



## Decision

**Matter of:** Department of Homeland Security—Application of the Impoundment Control Act to Federal Emergency Management Agency Fiscal Year 2025 Federal Assistance Appropriations

**File:** B-337204.1

**Date:** September 15, 2025

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### DIGEST

Congress appropriates various line-item amounts to the Federal Emergency Management Agency (FEMA), a component in the Department of Homeland Security (DHS), to provide federal assistance. Various executive branch directives issued in recent months impacted how FEMA administered these appropriations by placing restrictions on the obligation or expenditure of federal assistance funds. This decision addresses amounts appropriated in fiscal year 2025. We will issue other decisions addressing amounts appropriated in prior fiscal years, as well as amounts appropriated and set aside for the Building Resilient Infrastructure and Communities program.

Unless Congress has enacted a law providing otherwise, executive branch officials must take care to ensure that they prudently obligate appropriations during their period of availability. The Impoundment Control Act of 1974 (ICA) allows the President to withhold funds from obligation, but only under strictly limited circumstances and only in a manner consistent with that Act. The ICA was enacted to ensure that legislation passed by Congress and signed by the President is faithfully executed.

GAO's institutional role is to support Congress, including in Congress's exercise of its constitutional power of the purse. This includes GAO's responsibilities under the ICA, such as reviewing special messages and reporting impoundments the President has not reported. GAO's role is procedural—to protect congressional prerogatives and help ensure compliance with the ICA and appropriations law—and is not to be interpreted as taking a position on the underlying policies addressed in its decisions. DHS has not responded to GAO's requests for information regarding the potential impoundment of appropriated funds. When reviewing an agency's actions for compliance with the ICA, we look at the discretion afforded to the agency

under relevant statutes, the purpose, length, and timing of a funding pause, and the agency's actions to make funds available for obligation and expenditure. Based on publicly available evidence, including sworn testimony, federal court cases, data on USAspending.gov, apportionment data, agency websites, and other information, we have sufficient information to reach conclusions about compliance with the ICA for the appropriations within our scope of inquiry.

For some appropriations at issue, currently available evidence indicates that FEMA has violated the ICA by improperly withholding or delaying the obligation or expenditure of budget authority. Specifically, we find that FEMA violated the ICA with regard to the Emergency Food and Shelter Program (EFSP) and Shelter and Services Program (SSP).

However, for other not-yet-obligated funding, currently available evidence indicates that FEMA has not violated the ICA at this time. We find no violation for the following programs: State Homeland Security Grant Program, Urban Area Security Initiative, Nonprofit Security Grant Program, Public Transportation Security Assistance Programs, Port Security Grant Program, Assistance to Firefighter Grants, Staffing for Adequate Fire and Emergency Response Grants, Emergency Management Performance Grant Program, Regional Catastrophic Preparedness Grant Program, and Flood Hazard Mapping and Risk Analysis.

GAO is not taking a position on the policy implications of the underlying programs and funding at issue in this decision. This decision addresses compliance with the ICA. Because some of these appropriations are set to expire by the end of the fiscal year, it is crucial that the agency prudently obligates these funds prior to their expiration.

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## DECISION

Beginning on January 20, 2025, several executive branch orders and agency directives related to federal assistance funding were issued.<sup>1</sup> As a result, the

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<sup>1</sup> See, Exec. Order No. 14159, *Protecting the American People Against Invasion*, 90 Fed. Reg. 8443, 8447 (Jan. 29, 2025); Office of Management and Budget (OMB) Memorandum, *Subject: Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs*, M-25-13, at 2 (Jan. 27, 2025) (M-25-13), available at <https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-13-Temporary-Pause-to-Review-Agency-Grant-Loan-and-Other-Financial-Assistance-Programs.pdf> (last visited Aug. 19, 2025), available at <https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-14-Rescission-of-M-25-13.pdf> (last visited Sept. 8, 2025) (ordering agencies to “temporarily pause all activities related to obligation or disbursement of all Federal financial assistance, and other relevant agency activities that may be implicated by” executive orders related to nongovernmental organizations), *rescinded by* OMB Memorandum, *Subject: Rescission of M-25-13*, (continued...)

Federal Emergency Management Agency (FEMA) delayed obligations of current-year appropriations for certain programs as outlined in this decision.

Pursuant to our reporting responsibilities under the Congressional Budget and Impoundment Control Act of 1974 (ICA), we are issuing this decision addressing whether FEMA complied with the ICA as it delayed the availability of current year funding or implemented various executive branch directives and instructions related to federal assistance programs.<sup>2</sup> The Administration has not sent a special message under the ICA related to FEMA. As explained below, we conclude that FEMA violated the ICA when it withheld certain funds from obligation and expenditure, including funds that were not eligible for withholding under any circumstance pursuant to the ICA's fourth disclaimer, where an agency is precluded from using its procedures to withhold from obligation or expenditure funds that are "require[d]" by law to be spent.<sup>3</sup> For other funds, we conclude that there remains time for FEMA to obligate and expend funds, and FEMA has not violated the ICA at this time.

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M-25-14 (Jan. 29, 2025), available at <https://www.whitehouse.gov/wp-content/uploads/2025/03/M-25-14-Rescission-of-M-25-13.pdf> (last visited Sept. 8, 2025); Defendants' Status Report Regarding FEMA's Compliance with Preliminary Injunction, *State of New York v. Trump*, 1:25-cv-00039-JJM-PAS, ECF No. 166-2 (D.R.I. Mar. 14, 2025) (Direction on Grants to Non-Governmental Organizations); ECF No. 166-7 (Grant Processing Guidance).

<sup>2</sup> See Pub. L. No. 93-344, title X, § 1015, 88 Stat. 297, 336 (July 12, 1974), 2 U.S.C. § 686. Additionally, on March 31, 2025, the Ranking Members of the House and Senate Budget Committees sent a request to GAO to examine several directives, including OMB's January 27, 2025, Memorandum, which in part directed agencies to "temporarily pause all activities related to obligation or disbursement of all Federal financial assistance." Letter from Ranking Member Merkley and Ranking Member Boyle to Comptroller General (Mar. 31, 2025).

<sup>3</sup> 2 U.S.C. § 681(4). Section 681 sets out four disclaimers with respect to the application of the ICA. The first three disclaimers, not relevant to this decision, provide that nothing in the ICA shall be construed as (1) asserting or conceding the constitutional powers or limitations of the Congress or the President; (2) ratifying or approving any impoundment except as pursuant to statutory authority; or (3) affecting the claims or defense of any party to litigation concerning any impoundment. See 2 U.S.C. § 681(1)–(3); see also B-337375, June 16, 2025.

Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request.<sup>4</sup> Accordingly, we contacted the Department of Homeland Security (DHS) to seek additional factual information and its legal views.<sup>5</sup>

DHS has not yet responded to our request for additional factual information and legal views related to this ICA inquiry,<sup>6</sup> but an agency's failure to respond does not preclude our issuance of an opinion.<sup>7</sup> In this case, we have gathered sufficient publicly available evidence from spending data, agency statements, and court filings to draw conclusions about the agency's compliance with the ICA as it carried out the programs within the scope of our inquiry.<sup>8</sup>

When reviewing an agency's actions for compliance with the ICA, we examine the discretion afforded to the agency under relevant statutes to determine actions that are required by law or instances where an agency's discretion is limited with respect to the obligation of funds. The level of agency discretion over program funding has bearing, from an ICA standpoint, on the reasonableness of a potential delay in obligations or expenditures. Thus, we have said that while executive branch officials must take care to ensure that they prudently obligate and expend appropriations during their period of availability, the amount of time required for prudent obligation and expenditure will vary from one program to another.<sup>9</sup> The ICA imposes no specific requirements on the executive branch as to the rate at which it must obligate or expend budget authority.<sup>10</sup> Where an agency shows its actions are within the

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<sup>4</sup> GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 2024), available at <https://www.gao.gov/products/gao-24-107329>.

<sup>5</sup> Letter from General Counsel, GAO, to Acting General Counsel, DHS (June 6, 2025).

<sup>6</sup> We reached out several times to DHS and offered flexibility on extended response deadlines. However, DHS did not provide a response and did not confirm that it would provide one in a timeframe that would allow for our sufficient review and oversight of funds expiring at the close of fiscal year (FY) 2025.

<sup>7</sup> GAO-24-107329, at 10; see also B-330107, Oct. 3, 2019.

<sup>8</sup> We are aware that FEMA appears to be taking actions with respect to various programs at issue in this decision. We will monitor such actions and update this decision as necessary.

<sup>9</sup> B-335747, Apr. 22, 2024; B-330330, Dec. 10, 2018.

<sup>10</sup> B-335747, Apr. 22, 2024; B-319189, Nov. 12, 2010.

statutory authority provided for program administration, we will not find an improper impoundment.<sup>11</sup> We also examine the circumstances regarding the purpose of the pause, the length and timing of the pause, and the agency's actions to make funds available for obligation and expenditure.

In the programs involved in this case, we reviewed the underlying program statutes and appropriations to determine what discretion is afforded to the agency with respect to obligations and expenditures, including whether the agency was statutorily mandated to obligate and expend the funds. We examined the purpose of delays, including the actions taken and whether a rationale was provided for such actions. We also considered the length and timing of the delay, the agency's subsequent actions, and historical obligation patterns for the programs to assess the impact of delays on program administration. We also reviewed relevant apportionment documents that OMB, as required by law, posted on a public website.<sup>12</sup>

## BACKGROUND

FEMA's primary mission is to "reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation."<sup>13</sup>

In furtherance of that mission, FEMA administers a broad variety of federal assistance programs. In FY 2025, FEMA's Federal Assistance account received line-item appropriations to provide federal assistance "through grants, contracts, cooperative agreements, and other activities," as well as a transfer to this account from U.S. Customs and Border Protection (CBP) "to support sheltering and related

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<sup>11</sup> See B-335747, Apr. 22, 2024.

<sup>12</sup> See Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, div. E, title II, § 204, 136 Stat. 4459, 4667 (Dec. 29, 2022) (requiring public posting of apportionments). In March 2025, OMB took down the public website containing such statutorily required information, asserting that apportionments are predecisional and deliberative information. We disagreed with OMB's assertion on the grounds that apportionments are legally binding decisions on agencies under the Antideficiency Act and, as such, cannot be predecisional or deliberative. In August 2025, the United States Court of Appeals for the District of Columbia Circuit upheld a lower court decision ordering OMB to restore the website and to disclose the information withheld since its removal. See Order, *Citizens for Resp. & Ethics in Wash. v. OMB*, Docket No. 25-5266 (D.C. Cir. Aug. 9, 2025).

<sup>13</sup> 6 U.S.C. § 313(b)(1).

activities provided by non-Federal entities, in support of relieving overcrowding in short-term [CBP] holding facilities.”<sup>14</sup> The list of programs funded by this account and discussed within this decision includes: the State Homeland Security Grant Program (SHSGP), Operation Stonegarden (OPSG), Tribal Homeland Security Grant Program (THSGP), Urban Area Security Initiative (UASI), Nonprofit Security Grant Program (NSGP), Public Transportation Security Assistance Programs,<sup>15</sup> Port Security Grant Program (PSGP), Assistance to Firefighter Grants, Staffing for Adequate Fire and Emergency Response Grants (SAFER), Emergency Management Performance Grant Program (EMPG), Flood Hazard Mapping and Risk Analysis (Risk MAP), Regional Catastrophic Preparedness Grant Program (RCPGP), Emergency Food and Shelter Program (EFSP), Next Generation Warning System Grants Program (NGWS), and the Shelter and Services Program (SSP).<sup>16</sup>

Applications for federal assistance are typically made available via notices of funding opportunities (NOFOs). Delays, as compared to past agency practice, in the publication of NOFOs for several of FEMA’s grant programs were brought to our attention during the course of ongoing GAO audit work.<sup>17</sup> Our request for the agency’s factual information and legal views therefore included inquiries as to anticipated NOFO publication timeframes for programs within the scope of this decision.<sup>18</sup> FEMA typically publishes NOFOs for each of the programs listed above.

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<sup>14</sup> See Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, div. C, title III, 138 Stat. 460, 598, 607–09 (Mar. 23, 2024); see also Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, div. A, title VII, § 1701, 139 Stat. 9, 27 (Mar. 15, 2025) (appropriating to FEMA for FY 2025); Pub. L. No. 118-47, 138 Stat. at 598 (directing CBP to transfer \$650 million to FEMA’s Federal Assistance account for sheltering activities); Pub. L. No. 119-4, § 1101, 139 Stat. at 10–11 (appropriating to CBP for FY 2025).

