

United States Senate

WASHINGTON, DC 20510-4502

August 24, 2018

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20510

The Honorable Mick Mulvaney
Director
Office of Management and Budget
Eisenhower Executive Office Building
Washington, DC 20503

Dear Secretary Pompeo and Director Mulvaney:

On May 5, 2017, President Trump signed into law the Department of State, Foreign Operations, and Related Programs Appropriations (SFOPS) Act as part of the Consolidated Appropriations Act, 2017 (P.L. 115-31). On March 23, 2018, the President signed into law the Fiscal Year 2018 SFOPS Act as part of the Consolidated Appropriations Act, 2018 (P.L. 115-141). Those bipartisan acts, which fund a wide array of U.S. national security and other foreign policy priorities on every continent, were the product of extensive, detailed negotiations between the Senate and House of Representatives and decisive votes in favor by each, as well as regular consultation with the Administration, including the Department of State and OMB. They each contain tens of billions of dollars to support the President's priorities, as well as other operations and programs that Republicans and Democrats have long regarded as essential to protect American interests, promote American values, and sustain U.S. global leadership.

When the President signed P.L. 115-141 he criticized the practice of enacting multiple appropriations bills in a single Consolidated Act. I agree that enacting individual bills is preferable, and the Senate has been working diligently to pass such bills for Fiscal Year 2019. This has been possible because of the trust and cooperation Republicans and Democrats have established over many years, resulting in balanced bills – such as P.L. 115-31 and 115-141 – which have garnered overwhelming bipartisan support and the President's signature.

Over the past several weeks, press reports suggest that the President may submit a package of rescissions of Fiscal Years 2017 and 2018 SFOPS funds that are due to expire on September 30, 2018. While the President is allowed under the Impoundment Control Act of 1974 (ICA) to propose rescissions, if the Senate and House have not each affirmatively acted to approve a rescission proposal within 45 days of continuous legislative session those funds may not be rescinded and must be made available for obligation. Submitting a rescissions proposal in the waning days of the fiscal year would make a mockery of the 45-day rule, thwarting the role and will of Congress and preventing the executive agencies from obligating the funds. I believe such a proposal is inconsistent with the Impoundment Control Act. It would cause significant damage to the bipartisan consensus that produced those funds and to the Congress's ability to work cooperatively with the Administration on future appropriations matters.

I do not oppose rescissions per se. In fact, Congress has approved selected rescissions in the past (including in the Fiscal Year 2018 SFOPS Act) when there was agreement that the funds could not be used effectively for the purposes for which they were appropriated or for other purposes. But the timing of this rescissions package, less than 45 days before the end of the fiscal year, could result in the rescissions taking effect without the approval of Congress required under the ICA.

It is for these reasons – compliance with the legal requirements and intent of the ICA, protection of the operations and programs that would be harmed by such rescissions, and preservation of the cooperative legislative process that benefits both branches of government and the American people – that I strongly urge the Administration not to proceed with rescissions at this late date in the fiscal year. I would appreciate your assurance at the earliest possible date that no such rescission package will be submitted and that the funds—most of which have been available for over 15 months—will be responsibly obligated prior to September 30, 2018.

Sincerely,



PATRICK LEAHY

Vice Chairman

Committee on Appropriations