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Trump's Attempt to Freeze Federal Spending Unlikely to Succeed

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We do *not* believe that the Trump administration will be successful in their attempts to freeze / cut federal funding that Congress authorized. However, we do see this attempt by the Trump administration as increasing the odds of a government shutdown—to maybe one in four—on March 14 when the current continuing resolution expires.

Why would Democrats want to negotiate a spending bill with Republicans if the president can simply refuse to spend the funds? We would expect Democrats to demand some assurances in the spending bill, which Republicans will be loath to give in on.

We would expect Judge Loren AliKhan, who was appointed by President Biden, to extend her stay beyond Monday at 5:00 pm. In fact, we don't expect Trump's cuts to ever go into effect if we are right and the courts rule against him.

The Trump administration, in our view, is pursuing this path to accomplish two things in particular: 1) overturn the Budget and Impoundment Control Act of 1974, namely Title X, which in short, the bill put limits on the president's ability to impound / rescind funding that was authorized by Congress; and 2) claim the Constitution favors the president. Both of which are linked.

First, the president's order appears to have violated the Budget and Impoundment Control Act in a couple of ways:

- The White House didn't formally notify Congress about the specific spending cuts / freezes.
- After being notified, Congress then has 45 days to approve the president's actions, which obviously didn't occur.

Russell Vought, who is slated to become Trump's Office of Management and Budget (OMB) Director, has argued that Congress's power of the purse has been understood to establish a ceiling on spending and not a floor. So, he alleges that the executive could spend less than what Congress appropriated.

However, in our view, the prevailing consensus among constitutional scholars is that Congress has broad power to determine spending levels and how the appropriated funds are spent. Moreover, as the Center on Budget and Policy Priorities (CBPP) has pointed out "courts—including the Supreme Court have repeatedly rejected presidential attempts to spend less than Congress had provided."

In our view, the final arbiter on this issue is going to be the U.S. Supreme Court, and we believe that despite their conservative leaning, they will rule against Trump. Keep in mind that many conservatives are loath to give the president such authority, concerned about putting too much power in one person's hands.

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