<sup>15</sup> The Public Transportation Security Assistance appropriation paragraph also lists Railroad Security Assistance and Over-the-Road Bus Security Assistance Programs, and certain line items within the paragraph are listed under different names in Grants.gov. For the purposes of this decision, we will use “Public Transportation Security Assistance Programs” to generally refer to all programs listed/funded in this paragraph unless a document refers to a more specific program name.

<sup>16</sup> See Pub. L. No. 118-47, 138 Stat. at 597–98, 607–08; Pub. L. No. 119-4, 139 Stat. at 10–11, 27.

<sup>17</sup> See, e.g., FEMA’s PSGP, GAO 107587 Response to GAO Request for Information from FEMA Grant Programs Directorate (Mar. 31, 2025).

<sup>18</sup> See Letter from General Counsel, GAO, to Acting General Counsel, DHS (June 6, 2025).

NOFOs are governed by statutory and regulatory requirements. Title 2 of the Code of Federal Regulations establishes OMB Guidance for Federal Financial Assistance.<sup>19</sup> This guidance is incorporated into DHS regulations at 2 CFR Part 3002.10. In part, this title requires all agencies to “announce specific funding opportunities” that are “not directed to one or more specifically identified applicants.”<sup>20</sup> Further, agencies “should make all funding opportunities available for application for at least 60 calendar days,” and while the agency may determine that a shorter availability period is sufficient for a particular funding opportunity, none should be available for “less than 30 calendar days unless the Federal agency determines that exigent circumstances justify this.”<sup>21</sup>

Additionally, applications for grants funded by five paragraphs of FEMA’s Federal Assistance appropriation are subject to a more specific provision as provided in section 303 of that appropriation:

Applications for grants under the heading “Federal Emergency Management Agency—Federal Assistance”, for paragraphs (1) through (5), shall be made available to eligible applicants not later than 60 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 80 days after the grant announcement, and the Administrator of the Federal Emergency Management Agency shall act within 65 days after the receipt of an application.<sup>22</sup>

Paragraphs 1 through 5 of the appropriation contain the SHSGP, OPSG, THSGP, UASI, NSGP, Public Transportation Security Assistance Programs, and PSGP.<sup>23</sup>

Beyond the requirements governing NOFOs discussed above, FEMA receives an annual appropriation for the “emergency food and shelter program under title III of the McKinney-Vento Homeless Assistance Act” (EFSP) that contains additional

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<sup>19</sup> See *generally*, 2 C.F.R. § 200.

<sup>20</sup> *Id.* § 200.204.

<sup>21</sup> *Id.* § 200.204(b).

<sup>22</sup> Pub. L. No. 118-47, § 303, 138 Stat. at 610; see *also* Pub. L. No. 119-4, §§ 1101(a)(6), 1105, 139 Stat. at 10–12 (full year continuing resolution incorporating appropriated amounts and all “requirements, authorities, conditions, limitations, and other provisions of the appropriations”).

<sup>23</sup> Pub. L. No. 118-47, 138 Stat. at 607.

requirements.<sup>24</sup> The Act establishes an Emergency Food and Shelter Program National Board.<sup>25</sup> Each year, FEMA is required by statute to “award a grant for the full amount that the Congress appropriates for the program . . . to the National Board for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and local governments” within 30 days after the appropriations are made available.<sup>26</sup> The National Board must then disburse “[a]ny amount made available by appropriations acts . . . before the expiration of the 3-month period beginning on the date on which such amount becomes available.”<sup>27</sup> The National Board is not permitted to carry out the EFSP program directly, and may only provide appropriated funds for “programs undertaken by private nonprofit organizations and local governments” that are “consistent with the purposes” of the Act.<sup>28</sup>

In FY 2024, several of these programs (SHSGP, UASI, NSGP, Public Transportation Security Assistance Programs, PSGP, and EMPG) published NOFOs on April 16, 2024, less than one month after full year appropriations were enacted.<sup>29</sup> In FY 2021, the most recent Presidential transition year, the majority of these NOFOs were published by February 25, 2021, less than two months after full year appropriations were enacted.<sup>30</sup> In FY 2017, the current President’s first term transition year, NOFOs for these programs were published by June 2, 2017, less than one month

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<sup>24</sup> See, e.g., Pub. L. No. 118-47, 138 Stat. at 607–08 (directing \$117 million to the program in FY 2024); Pub. L. No. 119-4, 139 Stat. at 10–11, 27 (appropriating levels for FY 2025).

<sup>25</sup> 42 U.S.C. § 11331. The National Board is chaired by a Director (by statute, the FEMA Administrator) and composed of members nominated by six private nonprofit organizations. *Id.* §§ 11331, 11351.

<sup>26</sup> *Id.* § 11341.

<sup>27</sup> *Id.* § 11345.

<sup>28</sup> *Id.* § 11343(b)(1)(A)–(B).

<sup>29</sup> See *generally*, Grants.gov search, keyword “2024,” DHS/FEMA closed/archive filters; see *also* Pub. L. No. 118-47, 138 Stat. at 607–08 (enacted Mar. 23, 2024).

<sup>30</sup> See *generally*, Grants.gov search, keyword “2021,” DHS/FEMA closed/archive filters; see *also* Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. F, title III, 134 Stat. 1182, 1461–62 (Dec. 27, 2020).



after full year appropriations were enacted.<sup>31</sup> FY 2025 appropriations were enacted March 15, 2025,<sup>32</sup> and NOFOs for the programs receiving appropriations in FEMA's federal assistance account were published between July 28, 2025, and August 6, 2025, or have yet to be published, as discussed in more detail below.

### Executive Branch Actions Impacting FEMA Federal Assistance

On January 20, 2025, Executive Order No. 14159 directed the Secretary of Homeland Security to:

- 1) "Immediately review and, if appropriate, audit all contracts, grants, or other agreements providing Federal funding to non-governmental organizations supporting or providing services, either directly or indirectly, to removable or illegal aliens, to ensure that such agreements conform to applicable law and are free of waste, fraud, and abuse, and that they do not promote or facilitate violations of our immigration laws;
- 2) Pause distribution of all further funds pursuant to such agreements pending the results of the review in subsection (a) of this section;
- 3) Terminate all such agreements determined to be in violation of law or to be sources of waste, fraud, or abuse and prohibit any such future agreements; . . .
- 4) Initiate claw-back or recoupment procedures, if appropriate, for any [such] agreements."<sup>33</sup>

On January 28, 2025, the Secretary of Homeland Security issued a "Direction on Grants to Non-Governmental Organizations," which required that "[e]ffective immediately, all Department grant disbursements and assessments of grant applications that: (a) go to non-profit organizations or for which non-profit organizations are eligible, and (b) touch in any way on immigration, are on hold pending review, except to the extent required by the controlling legal authority."<sup>34</sup>

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<sup>31</sup> See *generally*, Grants.gov search, keyword "2017," DHS/FEMA closed/archive filters; see *also* Consolidated Appropriations Act, 2017, Pub. L. No. 115-31, div. F, title III, 131 Stat. 135, 416–17 (May 5, 2017).

