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White House Shifted Authority Over Ukraine Aid Amid Legal Concerns

House Democrats investigate why a political appointee was given control of dispensing military aid after staff questioned delay



President Trump has said he ordered aid to Ukraine frozen because he wanted European countries to do more to support that nation. PHOTO: MANUEL BALCE CENETA/ASSOCIATED PRESS

By Andrew Duehren and Gordon Lubold

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WASHINGTON—The White House gave a politically appointed official the authority to keep aid to Ukraine on hold after career budget staff members questioned the legality of delaying the funds, according to people familiar with the matter, a shift that House Democrats are probing in their impeachment inquiry.

President Trump's order to freeze nearly \$400 million in aid to Ukraine in mid-July is at the center of House Democratic efforts to investigate allegations that Mr. Trump used U.S. foreign policy powers to benefit himself politically. The hold came days before Mr. Trump's request, on a July 25 call, that the Ukrainian president work with Rudy Giuliani and Attorney General William

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Mr. Trump has said he ordered the aid frozen because he wanted European countries to do more to support Ukraine. He has also said he didn't make the aid to Ukraine contingent on the country's cooperation in an investigation of Democrats. A rough transcript of the July 25 call released by the White House doesn't show Mr. Trump explicitly linking the aid to an investigation.

A Justice Department spokeswoman has said the president never asked Mr. Barr to make the call nor did he ask the attorney general to investigate Mr. Biden.

The president has the authority to delay the release of money in certain instances, according to the Congressional Research Service, a nonpartisan research agency, including if there has been an unexpected change in circumstances for the program. But without being provided explanation or justification about why the administration was delaying the aid, some career officials at the Office of Management and Budget became worried they didn't have the legal authority to hold up the funds, according to the people familiar.

While career civil servants put an initial hold on the aid, Michael Duffey, associate director of national security programs in OMB, was given the authority for continuing to keep the aid on hold after the career staff began raising their concerns to political officials at OMB, according to the people familiar with the matter. Mr. Duffey also began overseeing the process for approving and releasing funds, called apportionment, for other foreign aid and defense accounts, according to a public document indicating the change.

Some people familiar with the change said Mr. Duffey, previously a high-ranking Pentagon official and the executive director of the Wisconsin Republican Party, took on the role because he was new to the job and wanted more insight into the apportionment process. Acting Office of Management and Budget Director Russell Vought has the authority to delegate responsibility for approving funds to different staff members as he sees fit.

A political official like Mr. Duffey signing off on apportionments is unusual, according to several former OMB officials. Career staff below the political level at OMB with years, and sometimes decades, of technical knowledge of the funding process have historically overseen the routine process, according to the former officials. Career staff remain involved in preparing the apportionments, while Mr. Duffey now reviews and signs off on them, according to some of the

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spokesperson for OMB, said in a statement after publication of this story. “It is absurd to suggest that the president and his administration officials should not play a leadership role in ensuring taxpayer dollars are well spent.”

At least five House committees are looking into the delay in the aid, and the House Foreign Affairs, Intelligence, and Oversight committees sent a subpoena to Mr. Vought and to Defense Secretary Mark Esper this week for records about the funds. House investigators are requesting documents related to any discussion of the legality of withholding the funds and the change in apportionment authority.

Mr. Trump has also repeatedly said that concerns about corruption in Ukraine spurred the desire to hold up the funds. Mr. Trump, then-national security adviser John Bolton and Mr. Esper began discussing in June the prospect of putting a hold on the funds while the administration reviewed them, according to a senior administration official, the Journal has previously reported.

In May, the Defense Department, working with the State Department, certified that Ukraine “has taken substantial action to make defense institutional reforms for the purposes of decreasing corruption” in approving \$125 million of the aid, according to documents reviewed by the Journal. Congress approved the money in recent years via several bills, and then the Pentagon and State Department initially approved its release.

Some career staff at OMB were worried that the delay to Ukraine didn’t meet the legal standards necessary for holding up congressionally approved money. “Those decisions were made pretty high up, with some concern by people who are career employees who were not super comfortable,” said one individual familiar with the matter.

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Those committees have received some documents from OMB that they requested.

The administration released the aid to Ukraine in mid-September after bipartisan scrutiny of the decision to delay the funds.

“I gave the money because Rob Portman and others called me and asked. But I don’t like to be the sucker and European countries are helped far more than we are,” Mr. Trump said last week, referencing Sen. Rob Portman (R., Ohio).

The delay on the aid to Ukraine came as the White House was seeking to cut a broad set of foreign aid programs, which prompted similar pushback on Capitol Hill. But the administration abandoned its effort to cut those other foreign assistance programs by Aug. 22, while the hold on the aid to Ukraine remained for several more weeks.

Officials on Capitol Hill became concerned that the administration wouldn’t release the Ukraine money before the end of the fiscal year on Sept. 30, effectively canceling it. A short-term spending bill passed by Congress and signed by Mr. Trump last month extends the administration’s ability to spend the Ukraine funding.

—*Andrew Restuccia contributed to this article.*

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