidents to advance their own priorities for spending cuts. But rescissions have also been increasingly used by the Congress as a vehicle to express its own view of changing priorities, especially in an era of tight discretionary spending caps. As the Congress has come to enact greater reductions in budget authority than proposed by presidents, the debate has shifted from deciding whether to cut to deciding where to cut.

Thank you, Mr. Chairman. This concludes my prepared remarks. I would be happy to answer any questions you may have.

Summary of Proposed and Enacted Rescissions, Fiscal Years 1974-1998 (All Legislative Action Through October 1, 1998)

Fiscal year	Rescissions proposed by president	Dollar amount proposed by president for rescission	Proposals accepted by Congress	Dollar amount of proposals enacted by Congress	Rescissions initiated by Congress	Dollar amount of rescissions initiated by Congress	Total rescissions enacted	Total dollar amount of budget authority rescinded
1998	25	\$25,260,000	21	\$17,276,000	43	\$4,180,814,234	64	\$4,198,090,234
1997	10	407,111,000	6	285,111,000	96	7,381,253,000	102	7,666,364,000
1996	24	1,425,900,000	8	963,400,000	104	4,974,852,131	112	5,938,252,131
1995	29	1,199,824,000	25	845,388,805	248	18,868,380,121	273	19,713,768,926
1994	65	3,172,180,000	45	1,293,478,546	81	2,374,416,284	126	3,667,894,830
1993	7	356,000,000	4	206,250,000	74	2,205,336,643	78	2,411,586,643
1992	128	7,879,473,690	26	2,067,546,000	131	22,526,953,054	157	24,594,499,054
1991	30	4,859,251,000	8	286,419,000	26	1,420,467,000	34 ¹	1,706,886,000
1990	11	554,258,000	0	0	71	2,304,986,000	71	2,304,986,000
1989	6	143,100,000	1	2,053,000	11	325,913,000	12	327,966,000
1988	0	0	0	0	61	3,888,663,000	61	3,888,663,000
1987	73	5,835,800,000	2	36,000,000	52	12,359,390,675	54	12,395,390,675
1986	83	10,126,900,000	4	143,210,000	7	5,409,410,000	11	5,552,620,000
1985	245	1,856,087,000	98	173,699,000	12	5,458,621,000	110	5,632,320,000
Subtotal:								
1985-1998	736	\$37,841,144,690	248	\$6,319,831,351	1,017	\$93,679,456,142	1,265	\$99,999,287,493
Subtotal:								
1974-1984	436	\$38,018,165,000	211	\$18,670,073,366	111	\$11,215,221,347	322	\$29,885,294,713
Grand Total:								
1974-1998	1,172	\$75,859,309,690	459	\$24,989,904,717	1,128	\$104,894,677,489	1,587	\$129,884,582,206²

¹The Military Construction Appropriations Act of 1991 approved certain rescissions approved by the President in 1990 41 days after the funds were released for obligation under the Impoundment Control Act. Presidential rescission proposals R90-4, R90-5, and R90-10 totalling about \$41 million were not approved.

²The total estimate of budget authority rescinded is understated. This table does not include rescissions which eliminate an indefinite amount of budget authority.

Attachment I
Summary of Proposed and Enacted
Rescissions, Fiscal Years 1974-1998 (All
Legislative Action Through October 1, 1998)

Fiscal year	Rescissions proposed by president	Dollar amount proposed by president for rescission	Proposals accepted by Congress	Dollar amount of proposals enacted by Congress	Rescissions initiated by Congress	Dollar amount of rescissions initiated by Congress	Total rescissions enacted	Total dollar amount of budget authority rescinded
1984	9	\$636,400,000	3	\$55,375,000	7	\$2,188,689,000	10	\$2,244,064,000
1983	21	1,569,000,000	0	0	11	310,605,000	11	310,605,000
1982	32	7,907,400,000	5	4,365,486,000	5	48,432,000	10	4,413,918,000
1981	133	15,361,900,000	101 ³	10,880,935,550	43	3,736,490,600	144	14,617,426,150
1980	59	1,618,100,000	34	777,696,446	33	3,238,206,100	67	4,015,902,546
1979	11	908,700,000	9	723,609,000	1	47,500,000	10	771,109,000
1978	12	1,290,100,000	5	518,655,000	4	67,164,000	9	585,819,000
1977	20	1,926,930,000	9	813,690,000	3	172,722,943	12	986,412,943
1976	50	3,582,000,000	7	148,331,000	0	0	7	148,331,000
1975	87	2,722,000,000	38	386,295,370	1	4,999,704	39	391,295,074
1974	2	495,635,000	0	0	3	1,400,412,000	3	1,400,412,000
Subtotal:								
1974-1984	436	\$38,018,165,000	211	\$18,670,073,366	111	\$11,215,221,347	322	\$29,885,294,713⁴

³Thirty-three rescissions proposed by President Carter and totalling over \$1.1 billion are not included in this table. These rescission proposals were converted to deferrals by President Reagan in his Fifth Special Message for Fiscal Year 1981 dated February 13, 1981.

