

PUBLICATION

With a Rescission Package on the Way, Fiscal Uncertainty Persists in Washington

Authors: Sheila P. Burke

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Having approved a two-year budget agreement in February and the bipartisan Consolidated Appropriations Act of 2018 in March, Congressional appropriators would, in most years, move on to crafting the next fiscal year's appropriations packages. However, this year is different. Trump Administration officials have been in talks with House Majority Leader Kevin McCarthy on a rescission package, an infrequently used mechanism that modifies an already-passed federal appropriation measure. The intent is to settle conservative backlash and President Trump's reported significant frustration over last month's \$1.3 trillion spending package, which the President signed after threatening to veto the measure over the objections of GOP leaders. At the same time, the President demanded Congress grant him a line-item veto, which has been ruled unconstitutional by the Supreme Court. Given the pressure from the White House and the conservative wing of the House GOP caucus, according to Leader McCarthy, the rescission effort may reach beyond last month's spending package and look to cut unused funds from past years' federal appropriations.

Office of Management and Budget Director Mick Mulvaney is leading the effort to develop the rescission package, which will likely be released around May 7. The proposal will reportedly call for \$25 billion in cuts (primarily out of domestic spending) from last month's \$1.3 trillion omnibus, approximately three percent of the whole spending package.

Any rescission package would only need a majority of votes for passage in the House and Senate, a threshold that could be reached without the support of the Democrats. However, with an election in November, it is unlikely House or Senate Republicans will be able to formulate a rescission package that cuts spending enough to win White House approval while simultaneously attracting enough Republican support to pass the measure through Congress.

Congressional passage of the bill would no doubt be an uphill climb as initial reactions to the package in the House GOP caucus have been positive, while the Senate GOP has not been as receptive. Several Senate GOP appropriators have already ruled out the idea of revising a package painstakingly negotiated with Democrats. Senate Appropriations Chairman Richard Shelby (R-AL) reportedly told President Trump that the rescissions package would be difficult, even among Republicans, saying "I said that I thought it would be very difficult to move things out of the Appropriations Committee." Adding to the challenges facing the potential proposal, Senate Majority Leader Mitch McConnell criticized rescission efforts, saying "We had an agreement with the Democrats. You can't make an agreement one month and say, 'OK, we really didn't mean it.'" It is notable that rescission measures are usually used to shift funds around rather than make cuts and that no rescission measures designed to cut spending have passed Congress in the past 25 years.

If GOP leaders decide to act on the President's proposal, Congress would then draft its own rescission bill in response, leaving it up to the Appropriations panels to identify which accounts would be cut and at what levels. If the Appropriations committees do not act within 25 days of the President's proposal, any member could file a discharge petition to bring up the rescission package for a vote. Even if the bill fails to pass, it will likely delay

consideration of fiscal year 2019 appropriations and further slow an already backlogged summer congressional calendar.

We will keep a close eye on the details as they become available.