<sup>32</sup> See Pub. L. No. 119-4, §§ 1101(a)(6), 1701, 139 Stat. at 11, 27.

<sup>33</sup> Exec. Order No. 14159, § 19(a)–(c), (e) (numbering added).

<sup>34</sup> Defendants' Status Report Regarding FEMA's Compliance with Preliminary Injunction, *State of New York v. Trump*, 1:25-cv-00039-JJM-PAS, ECF No. 166-2  
(continued...)

This directive explicitly applied to the “Shelter and Services Program, and any similar program.”<sup>35</sup>

On February 14, 2025, the former Senior Official Performing the Duties of the FEMA Administrator, Cameron Hamilton, issued “Grant Processing Guidance”.<sup>36</sup> stating that “[g]rants under the Shelter and Services Program (SSP) . . . and Emergency Food and Shelter Program-Humanitarian (EFSP-H) are on hold,” and that “[n]o new obligation, disbursement, or payment of funds previously obligated may be issued pending additional guidance from Secretary Noem.”<sup>37</sup>

On March 31, 2025, after the enactment of the full year continuing resolution, FEMA Grant Programs Directorate (GPD) conveyed its view that under a continuing resolution the DHS Secretary “may exercise discretion to fund programs or return funds to the Treasury.”<sup>38</sup> With respect to PSGP, GPD indicated that “[i]f [the Secretary of Homeland Security] chooses to include funding for PSGP,” GPD had an anticipated timeline for publishing the FY 2025 NOFO and a recommended application deadline to “ensure sufficient time is available for the application review process.”<sup>39</sup> By July 9, 2025, those recommended deadlines had passed without NOFOs being published,<sup>40</sup> and GPD indicated that it did not have an established timeline for administering FY 2025 PSGP funds and that “if FEMA administers the program in FY 2025,” the agency would consider using a previously used award

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(D.R.I. Mar. 14, 2025) (Direction on Grants to Non-Governmental Organizations). This directive closely mirrored the language of a preliminarily enjoined and now-rescinded OMB memo issued January 27, 2025, which required all “Federal agencies to identify and review all Federal financial assistance[] programs and supporting activities consistent with the President’s policies and requirements.” See M-25-13, *rescinded by* M-25-14. The memo also ordered agencies to “temporarily pause all activities related to obligation or disbursement of all Federal financial assistance, and other relevant agency activities that may be implicated by” executive orders related to nongovernmental organizations. M-25-13.

<sup>35</sup> *State of N.Y.*, ECF No. 166-2.

<sup>36</sup> *State of N.Y.*, ECF No. 166-1 (Declaration of Cameron Hamilton at ¶ 11); ECF No. 166-7 (Grant Processing Guidance).

<sup>37</sup> *State of N.Y.*, ECF No. 166-7 (Grant Processing Guidance).

<sup>38</sup> FEMA’s PSGP, GAO 107587 – Response to GAO Request for Information from FEMA Grant Programs Directorate (Mar. 31, 2025).

<sup>39</sup> *Id.*

<sup>40</sup> *See id.*

process to conduct the application review in an abbreviated timeframe “ahead of the September 30 deadline.”<sup>41</sup>

### Publication of NOFOs

FEMA published FY 2025 NOFOs for the SHSGP, NSGP, and EMPG program on July 28, 2025.<sup>42</sup> FEMA published NOFOs for the EFSP, THSGP, UASI, OPSG, Public Transportation Security Assistance Programs, PSGP, and RCPGP on August 1, 2025.<sup>43</sup> FEMA published the NOFO for the NGWS on August 6, 2025.<sup>44</sup> All NOFOs indicate the agency’s intent to award funds on or before September 30, 2025.<sup>45</sup>

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<sup>41</sup> FEMA’s PSGP, GAO 107587 – Response to GAO Request for Information from FEMA Grant Programs Directorate (July 9, 2025).

<sup>42</sup> See DHS, *Fiscal Year 2025 Homeland Security Grant Program*, No. DHS-25-GPD-067-00-98 (July 28, 2025) (FY 2025 SHSGP NOFO); DHS, *Fiscal Year 2025 Nonprofit Security Grant Program*, No. DHS-25-GPD-008-00-99 (July 28, 2025) (FY 2025 NSGP NOFO); DHS, *Fiscal Year 2025 Emergency Management Performance Grant Program*, No. DHS-25-GPD-042-01-99 (July 28, 2025) (FY 2025 EMPG NOFO).

<sup>43</sup> See DHS, *Fiscal Year 2025 Emergency Food and Shelter National Board Program*, No. DHS-25-DAD-024-00-99 (Aug. 1, 2025) (FY 2025 EFSP NOFO); DHS, *Fiscal Year 2025 Tribal Homeland Security Grant Program*, No. DHS-25-GPD-150-00-99 (Aug. 1, 2025) (FY 2025 THSGP NOFO); DHS, *Fiscal Year 2025 Homeland Security Grant Program*, No. DHS-25-GPD-067-00-98 (updated Aug. 1, 2025 to include UASI/OPSG funding) (FY 2025 UASI/OPSG NOFO); DHS, *Fiscal Year 2025 Transit Security Grant Program*, No. DHS-25-GPD-075-00-99 (Aug. 1, 2025) (FY 2025 TSGP NOFO); DHS, *Fiscal Year 2025 Intercity Bus Security Grant Program*, No. DHS-25-GPD-057-00-97 (Aug. 1, 2025) (FY 2025 IBSGP NOFO); DHS, *Fiscal Year 2025 Intercity Passenger Rail Program*, No. DHS-25-GPD-157-00-98 (Aug. 1, 2025) (FY 2025 IPRP NOFO); DHS, *Fiscal Year 2025 Port Security Grant Program*, No. DHS-25-GPD-056-00-99 (Aug. 1, 2025) (FY 2025 PSGP NOFO); DHS, *Fiscal Year 2025 Regional Catastrophic Preparedness Grant Program*, No. DHS-25-GPD-111-01-99 (Aug. 1, 2025) (FY 2025 RCPGP NOFO).

