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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 13, 1985

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: James C. Miller III
Director

SUBJECT: Actions You Must Take in the Event of an Appropriations and/or Debt Ceiling Hiatus This Week

Unless the Congress of the United States takes appropriate action to resolve appropriations and debt ceiling problems by November 14, 1985, the United States Government will be faced with one of three extraordinary situations requiring your immediate and undivided attention. Among these possibilities is the prospect that the government will default on financial obligations because of this impasse. This memorandum is being issued to provide instructions on how to meet those situations should one of them occur.

Specific action may be required of you on next Friday morning (November 15th) if:

(1) the statutory debt ceiling has been raised, but no continuing resolution or appropriations bill for your agency has been enacted (only two out of thirteen appropriations bills have been sent to the President thus far); or

(2) a continuing resolution or appropriations bill for your agency has been enacted, but Congress has not acted to raise the current debt ceiling; or

(3) neither a continuing resolution nor appropriations for your agency has been enacted, nor has Congress acted to raise the current debt ceiling.

At the present time, there are bills pending before Congress to resolve both the appropriation/continuing resolution and debt ceiling problems. However, Congress has faced these problems since early October and thus far has been unable to agree on solutions. Thus, we have concluded very reluctantly that it is necessary to inform you of the steps you must take should Congress fail to take necessary action.

The steps required for each of these situations are summarized below.

I. Congress Has Not Enacted a Continuing Resolution or Appropriations Act for Your Agency, But Has Enacted an Increase in the Debt Ceiling

This situation would present what the Government has experienced before and require initiation of the "shut-down" procedures pursuant to plans previously prepared and described in OMB memoranda dated August 28, 1980 and November 17, 1981, copies of which are attached. These plans should be implemented as of the opening of business on November 15th. In particular, your employees should be instructed to report for work on that morning to complete shut-down activities. Any questions regarding these instructions should be directed to your OMB budget examiner.

II. Congress Has Enacted a Continuing Resolution or Appropriations Act for Your Agency, But Has Not Enacted an Increase in the Debt Ceiling

As you may know, the law (31 U.S.C. 3101, as amended) establishes the maximum amount the Federal Government may borrow to discharge its obligations. (The current ceiling is $1,823.8 billion.) The Secretary of the Treasury has concluded that unless Congress enacts a new, higher limit by Thursday, November 14, 1985, the United States Government will not have the cash available to meet its payment obligations, including interest payments due on the public debt. In the absence of Congressional action to raise the debt ceiling, and assuming that an acceptable continuing resolution or appropriations bill for your agency has been approved, you should continue to operate lawfully and to incur obligations. However, a cash-flow crisis will occur when expenditures are presented to the Federal Reserve Banks for payment.

There is no precedent in our history for such a situation. It is all but unthinkable because of the attendant impact in our international interests, our economy, and the pain and suffering that would ensue. Yet, the prospect is real, and we must prepare for it.

For several days, alternatives have been reviewed by the President and his advisors. After careful consideration, and notwithstanding the dilemma created by Congressional inaction, the available alternatives have been rejected as completely unacceptable -- including, but not limited to, the sale of the Federal gold reserve and disinvestment of the Federal trust funds to raise cash rather than to pay benefits.

The policies that apply to all agencies are as follows:

1. Payments. You should delay payments to vendors for

goods and services rendered or progress payments due. You should also delay payments to beneficiaries. This payment freeze applies equally to defense and civilian accounts. Your agency should process checks or other forms of payment in the usual fashion, but no employee (including disbursing officers) should mail the checks or otherwise make payments in any form -- including, but not limited to, wire transfer instructions -- until a debt ceiling measure has been enacted. Furthermore, beginning November 15, 1985, you should not certify any vouchers for payment to the Treasury or Federal disbursing offices. This, of course, means that no government payroll checks may be issued on November 15th.

2. Grants. Similarly, you should delay further payments to organizations and institutions under grant agreements -- including State and local governments, and non-profit institutions.

3. New contracts. Unless necessary to continue services to protect life and property or provide for the national security (including the conduct of foreign relations essential to the national security), your agency should not enter into any new contracts until a debt ceiling measure has been enacted. In determining the character of any proposed activity or contract, you should refer to your contingency plans covering an appropriations hiatus to decide which programs are considered necessary to protect life and property. Where the answer is not clear, no new obligation should be assumed unless approved by OMB or until the situation has been resolved by enactment of a new debt ceiling.

