

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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CITIZENS FOR RESPONSIBILITY	)	
AND ETHICS IN WASHINGTON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 25-cv-1051
	)	
	)	
OFFICE OF MANAGEMENT AND	)	
BUDGET, et al.,	)	
	)	
Defendants.	)	
_____	)	

**SUPPLEMENTAL DECLARATION OF CHRISTINA L. WENTWORTH**

I, Christina L. Wentworth, declare as follows:

1. I am Senior Policy Counsel for Citizens for Responsibility and Ethics in Washington (CREW). On April 18, 2025, CREW filed a motion for a preliminary injunction and partial summary judgment, along with my declaration and other exhibits. I make this supplemental declaration based on my personal knowledge, consultation with colleagues at CREW, and review of documents posted by the Office of Management and Budget (OMB) under the Consolidated Appropriations Act, 2022, and Consolidated Appropriations Act, 2023.<sup>1</sup>

2. On August 15, 2025, OMB restored the Public Apportionments Database to its website, <https://apportionment-public.max.gov>. On or around August 15–18, 2025, OMB posted to the Public Apportionments Database approximately 1,800 documents that OMB had approved

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<sup>1</sup> Pub. L. No. 117-103, div. E, tit. II, § 204(b), 136 Stat. 49, 257 (2022); Pub. L. No. 117-328, div. E, tit. II, § 204(1), 136 Stat. 4459, 4667 (2022).

between March 24, 2025—the date OMB initially removed the Public Apportionments Database—and August 18, 2025.

3. Hundreds of the apportionments included “A” footnotes, which “have legal effect” and “are subject to the Antideficiency Act.”<sup>2</sup>

4. More than 100 of these footnotes stated that amounts apportioned “are available for obligation consistent with the latest agreed-upon spending plan” or “spend plan” between the agency and OMB.<sup>3</sup> Several of these footnotes included additional language providing:

- a. Specific instructions for what the spend plan must include, such as “the allocations of . . . amounts by program;”<sup>4</sup>
- b. That if OMB “agrees” to a revision to a spend plan, amounts “shall be automatically re-apportioned to the applicable Category B line;”<sup>5</sup>

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<sup>2</sup> Off. of Mgmt. & Budget, Exec. Off. of the President, OMB Circular No. A-11, Preparation, Submission, and Execution of the Budget § 120.34 (Aug. 2025).

<sup>3</sup> See, e.g., April 10, 2025 apportionment, TAFS 012-2025-2026-3510 (Department of Agriculture, Food and Nutrition Service, Special Supplemental Nutrition Program for Women, Infants and Children), <https://openomb.org/file/11424278> (“Amounts apportioned on this line are available for obligation consistent with the latest agreed-upon spend plan for Fiscal Year 2025 between USDA and the Office of Management and Budget (OMB) as of the date of this apportionment action.”); see *About OpenOMB*, OpenOMB, <https://openomb.org/about> (last visited Sept. 19, 2025) (“All apportionment files on OpenOMB simply reflect the underlying, primary-source data and documents that OMB has made available on apportionment-public.max.gov.”).

<sup>4</sup> See, e.g., May 16, 2025 apportionment, for TAFS 091-2025-2025-0301 (Department of Education, Office of Special Education and Rehabilitative Services, Rehabilitation Services), <https://openomb.org/file/11430689> (“Such spending plan submitted by ED shall include . . . the allocations of such amounts by program.”).

<sup>5</sup> See, e.g., June 4, 2025 apportionment, for TAFS 019-2025-2029-1031 (Department of State, Global Health Programs), <https://openomb.org/file/11433699> (“Upon OMB’s agreement with a submitted spending plan (or any revision or addition to such a spending plan), amounts apportioned on line 6025 shall be automatically re-apportioned to the applicable Category B line.”).

c. That if OMB “agrees” to a revision to a spend plan, “the latest agreed-upon spend plan shall include” that revision;<sup>6</sup> or

d. That absent an agreed-upon spend plan, the agency may obligate funds “only as necessary” for certain salary, payroll, or other required payments.<sup>7</sup>

5. Since August 18, 2025, OMB has continued to post to the Public Apportionments Database documents that incorporate by reference undisclosed spend plans.<sup>8</sup>

6. As of September 8, 2025, OMB had posted to the Public Apportionments Database 2,245 documents that OMB approved between March 24, 2025 and September 5, 2025. At least 131, or 5.8%, of these documents included an “A” footnote that incorporated by reference an undisclosed spend plan.