<sup>44</sup> See DHS, *Fiscal Year 2025 Next Generation Warning System Grant Program*, No. DHS-25-IPAWS-138-00-99 (Aug. 6, 2025) (FY 2025 NGWS NOFO).

<sup>45</sup> See notes 42–44, *supra*.

FY 2025 NOFOs for the SSP,<sup>46</sup> Assistance to Firefighter Grants, SAFER grants, and Risk MAP grants are not yet published.<sup>47</sup>

## DISCUSSION

At issue here is whether FEMA violated the ICA by delaying obligations or expenditures for FY 2025 federal assistance appropriations. In the case of some funds, currently available evidence indicates that FEMA violated the ICA because under the fourth disclaimer, an agency is precluded from using its procedures to withhold from obligation or expenditure funds that are “require[d]” by law to be spent.<sup>48</sup> In the case of other funds, we find that FEMA improperly withheld funds by delaying the obligation or expenditure of budget authority. In other cases, currently available evidence indicates that FEMA did not violate the ICA.

### Impoundment Control Act

It is important to understand the constitutional and historical underpinnings of the ICA with respect to the critical role of Congress in exercising its constitutional powers. The Constitution specifically vests Congress with the power of the purse, providing that “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”<sup>49</sup> The Constitution also gives Congress the exclusive power to legislate and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a legislative bill passed by both

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<sup>46</sup> An apportionment schedule recently made public indicates that FEMA transferred \$32.5 million of the amount provided for SSP to “Immigration & Customs Enforcement [ICE] . . . for Custody Operations from DHS’s first Reprogramming and Transfer Notification.” See OMB, *Approved Apportionment FY 2025 DHS FEMA TAFS 070-2025-2025-0413 Iteration 2*, OMB Footnote B5 (June 27, 2025) (discussing the transfer of funds between FEMA and ICE accounts); see also Pub. L. No. 118-47, § 503(c), 138 Stat. at 615 (allowing DHS to transfer up to 5 percent of an appropriation to another DHS appropriation in FY 2024); Pub. L. No. 119-4, § 1105, 139 Stat. at 12 (extending DHS’s transfer authority into FY 2025). *But see* Pub. L. No. 118-47, § 503(d)(2), 138 Stat. at 615 (prohibiting the transfer of funds that will “decrease funding for grant programs”). We have not analyzed whether the transfer carried out here was consistent with this prohibition.

<sup>47</sup> Searches of funding opportunities for these programs were last conducted on September 2, 2025.

<sup>48</sup> 2 U.S.C. § 681(4).

<sup>49</sup> U.S. Const. art. I, § 9, cl. 7.

houses of Congress and Congress may subsequently override a presidential veto.<sup>50</sup> This process does not grant the President the authority to pass his own laws or to ignore or amend a law duly enacted by Congress.<sup>51</sup> Instead, the President must “faithfully execute” the law as Congress enacts it.<sup>52</sup> It follows from this that Executive Orders cannot function to repeal or undo legislation.

Once enacted, an appropriation is a law like any other, and the President must implement it by ensuring that appropriated funds are obligated and expended prudently during their period of availability unless and until Congress enacts another law providing otherwise.<sup>53</sup> In fact, Congress was concerned about the failure to prudently obligate according to its congressional prerogatives when it enacted and later amended the ICA.<sup>54</sup>

The Constitution grants the President no unilateral authority to withhold funds from obligation.<sup>55</sup> Instead, Congress has vested the President with strictly circumscribed authority to impound, or withhold, budget authority only in limited circumstances as expressly provided in the ICA.<sup>56</sup> The ICA separates impoundments into two exclusive categories – deferrals and rescissions. First, the President may seek to temporarily withhold funds by proposing a “deferral.”<sup>57</sup> Second, the President may seek the permanent cancellation of funds for fiscal policy or other reasons, including the termination of programs for which Congress has provided budget authority, by proposing a “rescission.”<sup>58</sup>

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<sup>50</sup> *Id.* § 7, cls. 2, 3.

<sup>51</sup> *Clinton v. City of New York*, 524 U.S. 417, 438 (1998).

<sup>52</sup> U.S. Const., art. II, § 3.

<sup>53</sup> See B-331564, Jan. 16, 2020; B-329092, Dec. 12, 2017 (The ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold.).

<sup>54</sup> See generally, H.R. Rep. No. 100-313, at 66–67 (1987); see also S. Rep. No. 93-688, at 75 (1974) (explaining that the objective was to assure that “the practice of reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress”).

<sup>55</sup> See B-135564, July 26, 1973.

<sup>56</sup> See 2 U.S.C. §§ 681–688.

<sup>57</sup> *Id.* § 684.

<sup>58</sup> *Id.* § 683.

In either case, the ICA requires the President to first transmit a special message to Congress outlining the amounts in question and the reasons for the proposed deferral or rescission.<sup>59</sup> These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA.<sup>60</sup> The burden to justify a withholding of budget authority rests with the executive branch.

While the ICA does not circumscribe why funds can be proposed for rescission, it only permits deferral of budget authority in a limited range of circumstances: to provide for contingencies; to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or as specifically provided by law.<sup>61</sup> With respect to deferrals, the ICA specifies that the funds at issue are only temporarily withheld and must still be obligated before expiration.<sup>62</sup> And with respect to proposed rescissions, the funds must still be obligated unless Congress acts within 45 days to pass a new law rescinding them.<sup>63</sup> The ICA's fourth disclaimer further clarifies that the ICA's proposed deferral and rescission mechanisms do not provide any process by which the President may withhold from obligation or expenditure funds that are "require[d]" by law to be spent; rather, such withholdings are categorically prohibited.<sup>64</sup>

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<sup>59</sup> 2 U.S.C. §§ 683–684.

<sup>60</sup> See *id.*; B-237297.4, Feb. 20, 1990 (vague or general assertions are insufficient to justify the withholding of budget authority).

<sup>61</sup> 2 U.S.C. § 684(b).

<sup>62</sup> *Id.* § 684(a) ("A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message . . . is transmitted."); B-329092, Dec. 12, 2017, at 3 ("Any amount of budget authority deferred must be prudently obligated before the end of the period of availability."); 54 Comp. Gen. 453 (1974) (deferral provision should be used when the withholding is temporary and when prudent obligation of funds within the period of availability is not precluded by the withholding).