4. Hiring. Your agency must not hire any new personnel until a debt ceiling measure has been enacted.

5. Instructions to current employees. Nothwithstanding the failure of Congress to adopt a debt ceiling measure, the public expects that its government will continue to function. As noted previously, you should continue operations. Thus, you should tell your employees they are expected to continue to report for work each day in the ordinary fashion, but a liberal policy may be adopted for granting annual leave to persons not deemed to be performing essential functions.

6. Lawsuits. If you or your agency are sued as a result of the actions taken pursuant to the President's action or because of the non-payment of checks outstanding, you should immediately notify the Department of Justice c/o Dennis Lindner, Civil Division (telephone: 202-633-3314 or 3301).

7. Further guidance and questions. As noted by earlier communication, you or your representative are invited to a meeting to be held today at 10:00 A.M. in Room 450 of the Old

Executive Office Building for the purpose of providing further instructions on what you should do during the debt ceiling impasse and to answer any questions you may have.

III. Congress Has Not Enacted a Continuing Resolution or Appropriations Act for Your Agency, Nor Has It Enacted an Increase in the Debt Ceiling

In this most unusual situation, where Congress fails to enact appropriations legislation and fails to raise the debt ceiling, you must follow the procedures listed in both Sections I and II of this memorandum. In other words, you must not make any unnecessary financial commitments on behalf of your agency, and you must begin the orderly closing down of your agency's operations. More specific instructions will be provided in writing and at the meeting mentioned above.

Within the guidance established by this memorandum, you should make determinations that are necessary to operate your agency during an appropriations and debt ceiling hiatus, and to do so pursuant to normal agency processes for the resolution of issues of law and policy. Again, questions that cannot be determined by your agency should be addressed to your OMB budget examiner. All unresolved questions relating to the construction of the Antideficiency Act should be referred to the Office of Legal Counsel at the Department of Justice.

I thank you for your cooperation in preparing for an event we all hope and pray will be avoided.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

November 17, 1981

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: David A. Stockman DAS

SUBJECT: Agency Operations in the Absence of Appropriations

Public Law 97-51, the Continuing Resolution enacted by the Congress on September 30, 1981 to provide for appropriations for all Executive and Judicial branch accounts, will expire on midnight Friday, November 20. No regular appropriations bills for Fiscal Year 1982 have been submitted to the President during the period of the Continuing Resolution, and the House of Representatives and Senate are presently considering widely divergent Second Continuing Resolutions. There is, therefore, a possibility that no appropriations will be enacted as of November 21.

Under the circumstances, you should begin orderly planning to deal with this possibility.

OMB Bulletin 80-14, dated August 28, 1980, requires all agencies to maintain contingency plans to deal with the eventuality of an appropriations hiatus. Additionally, the opinion of the Attorney General dated January 16, 1981, attached, remains in effect.

Examples of excepted activities were developed when the Executive Branch last faced the possibility of an apprioriations hiatus, and were sent to agencies by former OMB Director James McIntyre on September 30, 1980. They are:

> Beginning [November 21, 1981], agencies may continue activities otherwise authorized by law, those that protect life and property and those necessary to begin phasedown of other activities. Primary examples of activities agencies may continue are those which may be found under applicable statutes to:
>
> 1. Provide for the national security, including the conduct of foreign relations essential to the national security or the safety of life and property.
>
> 2. Provide for benefit payments and the performance of contract obligations under no-year or multi-year or other funds remaining available for those purposes.
>
> 3. Conduct essential activities to the extent that they protect life and property, including:
>
>   a. Medical care of inpatients and emergency outpatient care;

b. Activities essential to ensure continued public health and safety, including safe use of food and drugs and safe use of hazardous materials;

c. The continuance of air traffic control and other transportation safety functions and the protection of transport property;

d. Border and coastal protection and surveillance;

e. Protection of Federal lands, buildings, waterways, equipment and other property owned by the United States;

f. Care of prisoners and other persons in the custody of the United States;

g. Law enforcement and criminal investigations;

h. Emergency and disaster assistance;

i. Activities essential to the preservation of the essential elements of the money and banking system of the United States, including borrowing and tax collection activities of the Treasury;

j. Activities that ensure production of power and maintenance of the power distribution system; and

k. Activities necessary to maintain protection of research property.

You should maintain the staff and support services necessary to continue these essential functions.

In addition, the following policies will be in effect in the event of a November 21 appropriations hiatus:

1. All employees performing non-excepted activities defined by this memorandum and by the Attorney General's opinion of January 16, 1981, are permitted to perform no services other than those involved in the orderly suspension of agency operations.

