The Consequences of Rescissions

As Congress looks to fund the government for 2019, Trump tries to rescind funding for 2018.

April 20, 2018 By AIDS United

If the calling card of the Fiscal Year 2018 budget and appropriations process was a mixture of procrastination, partisan bickering and a total budgetary disconnect between House and Senate leadership, it looks like the Fiscal Year 2019 budget could actually be marked by something approaching regular order and bipartisan compromise. With the midterm elections less than 6 months away and both parties reticent to vote on anything controversial that could adversely affect them at the polls, there is increased pressure on Republican leadership to avoid another messy appropriations process and a government shutdown that would seriously impact their chances of retaining control of the House and Senate.

Newly appointed Senate Appropriations Chairman Richard Shelby (R-AL) met with appropriations subcommittee chairs and Senate Majority Leader Mitch McConnell (R-KY) earlier in the week to discuss their strategy for the FY19 appropriations process, with their primary goal being a quick, relatively painless approval of all 12 spending bills that avoids an omnibus. To this end, both Senator Shelby and House Appropriations Chairman Rodney Frelinghuysen say they have instructed their appropriations subcommittee heads to limit the number of ideological riders that are attached to their spending bills in the hopes that eliminating the “poison pill” riders around issues like abortion and immigration will keep Democrats at the negotiating table. And, with members having passed the Bipartisan Budget Act of 2018 which set topline spending levels well above where they were this time last year, there’s certainly a chance for success.

While Congress is rightly focused on the FY19 budget, President Trump and Office of Management and Budget Director Mick Mulvaney are still trying to undo spending that was approved for FY18. Employing a rarely used budgetary process known as rescission, Trump and Mulvaney are looking to cut out significant chunks of non-defense discretionary spending that Congress already voted for and that President Trump already signed into law.

According to the rules of rescission, the President can request that Congress rescind funding that has already been appropriated. Once the request is made, Congress has 45 days to either approve or deny the request by a simple majority vote. If Congress approves the request, then that funding will be removed from the budget. If Congress denies the request, the funding must be released back to the agencies where it was originally assigned.

So far, members of Congress on both sides of the aisle have shown no appetite for approving

whatever rescissions the President might request. When asked about it last week, Labor, Health and Human Services Appropriations Subcommittee Chairman Tom Cole (R-OK) said that he thinks, “the whole rescission effort is unrealistic and dangerous… It’s hard enough to make a bargain around here. But you can’t break your word when you do. … You’d never have another deal ever.”

The timetable for the Trump administration’s release of its rescissions package is still in flux, although OMB Director Mulvaney indicated that a formal proposal would be made to Congress within the next couple of weeks and, perhaps more troubling, that the administration was considering releasing multiple rescission packages over the next few months. This is problematic in that all funding that is designated for rescission by the President is automatically frozen while it is being considered by Congress, meaning that agencies cannot access those funds during the 45-day period Congress has to respond to the President’s request. With only a little more than 5 months left in FY18 with which to spend funding that was only made available in March, there is a chance that, even if Congress voted against the President’s request, the lengthy rescission process itself could hold up funding long enough to keep agencies from spending all of the money they were appropriated, which would be a massive loss as this funding can’t be carried over into the next fiscal year.

AIDS United will keep you abreast of any new developments that impact people living with or affected by HIV with regards to both the rescission process and FY19 appropriations as they happen.

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