<sup>63</sup> 2 U.S.C. § 683(b).

<sup>64</sup> *Id.* § 681(4). Section 681 sets out four disclaimers with respect to the application of the ICA. The first three disclaimers, not relevant to the analysis here, provide that nothing in the ICA shall be construed as (1) asserting or conceding the constitutional powers or limitations of the Congress or the President; (2) ratifying or approving any impoundment except as pursuant to statutory authority; or (3) affecting the claims or defense of any party to litigation concerning any impoundment. See *id.* § 681(1)–(3); see also B-337375, June 16, 2025.

GAO's institutional role is to support Congress, including in Congress's exercise of its constitutional power of the purse. This includes GAO's functions under the ICA, such as reviewing special messages and reporting impoundments the President has not reported.<sup>65</sup>

#### Application of the ICA to FY 2025 FEMA Federal Assistance Appropriations

The dates of NOFO publication for certain programs within this decision were delayed beyond what past agency practice, OMB regulations, and in some cases statutory provisions would require. These delays prompted our initial inquiry to the agency and guided our review of past obligation and spending practices to inform whether evidence of a withholding existed for each program.

However, between July 28, 2025, and August 6, 2025, FEMA published NOFOs for each of the programs within the scope of this decision with the exception of SSP, Assistance to Firefighter Grants, SAFER, and Risk MAP. And while the agency has in several cases disregarded statutory and regulatory timelines that outline (1) by when a NOFO should be published for certain programs and (2) for how long an application should be open to applicants,<sup>66</sup> NOFOs are now published for certain programs, and the agency has indicated its intent to award and obligate those funds prior to their expiration. As such, our ICA analysis must turn to whether the delayed NOFO publication itself caused a delay in the obligation or expenditure of funds.

In a recent decision, we found that the National Institutes of Health (NIH) paused its publication of grant review meeting notices, which caused a corresponding withholding of grant funding.<sup>67</sup> Our determination considered the amount and timing of the agency's obligations for grant funding during the period of the meeting notice

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<sup>65</sup> 2 U.S.C. §§ 685–686.

<sup>66</sup> See Pub. L. No. 118-47, § 303, 138 Stat. at 610 (requiring that applications for certain programs be made available within 60 days of the enactment of appropriations); Pub. L. No. 119-4, §§ 1101(a)(6), 1105, 139 Stat. at 11–12 (carrying forward section 303 requirements under the FY 2025 continuing resolution, which would require that the NOFOs for programs within paragraphs 1-5 of FEMA's Federal Assistance appropriation should have been published no later than May 14, 2025, 60 days after the enactment of the FY 2025 continuing resolution). See *also*, 2 C.F.R. § 200.204 (providing guidance on how long NOFOs should be available to applicants). While GAO looks to other statutory and regulatory authorities to inform its conclusions as to whether the ICA has been violated, this opinion addresses only compliance with the ICA.

<sup>67</sup> B-337203, Aug. 5, 2025.

pause as compared to the same period in previous fiscal years.<sup>68</sup> In the relevant fiscal quarter, the meeting notice pause caused NIH obligations to drop by 40 percent compared to FY 2024 and by 47 percent compared to FY 2023.<sup>69</sup> NIH did not offer any evidence that it did not withhold funds and did not show that the delay was a permissible programmatic one.<sup>70</sup> We therefore concluded that even after NIH had resumed publishing its grant review meeting notices and incurring grant obligations, the period of pause and reduced obligations constituted an improper withholding of appropriated funds from obligation or expenditure.<sup>71</sup>

As with NIH, FEMA has delayed obligations compared to historical data as a result of delayed or unpublished NOFOs for two grant programs: the Emergency Food and Shelter Program (EFSP) and Shelter and Services Program (SSP).

FEMA published a NOFO for the EFSP on August 1, 2025, indicating the agency's intent to award funds by September 15, 2025.<sup>72</sup> The EFSP is subject to the ICA's fourth disclaimer because the program's authorizing statute requires FEMA to award the full appropriated amount for the program to the National Board within 30 days after appropriations are made available and requires the National Board to disburse those funds to localities by three months after appropriations are made available.<sup>73</sup> Both of these respective statutory deadlines, April 14, 2025, and June 15, 2025, have passed without the award to the National Board being made.<sup>74</sup> Under the

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> See FY 2025 EFSP NOFO at 4.

<sup>73</sup> 42 U.S.C. §§ 11341, 11345.

<sup>74</sup> Appropriations for EFSP were enacted on March 15, 2025. Pub. L. No. 119-4, § 1701, 139 Stat. at 27. Based on this date, the statutory deadline for award to the National Board was April 14, 2025, and the statutory deadline for disbursement to localities was June 15, 2025. See 42 U.S.C. §§ 11341, 11345. In contrast, in FY 2024, the full year appropriation providing \$117 million in EFSP funds was enacted March 23, 2024. See Pub. L. No. 118-47, 138 Stat. at 608. FEMA published the NOFO on April 9, 2024, and this obligation was documented in USAspending.gov on April 22, 2024. See DHS, *Fiscal Year 2024 Emergency Food and Shelter National Board Program*, No. DHS-24-DAD-024-00-99 (Apr. 9, 2024); USAspending.gov, *Grant Summary: FAIN EMW-2024-FS-05000*, available at

(continued...)



fourth disclaimer, the ICA's temporary withholding authority is not available because the agency retains no discretion as to whether or when the funds will be obligated or disbursed to the designated recipient.<sup>75</sup> While the NOFO establishes the agency's intent to award funds prior to their expiration, we nevertheless conclude that the delay in award and disbursement of funds,<sup>76</sup> which are subject to a statutory timeline, constitutes an impermissible withholding and a violation of the ICA under the fourth disclaimer.

For SSP funds, a NOFO is not yet published. This program was first appropriated in FY 2023, and since then has recorded positive obligation rates on USAspending.gov in months ranging from May to September.<sup>77</sup> While larger obligation rates tend to be recorded in fiscal quarter four, spending data shows that deobligations exceeded obligations by \$887,448,614 for SSP funds in FY 2025, as compared to obligations exceeding deobligations by \$363,800,000 in FY 2023 and \$640,900,000 in FY 2024.<sup>78</sup> This program has also experienced interruptions based on specific executive branch orders and directives that disallowed new obligations of SSP

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[https://www.usaspending.gov/award/ASST\\_NON\\_EMW-2024-FS-05000\\_7022](https://www.usaspending.gov/award/ASST_NON_EMW-2024-FS-05000_7022) (last visited Sept. 8, 2025).