2. With regard to non-excepted agency activities and agency personnel performing them, particular attention should be paid to those provisions of the Antideficiency Act that do not permit agency acceptance of voluntary, i.e. non-excepted services. Accordingly, in the event that the appropriations hiatus continues measurably beyond Monday, November 23, 1981, agency heads will be required to make determinations as to whether non-excepted personnel have completed all phasedown tasks incident to the orderly suspension of agency operations. At such time, the services of those employees can no longer be accepted in the absence of appropriations.

3. This memorandum is principally directed towards the ability of agencies to obligate funds in the absence of appropriations. It should be made clear that, during a appropriations hiatus, funds may not be available to permit agency payment of obligations. All personnel performing excepted services, including activities incident to the orderly suspension of agency operations, should be assured that the United States will not contest its legal obligation to make payment for such services, even in the absence of appropriations.

4. Agencies are requested to report promptly to OMB staff who normally handle their budgets any major disruptions of activities or services that may or will imminently result from the absence of appropriations.

5. Within the guidance established by the Attorney General's opinion of Januar 16, 1981, and this memorandum, agency heads are to make such determinations as are necessary to operate their agencies during an appropriations hiatus, and to do so pursuant to normal agency processes for the resolution of issues of law and policy. Questions that cannot be determined by an agency should be addressed to OMB. All unresolved questions relative to the construction of the Antideficiency Act will be jointly referred to the Office of Legal Counsel of the Department of Justice.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Bulletin No. 80-14

August 28, 1980

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations

1. Purpose and Coverage. This Bulletin provides policy guidance and instructions for actions to be taken by Executive Branch agencies when failure by the Congress to enact either regular appropriations, a continuing resolution, or needed supplementals results in interruption of fund availability. This Bulletin does not apply to specific appropriations action by the Congress to deny program funding. In the instance of partial funding interruptions, e.g., failure of the Congress to act on program supplementals, special procedures beyond those outlined in this Bulletin may be warranted. In such cases, OMB representatives responsible for the affected agency's budget estimates should be consulted.

2. Background. The Attorney General issued an opinion on April 25, 1980 that the language and legislative history of the Antideficiency Act (31 USC 665) unambiguously prohibits agency officials from incurring obligations in the absence of appropriations. The essential elements of the Attorney General's advice are that:

a. In the absence of new appropriations, Federal officers may incur no obligations that cannot lawfully be funded from prior appropriations unless such obligations are otherwise authorized by law.

b. Under authority of the Antideficiency Act, Federal officers may incur obligations as necessary for orderly termination of an agency's functions, but no funds may be disbursed.

c. Under its enforcement responsibilities, the Department of Justice will take actions to apply the criminal provisions of the Antideficiency Act in the future when violations of the Act are alleged under such circumstances.

3. Actions required. Agencies faced with funding interruptions must take steps to forestall interruptions in operations and assure that they are in a position to limit their activities to those directly related to orderly shutdown of the agency.

a. Reallocation of funds prior to shutdown. Prior to initiation of orderly shutdown activities, agency heads will limit their operations to minimum essential activities and will reallocate to the extent permitted by law all available funds in order to forestall the fund interruption date as long as possible. Reallocation of funds will be made subject to the following requirements:

(1) Reallocation below the appropriation and fund account level will be accomplished by telephonic revision to allotments and suballotments (such revisions will be documented and immediately reflected in formal written changes to the regular allotment/suballotment documents).

(2) Agencies that have specific statutory authority to reallocate and transfer funds between appropriation and/or fund accounts will effect the transfers in accordance with current standard fiscal procedures. Such transfers generally will be effected on Standard Form (SF) 1151, "Nonexpenditure Transfer of Funds" (see OMB Circular No. A-11, section 21.2, for a description of when expenditure transfers might be required). This Bulletin does not convey new authority to transfer funds.

(3) For this purpose adjustment to amounts contained in OMB apportionments may be made without submission of a reapportionment request.

b. Orderly shutdown activities. When all available funds, including reallotted/reallocated funds, are exhausted, orderly shutdown activities must begin. Each agency head must determine the specific actions that will be taken; however, all actions must contribute to orderly shutdown of the agency and give primary consideration to protecting life and safeguarding Government property and records. Such actions should be accomplished in a way that will facilitate reactivation when funds are made available. Agency heads will notify OMB, OPM, Treasury, and GSA immediately when shutdown activities are being initiated. These central agencies will be responsible for notifying their own regional offices, except as noted in paragraph (3).