⁴The total estimate of budget authority is understated. This table does not include rescissions which eliminate an indefinite amount of budget authority.

Rescissions by Presidential Administration Under the Impoundment Control Act

Fiscal year	Rescissions proposed by President Clinton		Presidential proposals accepted by Congress			Rescissions initiated by Congress during Clinton administration	
	Number	Dollar amount	Number accepted	Dollar amount	Percent accepted	Number	Dollar amount
1998	25	\$25,260,000	21	\$17,276,000	84	43	\$4,180,814,234
1997	10	407,111,000	6	285,111,000	60	96	7,381,253,000
1996	24	1,425,900,000	8	963,400,000	33	104	4,974,852,131
1995	29	1,199,824,000	25	845,388,805	86	248	18,868,380,121
1994	65	3,172,180,000	45	1,293,478,546	69	81	2,374,416,284
1993	7	356,000,000	4	206,250,000	57	66	1,962,511,000
Total	160	\$6,586,275,000	109	\$3,610,904,351	68	638	\$39,742,226,770

Fiscal year	Rescissions proposed by President Bush		Presidential proposals accepted by Congress			Rescissions initiated by Congress during Bush administration	
	Number	Dollar amount	Number accepted	Dollar amount	Percent accepted	Number	Dollar amount
1993	0	\$0	0	\$0	0	8	\$242,825,643
1992	128	7,879,473,690	26	2,067,546,000	20	131	22,526,953,054
1991	30	4,859,251,000	8	286,419,000	27	26	1,420,467,000
1990	11	554,258,000	0	0	0	71	2,304,986,000
1989	0	0	0	0	0	11	325,913,000
Total	169	\$13,292,982,690	34	\$2,353,965,000	20	247	\$ 26,821,144,697

Fiscal year	Rescissions proposed by President Carter		Presidential proposals accepted by Congress			Rescissions initiated by Congress during Carter administration	
	Number	Dollar amount	Number accepted	Dollar amount	Percent accepted	Number	Dollar amount
1981	33	\$1,142,364,000	0	\$0	0	0	\$0
1980	59	1,618,100,000	34	777,696,446	58	33	3,238,206,100
1979	11	908,700,000	9	723,609,000	82	1	47,500,000
1978	12	1,290,100,000	5	518,655,000	42	4	67,164,000
1977	7	791,552,000	2	96,090,000	29	3	172,722,943
Total	89	\$4,608,452,000	50	\$2,116,050,446	56	41	\$3,525,593,043

Note: The 33 rescissions proposed by President Carter were converted to deferrals by President Reagan in his Fifth Special Message of Fiscal Year 1981, dated February 13, 1981.

**Attachment II
Rescissions by Presidential Administration
Under the Impoundment Control Act**

Fiscal year	Rescissions proposed by President Ford		Presidential proposals accepted by Congress			Rescissions initiated by Congress during Ford administration	
	Number	Dollar amount	Number accepted	Dollar amount	Percent accepted	Number	Dollar amount
1977	13	\$1,135,378,000	7	\$717,600,000	54	0	\$0
1976	50	3,582,000,000	7	148,331,000	14	0	0
1975	87	2,722,000,000	38	386,295,370	44	1	4,999,704
1974	2	495,635,000	0	0	0	3	1,400,412,000
Total	152	\$7,935,013,000	52	\$1,252,226,370	34	4	\$1,405,411,704

Fiscal year	Rescissions proposed by President Reagan		Presidential proposals accepted by Congress			Rescissions initiated by Congress during Reagan administration	
	Number	Dollar amount	Number accepted	Dollar amount	Percent accepted	Number	Dollar amount
1989	6	\$143,100,000	1	\$2,053,000	17	0	\$0
1988	0	0	0	0	0	61	3,888,663,000
1987	73	5,835,800,000	2	36,000,000	3	52	12,359,390,675
1986	83	10,126,900,000	4	143,210,000	5	7	5,409,410,000
1985	245	1,856,087,000	98	173,699,000	40	12	5,458,621,000
1984	9	636,400,000	3	55,375,000	33	7	2,188,689,000
1983	21	1,569,000,000	0	0	0	11	310,605,000
1982	32	7,907,400,000	5	4,365,486,000	16	5	48,432,000
1981	133	15,361,900,000	101	10,880,935,550	76	43	3,736,490,600
Total	602	\$43,436,587,000	214	\$15,656,758,550	36	198	\$33,400,301,275

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