<sup>75</sup> See 2 U.S.C. § 681(4).

<sup>76</sup> See FY 2025 EFSP NOFO at 16 (stating that the obligation of program funds occurs upon award).

<sup>77</sup> To compile this data, GAO staff searched USAspending.gov for grants under the Assistance Listings associated with the SSP Program (97.141 and 97.149). We then downloaded obligation data results over time by month and year. This data was last downloaded on August 20, 2025.

<sup>78</sup> *Id.* See USAspending.gov, *Analyst's Guide to Federal Spending Data*, at 2, available at [www.usaspending.gov/data/analyst-guide-download.pdf](https://www.usaspending.gov/data/analyst-guide-download.pdf) (last visited Sept. 8, 2025); National Finance Center, *Deleting Records from USAspending.gov*, available at [https://www.nfc.usda.gov/FSS/ClientServices/FMS/DATA\\_Act/documents/USDA\\_Reporting\\_Instructions/DeletingRecords\\_USAspending.pdf](https://www.nfc.usda.gov/FSS/ClientServices/FMS/DATA_Act/documents/USDA_Reporting_Instructions/DeletingRecords_USAspending.pdf) (last visited Sept. 8, 2025) (explaining that "revisions recording negative obligations are to be used when (1) "[a]n award was made but later cancelled in full" or (2) "[a]n award was established, and funds were disbursed, but the project was later rescinded/terminated; that "deobligated dollar amount[s]" will be reported as "negative number[s];" and that USAspending will use all reported positive and negative amounts to calculate the obligation amounts displayed in the results over time data view).

funds,<sup>79</sup> and it has been omitted from the President's FY 2026 Budget Request.<sup>80</sup> Further, the Administration has not submitted a special message alerting Congress to its intent to withhold these funds, nor has it otherwise justified the withholding of obligations for this program. The totality of the facts and circumstances here therefore establish the intent to impermissibly defer or preclude the obligation of budget authority for the SSP program.

However, for the grants at issue aside from the EFSP and SSP, delayed NOFO publication does not necessarily indicate an improper withholding of funds at this time. Most of these grants, including those subject to a statutory NOFO publication deadline, are regularly awarded and obligated in fiscal quarter four, including as late as August and September of each year.<sup>81</sup> While earlier NOFO publication typically affords applicants more time to submit and the agency more time to review applications and obligate funds, the agency has now condensed the application and review periods for each program to account for the delayed publication.<sup>82</sup> Agency officials have also articulated potential plans for how they can prudently obligate appropriated funds even within shortened review periods.<sup>83</sup> As such, for the following programs, the atypically late NOFO publication combined with the totality of the circumstances does not indicate an impermissible delay in the obligation or expenditure of budget authority under the ICA: State Homeland Security Grant Program (SHSGP), Operation Stonegarden (OPSG), Tribal Homeland Security Grant Program (THSGP), Urban Area Security Initiative (UASI), Nonprofit Security Grant Program (NSGP), Public Transportation Security Assistance Programs, Port

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<sup>79</sup> The application of the ICA to the interruption of prior year FEMA federal assistance appropriations will be addressed by a separate GAO decision.

<sup>80</sup> See OMB, *Technical Supplement to the 2026 Budget: Appendix*, at 408, 436, available at [https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix\\_fy2026.pdf](https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix_fy2026.pdf) (last visited Sept. 8, 2025).

<sup>81</sup> To compile this data, GAO staff searched USAspending.gov for each program's Assistance Listing and reviewed obligation data over time by fiscal quarter and month to review historical trends. Relevant Assistance Listings are 97.067 (SHSGP, THSGP, UASI, OPSG), 97.008 (NSGP), 97.075 and 97.057 (Public Transportation Security Assistance Programs), 97.056 (PSGP), 97.042 (EMPG), 97.111 (RCPGP), and 97.138 (NGWS). This data was last downloaded on August 20, 2025.

<sup>82</sup> See *generally*, notes 42–44, *supra* (outlining publication details for FY 2025 NOFOs, which contain periods of application and expected review and award dates for each program).

<sup>83</sup> See, e.g., note 38, *supra* (explaining that for the PSGP the agency would consider using a previously used award process to conduct the application review in an abbreviated timeframe “ahead of the September 30 deadline”).

Security Grant Program (PSGP), Emergency Management Performance Grant Program (EMPG), Regional Catastrophic Preparedness Grant Program (RCPGP), and Next Generation Warning System Grants Program (NGWS).<sup>84</sup> Additionally, each of these programs, with the exception of RCPGP, remains in the President's FY 2026 Budget Request.<sup>85</sup>

There are similarly three programs for which we conclude the agency has not impermissibly delayed the obligation of budget authority even though NOFOs are not yet published: Assistance to Firefighter Grants, Staffing for Adequate Fire and Emergency Response Grants (SAFER), and Flood Hazard Mapping and Risk Analysis (Risk MAP).

Assistance to Firefighter Grants and SAFER Grants each receive two-year appropriations, meaning that the FY 2025 appropriations do not expire until the end of FY 2026.<sup>86</sup> NOFOs for FY 2024 funds were published November 6, 2024, and May 20, 2025, respectively.<sup>87</sup> Based on the information available to us, there is no reported impact to prior year funding for these programs, and the programs remain

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<sup>84</sup> Like the EFSP, two additional programs within this decision are also subject to the ICA's fourth disclaimer: the EMPG program and SHSGP. The EMPG program is authorized by the Post-Katrina Emergency Management Reform Act of 2006 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and the SHSGP is authorized by the Homeland Security Act of 2002. See Pub. L. No. 118-47, 138 Stat. at 607–08 (providing appropriations for these programs in accordance with the authorizing statutes). These authorizing acts provide a mandatory minimum allocation or statutory formula for distributing federal funds to states or their subdivisions. See GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 60, available at <https://www.gao.gov/products/gao-05-734sp>; 6 U.S.C. § 762(d); 6 U.S.C. § 605(e). However, unlike the EFSP, these statutory mandates do not dictate specific timelines by which the agency must award and disburse funds.

<sup>85</sup> As we discuss in more detail below, a proposed discontinuation of a program through the budget request alone does not constitute a withholding. See note 94, *infra*.