(1) Appropriations and funds. Agency heads will limit obligations incurred to those needed to maintain the minimum level of essential activities necessary to protect life and property; to process the necessary personnel actions; to process the personnel payroll for the periods prior to fund interruption; and to provide for orderly transfer of custody of property and records to the General Services Administration (GSA) and the Office of Personnel Management (OPM) for disposition.

(2) Personnel and personnel records. Necessary personnel actions will be taken to release employees in accordance with applicable law and Office of Personnel Management's regulations. Preparation of employee notices of furlough and processing of personnel and pay records in connection with furlough actions are essential shutdown activities. Agencies should plan for these functions to be performed by employees who are retained for orderly termination of agency activities, as long as those employees are available. As soon as agencies determine the date after which they will no longer be able to maintain custody of personnel records, they should notify the Office of Personnel Management to arrange for orderly transfer of custody of the personnel records to OPM and GSA, jointly, for caretaking and protection of the records. If necessary to protect the interests of individual employees during the period when all employees of the agencies are on furlough, OPM will provide access to the appropriate personnel records to retrieve information and/or process personnel actions, e.g., separation-transfer of an employee who secures employment in another agency. Guidance for planning such actions and relevant questions and answers as to employees' benefits will be provided separately by OPM.

(3) Property and nonpersonnel records. Inventories of property and records will be made to assure protection of the Government's interests and the claims of affected private entities and individuals (including vendors and beneficiaries of Federal programs). Upon determination that agency funds are no longer available, agency officials should contact the appropriate Regional Administrators, General Services Administration, for assistance in determining the disposition of agency records, real and personal property, and outstanding requisitions, contracts, grants and related items. Detailed guidance on such matters are contained in:

-- 41 CFR 101-11.4; Dispositions of records.

-- 41 CFR 101-43 and 101-47; Disposition of personal property and real property.

-- FPMR 101-36.5, 101-37.203(c), and 101-37.307-1; Dispositions of automatic data processing, communications, and telephone equipment.

-- GSA motor pool accounting and record system operations guide; Disposition of motor vehicles.

The transfer to the General Services Administration of property and records shall not be made until 30 days have elapsed from the start of shutdown activities and then only after a determination is made that the funding hiatus will continue indefinitely.

c. Planning. Agency heads should develop plans for an orderly shutdown that reflect the policy and guidance provided in this Bulletin. Such plans necessarily will be tailored to each agency's needs in recognition of the unique nature of its funding sources, missions, and authorities. While every agency should have a plan, the scope and detail of the plan should be commensurate with the likelihood that shutdown will be necessary and with the complexity of shutting down the agency.

4. Effective dates. The instructions in this Bulletin are effective immediately and remain in effect until rescinded.

5. Inquiries. Budgetary questions should be directed to the OMB representatives responsible for review of each agency's budget estimates.

Fiscal procedures questions should be directed to the Division of Government Accounts and Reports, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex #1, Washington, D.C. 20226 (Telephone: (202) 566-5844).

Agency officials may obtain additional information and technical assistance on personnel matters by contacting their agency officer at the Office of Personnel Management.

Property and nonpersonnel records disposition questions should be directed to Office of Plans, Programs, and Financial Management, General Services Administration, Washington, D.C. (Telephone: (202) 566-1807).

James T. McIntyre, Jr.

James T. McIntyre, Jr.
Director

debt ceiling

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release November 13 , 1985

BRIEFING
BY
SECRETARY OF TREASURY JAMES BAKER AND
DIRECTOR OF OMB JAMES MILLER,
DEPUTY DIRECTOR OF OMB JOSEPH WRIGHT AND
GENERAL COUNSEL OF THE TREASURY BOB KIMMET

The Briefing Room

10:50 A.M. EST

MR. SPEAKES: I'll begin with an opening statement, and the Secretary of Treasury will have a statement, Jim Miller will have a statement. Then we will follow with answering your technical questions by the General Counsel of the Treasury Department and by the Deputy Director of the OMB.

Because of the failure by Congress to act on appropriations bills and on legislation to raise the debt ceiling on the national debt, our country faces an unprecedented crisis in our history. It is an unnecessary crisis and it can be avoided. But the President cannot stand by and wait for the worst to happen, including dishonoring the government's checks.

We cannot avoid some serious damage. However, to mitigate the problem, the President has authorized the Director of the Office of Management and Budget Jim Miller to instruct the federal agencies starting Friday to stop issuing any new checks if the debt ceiling is not raised by that time. The government would continue to function, but it would temporarily stop paying its bills to vendors, to its own employees, to individuals receiving government benefits, to state and local governments until this crisis is resolved. We're not going to issue checks that will bounce.

