U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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September 29, 2026

The Honorable JD Vance
President of the Senate

The Honorable John Thune
Senate Majority Leader

The Honorable Chuck Schumer
Senate Minority Leader

The Honorable Mike Johnson
Speaker of the House of Representatives

The Honorable Hakeem Jeffries
House Minority Leader

Subject: *Impoundment Control Act of 1974: Review of the President's Special Message of September 25, 2026*

Under section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (ICA), the President may transmit to Congress a special message proposing that Congress rescind budget authority.[1] On September 25, 2026, the President transmitted to Congress a special message proposing rescissions from 11 appropriation accounts.[2] OMB also issued a reapportionment letter for the affected accounts, withholding the amounts proposed for rescission from obligation.[3] We are submitting this letter pursuant to our statutory duty to assist Congress by reviewing the special message.[4]

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[1] Pub. L. No. 93-344, title X, § 1012, 88 Stat. 297, 333–34 (July 12, 1974), *codified at* 2 U.S.C. § 683.

[2] The special message is available at https://www.whitehouse.gov/wp-content/uploads/2026/09/September-Rescissions-Package-for-Speaker-Johnson_signed-9.25.26.pdf.

[3] Letter from Director, OMB, to the heads of the Departments of Commerce, Justice, Homeland Security, Health and Human Services, Education, Housing and Urban Development, and other International Assistance programs, *Apportionment of Special Message dated September 25, 2026* (Sept. 25, 2026).

[4] ICA, § 1014(b), 2 U.S.C. § 685(b).

Where the President properly transmits a special message, the ICA provides a time period for congressional consideration during which an agency may withhold corresponding amounts from obligation.[5] However, the ICA does not allow the President to withhold budget authority through its date of expiration.[6] The Constitution vests in Congress the power of the purse, and Congress did not cede this important power through the ICA. Instead, the terms of the ICA are strictly limited. The ICA permits only the temporary withholding of budget authority and provides that unless Congress rescinds the amounts at issue, they must be made available for obligation. The President cannot rely on the authority in the ICA to withhold amounts from obligation, while simultaneously disregarding the ICA's limitations.[7]

Based on GAO's preliminary review, all 11 accounts implicated by the special message have an assigned Treasury appropriation fund symbol indicating expiration at the end of fiscal year 2026.[8] The period for congressional consideration will end no earlier than November 9, 2026, after the end of fiscal year 2026. [9]

GAO has previously concluded that the ICA does not permit the withholding of funds past their date of expiration, even if the period for congressional consideration has not fully elapsed.[10] The plain language of the ICA provides that amounts proposed for rescission must be made available for obligation unless Congress completes action on a bill rescinding them.[11] The legislative history of the ICA, Supreme Court precedent, and the overarching constitutional framework also compel this conclusion.[12]

As a result, the rescission proposals contained in the President's September 25, 2026, special message to Congress do not permit the President to withhold the appropriations

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[5] ICA, § 1012(b), 2 U.S.C. § 683(b).

[6] *See* 2 U.S.C. § 683(b) (requiring funds be made available for obligation if Congress does not complete action on a rescission bill within 45 calendar days of continuous congressional session); B-337805, Sept. 12, 2025; GAO-21-538T, Apr. 29, 2021; B-330330, Dec. 10, 2018.

[7] B-330330, Dec. 10, 2018.

[8] The special message is available at https://www.whitehouse.gov/wp-content/uploads/2026/09/September-Rescissions-Package-for-Speaker-Johnson_signed-9.25.26.pdf.

[9] The ICA states that some days, such as those during some adjournments, do not contribute to the elapse of the 45-day period. ICA § 1011(5), 2 U.S.C. § 682(5). Therefore, the 45-day period may require more than 45 calendar days to fully elapse.

[10] *See* B-330330, Dec. 10, 2018.

[11] *Id*.

[12] *See id.*

beyond the end of fiscal year 2026. Our conclusion should not be interpreted as taking a position on the policies or programs contained in the special message. Rather, under the ICA, GAO's role is clear—to protect congressional prerogatives and help ensure compliance with federal law. Any withholding of appropriated funds beyond their date of expiration, regardless of size, subverts both the constitutional process for enacting federal law and Congress's constitutional power of the purse. The President may not force the expiration of budget authority Congress has already enacted and did not rescind.[13]

We have enclosed a list of prior GAO work related to the programs at issue in the President's special message. If you have any questions, please contact me at (202) 512-2853 or Shirley Jones, Managing Associate General Counsel at (202) 512-8156.

Edda Emmanuelli Perez

Edda Emmanuelli Perez
General Counsel

[13] Because the withholding of these funds so close to the date of their expiration raises such serious concerns, we do not consider here any additional legal issues that the special message may raise.

ENCLOSURE

R26-1

GAO-26-107815, Ukraine Funding: HHS Allocation and Oversight of Refugee Assistance

GAO-25-107840, Unaccompanied Children: Efforts by the Office of Refugee Resettlement to Address GAO Recommendations

R26-2

GAO-22-104529, Alternatives to Detention: ICE Needs to Better Assess Program Performance and Improve Contract Oversight

R26-3

GAO-26-109097, DHS Grants: Approach to Terminations and Pauses Disrupted Some Program Activities

GAO-12-274, Immigrant Integration: U.S. Citizenship and Immigration Services Could Better Assess Its Grant Program

R26-4

GAO-23-105971, Department of Education: Employment Information for Key Grant Programs that Foster Expertise in World Languages and Cultures

R26-5

GAO-20-6, Religious-Based Hate Crimes: DOJ Needs to Improve Support to Colleges Given Increasing Reports on Campuses

R26-6

GAO-13-829, Climate Change: State Should Further Improve Its Reporting on Financial Support to Developing Countries to Meet Future Requirements and Guidelines

R26-7

GAO-26-107718, Minority Business Development Agency: Information on Performance Assessment and Compliance Monitoring

GAO-24-106671, State Small Business Credit Initiative: Treasury Made Progress on Disbursements and Improvements to Project Scheduling

GAO-22-105215, Tribal Economic Development: Action is Needed to Better Understand the Extent of Federal Support

R26-8

GAO-23-105971, Department of Education: Employment Information for Key Grant Programs that Foster Expertise in World Languages and Cultures

R26-9

No relevant GAO work.

R26-10

GAO-12-588, Financial Literacy: Overlap of Programs Suggests There May Be Opportunities for Consolidation

GAO-11-474R, List of Selected Federal Programs That Have Similar or Overlapping Objectives, Provide Similar Services, or Are Fragmented Across Government Missions

GAO-11-318SP, Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue

GAO-11-925T, Homeownership Counseling: Although Research Suggests Some Benefits, Implementation and Evaluation Challenges Exist

GAO-11-737R, Financial Education and Counseling Pilot Program

GAO-11-656, Mortgage Reform: Potential Impacts of Provisions in the Dodd-Frank Act on Homebuyers and the Mortgage Market

GAO-09-837, Troubled Asset Relief Program: Treasury Actions Needed to Make the Home Affordable Modification Program More Transparent and Accountable

GAO-09-606, Reverse Mortgages: Product Complexity and Consumer Protection Issues Underscore Need for Improved Controls over Counseling for Borrowers

R26-11

No relevant GAO work.