<sup>86</sup> See Pub. L. No. 118-47, 138 Stat. at 608 (appropriating two-year funds for FY 2024); Pub. L. No. 119-4, § 1701, 139 Stat. at 27 (appropriating funds for FY 2025).

<sup>87</sup> See DHS, *Assistance to Firefighters Grant Program (AFG)*, DHS-24-GPD-044-00-98 (Nov. 6, 2024); DHS, *Fiscal Year 2024 Staffing for Adequate Fire and Emergency Response (SAFER)*, DHS-24-GPD-083-00-99 (May 20, 2025).

in the President's FY 2026 Budget Request.<sup>88</sup> The facts and circumstances therefore do not at this time indicate the intent to withhold or delay the obligation or expenditure of FY 2025 budget authority for the Assistance to Firefighter and SAFER Grants.

Risk MAP funds remain available until expended and remain in the President's FY 2026 Budget Request.<sup>89</sup> Historically, FEMA has published NOFOs for this funding at varying points during the fiscal year, ranging from January to August.<sup>90</sup> USAspending.gov data for this program reflects negative obligations in recent FY 2025 quarters, but low and/or negative obligations rates also occurred in early fiscal quarters of FYs 2021-2024,<sup>91</sup> and positive obligations for the program are regularly not shown until quarter four of each year.<sup>92</sup> The facts and circumstances therefore do not at this time indicate the intent to withhold or delay the obligation or expenditure of FY 2025 budget authority for Risk MAP.

President Trump's FY 2026 Budget Request omits funding for the EFSP, NGWS, RCPGP, and SSP.<sup>93</sup> While we acknowledge that a proposed discontinuation of a

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<sup>88</sup> OMB, *Technical Supplement to the 2026 Budget: Appendix*, at 436, available at [https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix\\_fy2026.pdf](https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix_fy2026.pdf) (last visited Sept. 8, 2025).

<sup>89</sup> *Id.*; Pub. L. No. 118-47, 138 Stat. at 608 (appropriating no-year funds for FY 2024); Pub. L. No. 119-4, § 1701, 139 Stat. at 27 (appropriating funds for FY 2025).

<sup>90</sup> NOFOs for this funding are typically published with the title "Cooperating Technical Partners (CTP) Program" on Grants.gov. See, e.g., DHS, *HQ Fiscal Year 2024 Cooperating Technical Partners (CTP) Program*, DHS-24-MT-045-00-99 (June 12, 2024) ("The objectives of the CTP program are primarily to support the mission and objectives of the NFIP's Flood Hazard Mapping Program through FEMA's flood hazard identification and risk assessment programs, including the Risk MAP program.") To compile this data, GAO staff searched Grants.gov for this program, and reviewed publication dates for fiscal years dating back to 2008 in archived and closed documents. This data was last searched on August 20, 2025.

<sup>91</sup> To compile this data, GAO staff searched USAspending.gov for the program's Assistance Listing (97.045) and reviewed obligation data over time by fiscal quarter and year. This data was last downloaded on August 21, 2025.

<sup>92</sup> *Id.*

<sup>93</sup> Compare OMB, *Technical Supplement to the 2026 Budget: Appendix* at 408, 436, available at [https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix\\_fy2026.pdf](https://www.whitehouse.gov/wp-content/uploads/2025/05/appendix_fy2026.pdf) (last visited Sept. 8, 2025) with Pub. L. No. 118-47, 138 Stat. at 597–98, 607–08.

program through the budget request alone does not constitute a withholding, prior decisions make clear that cancellation of funding can only be accomplished through a duly enacted law,<sup>94</sup> and withholding unobligated funding based on a future budget request would violate the ICA.<sup>95</sup> Our prior decisions also articulate that the 45-day review period for proposed rescissions under the ICA may not be used to, in a manner of speaking, “run out the clock” on appropriations and effect so-called “pocket rescissions,” whereby funds expire before Congress has the full statutory period to consider the proposal.<sup>96</sup> We emphasize that funds appropriated in FY 2025 must be prudently obligated during their period of availability, regardless of whether the administration seeks to cancel these funds in future fiscal years.

## CONCLUSION

Our assessment of publicly available information, including statements by DHS and FEMA officials, historical timing of NOFO publication and obligations, data on USAspending.gov, apportionment data, and information on FEMA’s website, indicates that FEMA violated the ICA when it withheld or delayed the obligation of current year funds appropriated for the EFSP and SSP. The burden to justify withholdings rests with the executive branch, and GAO has a statutory duty to report to Congress impoundments the President has not reported.

The agency recently published NOFOs for current year funds for the SHSGP, OPSG, THSGP, UASI, NSGP, Public Transportation Security Assistance Programs, PSGP, EMPG, RCPGP, and NGWS. These NOFOs indicate the agency’s intent to obligate funds prior to their expiration, and the timing of these publications has not yet impacted the agency’s typical rate and timing of awards and obligations for the programs. We therefore find no ICA violation with respect to these funds at this time.

Other funds appropriated in FY 2025 remain available for obligation beyond the end of this fiscal year, and the facts and circumstances available do not indicate the agency’s intent to withhold that budget authority from obligation even though NOFOs remain unpublished—specifically, this includes funds for the Assistance for Firefighter

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<sup>94</sup> B-333110, June 15, 2021 (no impoundment occurred where obligations of program funds continued despite proposed cancellation in future year budget proposals).

<sup>95</sup> See B-329092, Dec. 12, 2017 (impoundment occurred where an agency was withholding program funds in anticipation of congressional enactment of proposed cancellation in future year budget proposals).

<sup>96</sup> B-330330, Dec. 10, 2018, at 5 (“[T]he ICA does not permit budget authority proposed for rescission to be withheld until its expiration simply because the 45-day period has not yet elapsed.”).

Grants, SAFER, and Risk MAP programs. We therefore find no present ICA violation with respect to these funds.

GAO's institutional role is to support Congress, including in Congress's exercise of its constitutional power of the purse. This includes GAO's responsibilities under the ICA, such as reviewing special messages and reporting impoundments the President has not reported. Our analysis and conclusions regarding FEMA help ensure compliance with the ICA and appropriations law. GAO does not take a position on the policy goals of DHS or FEMA, and this decision is not to be interpreted as taking a position on the underlying policies entailed. Changes to FEMA's grant administration functions can be addressed through the legislative process with Congress and the Administration.

A handwritten signature in cursive script, reading "Edda Emmanuelli Perez".

Edda Emmanuelli Perez  
General Counsel