The hardship this will cause will be solely the result of Congressional failure to do what everyone knows is necessary. We trust that the Congress will understand the consequences of its own inaction.

Mr. Secretary.

SECRETARY BAKER: Ladies and gentlemen, in the absence of Congressional action by midnight on Thursday night, the United States will default for the first time in its 200-year history. We will have to renege on the payment of principal and interest on securities held by both Americans and held internationally. We will be unable to pay military salaries, farm subsidies, HHS payments.

We have basically run out the string in terms of measures that could be taken to avoid default. There's only one possible other measure and the President has ruled that out, and that would be selling the gold reserves of the United States.

Congress has been debating the debt limit since September the 10th. We feel that they've had ample time to act. It's important that they act.

A default would cost the taxpayers of the United States a significant amount of money in added interest charges for federal borrowings. But, quite frankly, the cost to the taxpayers probably misses the fundamental point here, which is that the United States was founded on the basis of honoring its commitments. It's always been known as a country that honors its commitments. This is not a minor economic event, and if the United States should fail to honor

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its commitments to the point that it goes into default, the principle that separates this country from many countries around the world would be lost.

DIRECTOR MILLER: Thanks, Jim.

You have before you a statement by the President that Larry just read. It summarizes what we are doing and why. You also heard from the Secretary. You have also an OMB memorandum that went out to departments and agencies this morning.

What we're doing here is attempting to deal with a contingency that we all hope does not come to pass: that is, failure of Congress to pass a continuing resolution or a debt limit increase, or both.

Now, let me emphasize that in the absence of a debt limit increase, we will be unable to honor many obligations. The procedure we're announcing today cannot avert that. However, these steps are designed to stop issuing new checks, which would only bounce, while keeping the government functioning. We would be like a family that is temporarily out of cash and puts off paying its bills. It would be highly embarrassing for the government if this should happen, and it should never happen.

But we have concluded that this is better than having the government simply shut down altogether. And I think you'll find that the memorandum to the departments and agencies speak pretty well for itself and should answer most of your questions. And I'll be --

Q Can you tell us what's in the memorandum? We do not have a copy --

DIRECTOR MILLER: I'm sorry -- and -- but if it does not, I'll try to answer some of your questions and the Secretary will as well.

I just want to emphasize this is not the usual shut-down exercise. This is not a continuing resolution matter only. This is what Secretary Baker just described -- the prospect of defaulting on payments and obligations of the federal government for the first time in its 200-year history, and the effect is different.

Q How can you expect people to go to work without money, namely the civilian and military and Press Office employees?

DIRECTOR MILLER: We would fully anticipate that civilian and defense employees would be paid, that Congress would come to it's senses and pass a debt ceiling increase. We depend on the good will of the federal, civilian and defense employee corps who've suffered some abuses in the past, but we think their public spirit in this will be enough to secure their cooperation.

Q Will the President accept a short-term extension -- a short-term increase in the debt ceiling? That would avoid the situation at least temporarily.

DIRECTOR MILLER: It would seem to me that Congress would be abdicating its responsibility to deal realistically with the deficit that we have. We announce for 1985 a $212 billion deficit, the highest in our nation's history. The President has indicated clearly the need to deal with this on a realistic basis. For the Congress simply to pass a debt ceiling would seem to me to be walking away from this problem.

Q But what will he do?

SECRETARY BAKER: Let me add to that as I indicated earlier, this is a matter that the Congress has been dealing with since September the 10th. There has been, indeed, ample time to address the debt limit.

Q Yes, but what are going to --

Q What will you do --

Q -- suggesting that the President will not accept a temporary extension?

SECRETARY BAKER: I am suggesting to you that as the Press Secretary said this morning, the President would consider that

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Congress was shirking its responsibility if it didn't act to the full measure of the debt limit and enact Gramm-Rudman as well.

Q Secretary Baker, Senator Rudman on the Hill says that you've lost all credibility. You've cried wolf so many times on this issue, that there's enough funds out here to keep going, that Congress is just going to ignore you.

SECRETARY BAKER: Let me read you the record, if I might, on that.

In the first place, we haven't cried wolf once. We've written a number of letters to the Hill, beginning on the 25th of September. Every one of those letters referred to the possibility of using federal financing bank authority, borrowing authority. We called it unprecedented. We said we really don't want to have to do it. Please give us a debt limit increase so we won't have to do it. They didn't give us a debt limit increase, so we used it.