7. This practice of incorporating by reference an undisclosed spend plan in an “A” footnote was particularly prevalent in documents concerning certain agencies. For example, of the 75 documents apportioning funds for the Department of State, at least 33, or 44%, included an “A” footnote that incorporated by reference an undisclosed spend plan. Of the 34 documents apportioning funds for the Department of the Interior, at least 18, or 52.9%, included an “A” footnote that incorporated by reference an undisclosed spend plan. Of the 17 documents

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<sup>6</sup> See, e.g., April 14, 2025 apportionment, for TAFS 028-X-0406 (Social Security Administration, Supplemental Security Income Program), <https://openomb.org/file/11424812> (“If OMB agrees to such revision or addition, the latest agreed-upon spend plan shall include that modification.”).

<sup>7</sup> See, e.g., June 27, 2025 apportionment, for TAFS 075-2025-2025-1552 (Department of Health and Human Services, Administration for Children and Families, Temporary Assistance for Needy Families), <https://openomb.org/file/11437508> (“In the absence of an agreed-upon spend plan between HHS and OMB, HHS may obligate funds on this line only as necessary for Federal salary and payroll expenses or making payments otherwise required by law.”).

<sup>8</sup> See, e.g., September 12, 2025 appropriation, for TAFS 012-2025-2026-3507 (Department of Agriculture, Food and Nutrition Service, Commodity Assistance Program), <https://openomb.org/file/11467412>.

apportioning funds for the Social Security Administration, at least 7, or 41.2%, included an “A” footnote that incorporated by reference an undisclosed spend plan.

8. The documents posted to the Public Apportionments Database do not include copies of these spend plans, nor do they show whether OMB and any agency subject to these footnotes have agreed to a spend plan, whether—if they have agreed to a spend plan—that plan has been revised, or whether in the latest agreed-upon spend plan OMB has approved amounts by time, activity, function, project, or object, or some combination of both,<sup>9</sup> imposed any additional conditions on the funding, or otherwise specified that funding is unavailable.

9. Since OMB established the Public Apportionments Database in 2022, OMB has approved many apportionments that, in legally binding footnotes, provided that funds would become available for obligation upon OMB’s receipt of a spend plan from the agency.<sup>10</sup> Under such footnotes, once an agency submits the spend plan to OMB, the apportioned funds become available for obligation—regardless of what the spend plan provides or whether OMB “agrees” with the plan.

10. Before March 24, 2025, however, OMB made funds available for obligation according to the *contents* of spend plans in only a limited number of instances. For example, of the 22,361 apportionments approved between August 15, 2021, and March 21, 2025, I identified less than a quarter of one percent of apportionments that appeared to incorporate by reference the contents of a spend plan.

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<sup>9</sup> See 31 U.S.C. § 1512(b).

<sup>10</sup> See, e.g., December 9, 2021 apportionment, for TAFS 012-2022-2024-0115 (Department of Agriculture, Office of the Secretary, Office of the Secretary), <https://openomb.org/file/11205322> (“These funds are available for obligation ten business days after USDA provides OMB a spend plan for how this funding will be distributed to provide support to agricultural producers, growers, and processors.”).

11. Because OMB has not posted to the Public Apportionments Database spend plans incorporated by reference in “A” footnotes, CREW and other members of the public are unable to determine how much funding is available for obligation or monitor these documents for potential misuse of appropriated funds, violations of the Anti-Deficiency Act, or the improper withholding of appropriated funds under the Impoundment Control Act.

12. To the best of my knowledge, OMB has not posted the incorporated-by-reference spend plans on any other publicly available government website or otherwise made these documents publicly available. Without timely access to these spend plans, CREW is unable to fulfill its mission to inform the public about matters of significant public interest and importance.

13. Prompt public awareness of any use of the apportionment process to misuse or withhold funds is critical to CREW’s role in informing the national debate on government funding and to Congress’s and the public’s ability to promptly discuss or respond to any possible legal violations.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 19, 2025

A handwritten signature in black ink, appearing to read "Christina L. Wentworth", written in a cursive style.

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Christina L. Wentworth