

Congress of the United States
Washington, DC 20510

April 26, 2004

The President
The White House
Washington, DC 20500

Dear Mr. President:

On September 14, 2001, just three days after the tragic events of September 11, the Congress of the United States established a \$40 billion Emergency Response Fund to assist the victims of those terrorist attacks and to strengthen homeland and national security.

In response to the extraordinary events of that day, the Congress chose to grant an extraordinary amount of flexibility to the Executive Branch. However, the terms of the law were clear. Namely, the President was required by law to keep the Congress fully informed through consultation with the chairmen and ranking members of the House and Senate Appropriations Committees prior to the expenditure of funds. Also, the Administration was required by law to provide Congress with quarterly reports detailing the use of these funds.

To the best of our knowledge, as the Chairman of the Senate Appropriations Committee and the Ranking Member of the House Appropriations Committee during 2002, we were provided no consultations by the White House, as required by law, about the use of the \$20 billion of funds that were made available to the President for allocation. If this is not an accurate view, please advise us of any record of consultations with the Appropriations Committees of the House of Representatives and the Senate, as was required by statute prior to the expenditure of these funds.

We have numerous concerns about the Administration's stewardship of these funds. According to a recent book by Bob Woodward entitled, Plan of Attack, the White House used \$700 million of appropriated funds in 2002 to prepare bases in the Persian Gulf region for an attack on Iraq. The Department of Defense has confirmed that \$178 million that was transferred from the \$40 billion Emergency Response Fund was used in the summer of 2002 for "supporting the global war on terrorism" in Kuwait, Qatar, and other nations in the Persian Gulf region, several months before Congress approved the Iraq war resolution. These funds were spent on 21 projects. We have no record of consultation prior to the expenditure of these funds, nor is there sufficient detail in the Department of Defense quarterly reports to indicate whether funds were used to prepare for the war in Iraq.

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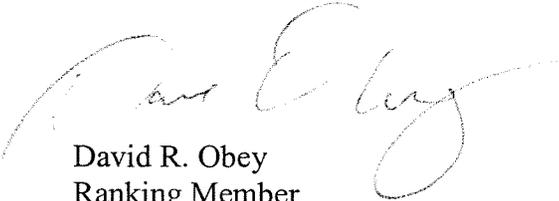
In addition, the Administration has failed to effectively manage the September 11 Emergency Response Fund. The law required the Office of Management and Budget to report to the Congress on a quarterly basis on the uses of the Fund. Yet, Congress has not received such a report for nearly one year. The last report was sent on May 9, 2003, reflecting obligations through February 28, 2003, some fourteen months ago.

On September 30, 2003, the Administration notified Congress of the allocation of \$290 million from the Emergency Response Fund to support the government in Afghanistan. In the transmittal, the Director of the Office of Management and Budget indicated that the funds would be drawn from funds previously allocated to the Department of Defense. Yet, the May 9, 2003, OMB quarterly report indicated that as of February 28, 2003, DoD had already obligated all but \$21 million of its funds. While we had no objection to the support for the government of Afghanistan, your report begs the question, from whence came the money? Further, why has there been no quarterly report since May 9, 2003?

On March 12, 2004, the Administration transferred \$4 million from the Emergency Response Fund to finance a Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction. This Commission was created, without authorization from Congress, by an executive order that does nothing to guarantee the panel's independence from the White House, and that does not endow the Commission with the power to subpoena necessary information from potentially uncooperative witnesses. Again, there was no consultation with the Congress, as required by law, prior to the allocation of these funds.

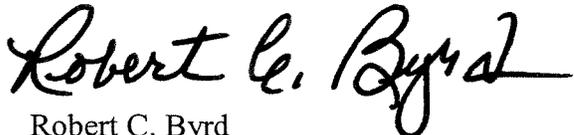
When the Congress provided the extraordinary authorities in response to the al Qaeda attacks of September 11, 2001, it expected that tax dollars would be managed carefully so as to provide assistance to the victims of the attack, to secure our homeland, and to improve our national security. The letter of the law and consultation with the Congress in the expenditure of appropriated funds provides our citizens with assurance that their tax dollars are spent in accordance with congressional intent. Transparency in this regard is critical. We need a full accounting of the entire \$40 billion Emergency Response Fund.

Thank you for your prompt attention to this matter.



David R. Obey
Ranking Member
Committee on Appropriations
United States House of Representatives

Sincerely,



Robert C. Byrd
Ranking Member
Committee on Appropriations
United States Senate