But in each and every one of those letters to the Hill, we pointed out the fact that that was there and available. Furthermore, on the 22nd of October, I wrote every one of the Conferees on the debt limit, House and Senate, a very detailed letter laying out the options that were available to the Executive Branch. And among those, I pointed out the fact that we could, if required by Congressional inaction, divest the trust funds, including the Social Security Trust Fund. We did not get Congressional action, so we divested the trust funds. I hardly think that's crying wolf.

I also said that there were no other mechanisms available to us other than selling the gold of the United States, which the President had indicated he would be unwilling to do. That remains the only option available to us, and the President remains of the view that he is not going to sell the United States' gold. So I would simply say to you that not in one instance have we cried wolf in connection with this matter.

Q Secretary Baker, would you clear up some confusion, please? What would be the impact of Gramm-Rudman on the 0-3-3 defense buildup?

SECRETARY BAKER: I think that it would be -- it would depend on whether or not you got to the point of sequesting. And that's an issue, quite frankly, that it would be better for the Budget Director to answer for you than it would be for me. (Laughter.) But I think he would agree with me, as I said on the 13th of October, it's hard to see how you would avoid a hit to the defense budget if you once got to the sequestering process.

Q Well, Representative Aspin says he told the President yesterday that he could not have both Gramm-Rudman and the defense buildup as the President wants it. Do you share that opinion that a separate --

SECRETARY BAKER: I think it depends entirely on whether or not you reach the sequestering process. I think the Budget Director should answer for you whether or not he can bring a budget in within the limits otherwise imposed by the --

Q Before he does, may I ask you is it your opinion that the White House and the President fully understand the consequences and implications of Gramm-Rudman on defense?

SECRETARY BAKER: Absoutely.

Q Mr. Baker --

DIRECTOR MILLER: Could I just say that I think it is clearly possible to meet the Gramm-Rudman targets without sequestering, without any hit on defense. In other words, a budget that is consistent with the 0-3-3 that is contained in the Congressional Budget Resolution. But as the Secretary indicated, if you do get to sequestering, that would be another matter.

Sequestering is the club in the closet that forces both the Executive and the Legislative Branches to come together and to realize a budget with a deficit that meets those targets. We all think that this would be a sufficient threat to avoid its ever having to take place.

Q Secretary Baker, what will be the effect of -- what

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are you going to do about the interest on the debt that's due on Friday? Are you going to be able to pay that?

SECRETARY BAKER: Not if we don't get an increase in the debt limit, clearly, we would not be able to pay it.

Q Well, there's nothing --

SECRETARY BAKER: It would destroy the confidence, I think, of the markets in the prompt credit-worthiness of the United States. It could well result in a general increase in interest rates across-the-board, and, you know, we're engaged here in an exercise to attempt to achieve some meaningful means whereby we can get deficit reduction. It would be a shame if, as a consequence of trying to do that, we ended up increasing interest rates generally across-the-board in the United States, which would exacerbate the deficit problem.

Now let me just say one other -- one final thing to the comment back there about crying wolf. I would invite you to go back to those letters and also look at the record in hindsight with respect to what happened on the 7th of October. We said we would run out of money. We ran out right on the same day we said we would run out, and in fact were slightly overdrawn at the Federal Reserve on the 8th of October.

Q Mr. Secretary, --

Q One more time, on an earlier question, although you say it will be shirking Congress' responsibility if they did not act on the full Gramm-Rudman and raising the debt ceiling long-term, would a short-term extension be preferable to the President going to the summit with the U.S. in default?

MR. SPEAKES: It's up to Congress to act. They've had plenty of time to act. They can act in the next 24 hours. We want them to act -- with Gramm-Rudman, with the debt ceiling extension, like we said.

Q All of you are avoiding the --

MR. SPEAKES: These fellows have got to get to the Cabinet meeting, and so have I. We've got two very competent individuals who will step in and answer your further questions.

Q Can I just ask the senior people, you are all avoiding the direct question of, will the President accept a short-term extension rather than go to Geneva without one, and you blame Congress.

MR. SPEAKES: The President does not want a short-term extension. The President wants a full debt ceiling bill with Gramm-Rudman attached to it. That's the matter pending before Congress and that is what they ought to act on.

Q But they're -- in two days that wish will have to be in action and you just don't want to say right now.

MR. SPEAKES: The ball is in the Congressional court, not in the White House court.

SECRETARY BAKER: We've been working on this, Ira, since the 10th of September.

Q Mr. Secretary, is it your political judgment that the American people would be more upset if Congress didn't do a -- some sort of long-term plan for cutting the deficit than they would be upset by the kind of financial disaster that you are predicting?

SECRETARY BAKER: I don't think that that's -- I don't think anybody has a crystal ball that would answer that for you. We have never been in this situation before in this country. We have never defaulted. And, as I indicated in my statement, one of the principles that separates this country from other countries is, it honors it commitments. It has always honored its commitments internationally with respect to international financial matters. And that credibility has been built up over 200 years. It would be easily lost if we defaulted just like some -- just like a lot of other countries around the world have done in the past.

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Thank you very much.

MR. SPEAKES: Okay, we'll discontinue our radio and television coverage here and bring on our two individuals.

Q Their statement says that --

MR. SPEAKES: That's by me and there is one correction.

Q Yes, it says "I have --"

MR. SPEAKES: "We." Well, I told Miller.

Okay, no TV, no radio.

Q For the "I" we should substitute "the President is authorized --"?

MR. SPEAKES: Yes, and we'll get out a corrected version of it.

Q What would happen specifically, if the country is in default and the President is on the way to Geneva, about paying Air Force bills, fuel bills and hotel bills?

And would you identify yourself?

MR. KIMMET: Yes. I'm Bob Kimmet, General Counsel of the Treasury.

If we're talking about a situation where it's default only, a continuing resolution is thus passed, we're not in the government shutdown situation, I think that that activity, as well as all government activities, would proceed. The government would still be authorized to obligate -- to prepare checks. It would just not be issuing checks and having those redeemed at banks.

So activities would proceed on Friday, as normal, assuming a continuing resolution extention has been passed.

Q It says in the statement by Larry that the President is ordering no checks to be written. Would it be legal to issue checks you know that would bounce? I couldn't do that. Can the government? Was that a possibility, in other words?

MR. KIMMET: Well, the President has instructed that beginning Friday, the date on which we would hit a default in the absence of Congressional action, that no new checks be issued.

Q But did he have an option there? Would it have been legal to do so?

MR. KIMMET: My understanding is that in the opinion of the Justice Department, he would have had the authority to continue to issue checks because he did have the obligational authority -- that is, a continuing resolution extention having passed. The problem would have been when those checks were presented for payment, they would not have been honored, based upon instructions that the Federal Reserve Board would have sent out to its banks and branches on Friday morning.

Q Isn't it a crime, though, to write a check when the --

DEPUTY DIRECTOR WRIGHT: I think there's another follow-up to that. Would that be the responsible thing to do, though, to just keep flooding the financial institutions with bad checks?

Q The question is how does the government, compared to all of us as individuals --

Q Isn't it illegal to write a check that you know cannot be cashed?

DEPUTY DIRECTOR WRIGHT: No. It is my understanding it is not illegal to write a check that cannot be cashed. It is illegal to go ahead and cash it through the Fed without -- in the absence of the proper debt ceiling. That's what the illegal part of it.

Q How much is the interest payment that's due on Friday?

MR. KIMMET: On Friday, we have due $9 billion in principal, $16 billion in interest. We also have $5 billion in other obligations coming due that day, for a total of $30 billion that would be due on Friday.

On Friday, we would have in the bank -- that is in the Treasury account at the Federal Reserve -- $12 billion, for a shortfall of $18 billion.

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Q The $12 billion you've got, is that from the Social Security Trust funds that have been unspent so far?

MR. KIMMET: Excuse me?

Q The $12 billion you've got in the bank, does that include the Social Security Trust funds that haven't been spent so far, and Railroad Retirement?

MR. KIMMET: It could include a very small amount of those trust funds. Those payments went out on the first of the month. Those people who would have been paid by electronic funds transfer already would have been credited. Those people who were paid by check, we think probably about 95 percent of them have cashed those checks. But there's probably some small number of those checks --

Q Where is the $12 billion coming from?

MR. KIMMET: Other revenues. Tax revenues, other revenues that are coming in during that time.

Q When you -- when the $9 billion in principal payments comes due, doesn't that bring down the outstanding debt? Can't you raise some cash that way?

MR. KIMMET: You can't because the problem is you get into a rollover situation. And there are some people, though, who do not want to roll over, they want cash. We are not going to have sufficient cash both to pay them and pay other people during that period.

Q -- cash management bill or something to raise cash to cover that $9 billion?

MR. KIMMET: Well, we will, in all likelihood, go out tomorrow with an announcement of our intent to conduct a cash management auction on Friday. However, we are at the debt ceiling right now -- $18,023.9 -- and we cannot have another auction that is to raise the debt even further without Congressional action. If Congress --

Q Even if it's only --

MR. KIMMET: No, no, not at all. I mean, we are at the limit right now, so unless Congress acts by midnight, we would not hold that auction. If they do act, we will go ahead and auction Treasury bills in an amount sufficient to cover that short-fall, which, as I described, would be somewhere in the neighborhood of $18 billion on Friday.

Q Well, what would you advise -- on this question asked before -- federal employees or those who are owed -- or contractors who are owed money? Do they have a legal right not to perform? And would there be consequences?

DEPUTY DIRECTOR WRIGHT: This would depend upon the contract. There's two parts that are planned here that I'm not -- I'm not so sure everybody's picked up. On the exact same day that we have the debt ceiling problem, we have the Continuing Resolution problem, which is basically the government shut-down exercise which most of you are familiar with. If we do not get a Continuing Resolution or an appropriation bill, what will happen is federal employees will be asked to come in for those agencies who do not have an appropriation bill and simply go through Friday morning on their shut-down procedures.

Q Okay.

DEPUTY DIRECTOR WRIGHT: So there's a complication that exists. And, as far as I know, this is the first time where both of these situations have ever occurred on the same day.

Q Well, let's say it goes until Monday -- I don't think anybody thinks it will -- but is there any penalty for either a federal employee or a government contractor if he or she doesn't perform because there is no money in the bank?

MR. KIMMET: I think on the federal contract, as Joe said, it would depend on the terms of the contract itself. As to federal personnel matters, I think we'd have to direct to the Office of Personnel Management on that. There's a briefing being conducted right now in the Executive Office Building by, among others, the General Counsel of OPM to go precisely into those points.

It's our feeling, though, however, because if the CR were to pass, we would have the obligational authority that individuals should report for work and continue to work. They will be paid with government checks. Those checks have already gone out or or in the process of going out right now. The problem comes upon presentment and that is a problem that is not wholly within the province of the Executive Branch. Therefore, our anticipation would be that people would come to work.

DEPUTY DIRECTOR WRIGHT: It's not a question of whether they're going to get paid. It will be when they would get paid. And my understanding is on defense contracts, it will depend upon the contract. But those areas that'll be effected, for example, will be progress payments. Progress payments or any direct payments to any vendors will not be able to be paid until there is a sufficient debt ceiling met.

Q Are there any people expecting Social Security checks or Welfare or something like that that won't be able to --

MR. KIMMET: Well, Social Security and the other trust funds were all paid on November 1st, will not be paid until roughly December 1st. However, there are other payments coming out of HHS, Agriculture, elsewhere that are coming due as each day goes by. So I

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think some of your second category, which would include Welfare payments, would be included among those checks that would not be honored beginning Friday.

Q Mr. Kimmit, will the government owe interest on the unpaid interest for whatever length of time it doesn't pay it? And, if so, at what rate? I mean, in other words, does that unpaid interest become a debt on which the government owes?

MR. KIMMIT: I would have to get back with you on that one. I'm not sure. I'd have to check with our fiscal people.

Q -- over there and downtown? (Laughter.)

Q How much has the maneuvering that you've done so far cost the government -- lost interest and messing with the trust funds --

MR. KIMMET: Well, I won't accept the characterization either of maneuvering or messing with the trust funds. I think the Secretary made it quite clear that what he did was he took all actions that he thought were both legal and practical to avoid a default, while at the same time honoring the dept limit.

In terms of the cost to date, I think that the testimony that has been given up on the Hill has cited interest loss in the tens of millions of dollars for trust funds that could not be invested on time. We have significant balances in the trust funds that are not now invested because the only thing they can invest in is federal securities, and we cannot issue any more bills at this time.

In terms of the longer range effect on the funds through having disinvested some of the longer interest term bonds and so forth, that really depends on what the market is going to be like when we reinvest those funds. But there is a calculable loss in the tens of millions of dollars, based upon the action taken with regard to the trust funds to date.

Q Tens of billions of --

MR. KIMMET: Tens of millions.

Q Millions?

MR. KIMMET: Millions.

Q Well, that goes from $20 million to infinity. How -- can you be any more accurate than that?

MR. KIMMET: I'd have to have some of our people get back to you with those figures. I think that the most recent testimony -- the figure that I saw was in the neighborhood of $10 million. So, it was closer to the beginning of that spectrum that you state. But I'd have to get back to you with an answer.

THE PRESS: Thank you very much.

END 11:13 A.M. EST