



THE IMPOUNDMENT PROCESS:
ITS USES AND ABUSES

March 2026

President Trump and his Office of Management and Budget have asserted a sweeping executive authority to withhold (“impound”) funds that Congress has appropriated, challenging decades of constitutional understanding and established law. Administration officials have directly contested the constitutionality of the Impoundment Control Act, legislation designed to limit the authority of the executive branch to withhold funds. They have also unilaterally terminated billions of dollars in grants, contracts, and employment positions.

This controversy strikes at the heart of the Constitution’s separation of powers and raises fundamental questions about Congress’s power of the purse.

Congress’s Constitutional Authority over Federal Spending

Article I of the Constitution gives the power of the purse to Congress. The Spending Clause provides: “The Congress shall have Power ... to pay the Debts and provide for the common Defence and general Welfare of the United States.”¹ The Appropriations Clause clarifies that only Congress can decide how federal money is spent, stating: “No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.”²

The Constitution contains no provision authorizing the President to impound funding. Instead, the Take Care Clause places a *duty* on the President to “take care that the laws be faithfully executed.”³ Because appropriations and the Impoundment Control Act are laws, the Constitution requires the executive branch to implement them as Congress directed. For that reason, it has been generally recognized across institutional and partisan lines throughout American history that the President cannot second-guess Congress’s policy judgment on how federal funds should be spent.

Two Supreme Court cases have addressed whether Congress has the power to require the president to fully spend an appropriation. Both have held Congress does have this authority: (1) *Kendall v. United States* (1838) held that Congress can impose mandatory spending obligations on the executive branch,⁴ and (2) *Train v. City of New York* (1975) held that President Nixon lacked authority to spend less than the full amounts Congress directed by statute.⁵

Congress’s authority has also been recognized in multiple Department of Justice, White House Counsel, and Government Accountability Office legal opinions:

- **Department of Justice:** The Department of Justice’s Office of Legal Counsel (OLC) has consistently recognized that the President must execute appropriations as enacted:⁶

¹ U.S. Const. art. I, § 8, cl. 2.

² *Id.* art. I, § 9, cl. 7.

³ *Id.* art. II, § 3, cl. 5.

⁴ *Kendall v. United States ex rel. Stokes*, 37 U.S. 524 (1838).

⁵ *Train v. City of New York*, 420 U.S. 35, 41 (1975); see also *Clinton v. City of New York*, 524 U.S. 417, 468 (1998) (Scalia, J., concurring in part and dissenting in part) (“President Nixon, the Mahatma Gandhi of all impounders, asserted at a press conference in 1973 that his ‘constitutional right’ to impound appropriated funds was ‘absolutely clear.’ Our decision two years later in *Train v. City of New York* . . . proved him wrong[.]”).

⁶ See Protect Democracy, *The Myth of Presidential Impoundment Power* 10 n.44 (Mar. 2025), <https://protectdemocracy.org/impoundment-myth> (“Rehnquist’s OLC opinion is in accord with every other OLC opinion to consider the matter.”).

- In 1969, future Chief Justice William Rehnquist, writing for OLC, advised President Nixon that the President “does not have a constitutional right to impound [appropriated] funds notwithstanding a congressional direction that they be spent.”⁷
- OLC reaffirmed this in 1988, stating, “This Office has long held that the ‘existence of such a broad power is supported by neither reason nor precedent.’”⁸
- **White House Counsel:** The White House Counsel’s Office, which advises the President on legal matters, has also acknowledged these constraints. In a 1985 memorandum for the Counsel’s Office, future Chief Justice John Roberts advised that as a general matter, “the President has no independent constitutional authority to impound funds” and that “no area seems more clearly the province of Congress than the power of the purse.”⁹
- **Government Accountability Office (GAO):** The GAO has been clear that the “president doesn’t have any constitutional authority to withhold, doesn’t have any inherent authority to withhold.”¹⁰

Federal Law on Impoundments

When appropriating funds, Congress can grant the executive branch different levels of flexibility. It may set a spending limit in an appropriation, allowing an agency discretion to spend less than the full amount provided. This practice was more common during the founding era. For example, in 1803, Congress authorized President Jefferson to purchase up to fifteen gunboats, appropriating “a sum not exceeding fifty thousand dollars” for that purpose.¹¹

Over the course of the nineteenth century, it was rare for the President to spend less than an appropriated amount.¹² In a series of opinions in the 1890s, the Attorney General affirmed the principle that appropriations must accomplish the intent of Congress, even when the statutory language was permissive.¹³ Over the twentieth century, Congress increasingly standardized appropriations language, with the majority of appropriations setting exact amounts for agencies to spend within the fiscal year

⁷ Presidential Authority to Impound Funds Appropriated for Assistance to Federally Impacted Schools, 1 Supp. Op. O.L.C. 303, 308 (Dec. 1, 1969), <https://www.justice.gov/file/147706/dl?inline> (hereinafter “Presidential Authority to Impound Funds”).

⁸ The President’s Veto Power, 12 Op. O.L.C. 128, 166 (July 8, 1988), <https://www.justice.gov/file/150991/dl?inline> (quoting Presidential Authority to Impound Funds).

⁹ Memorandum from John G. Roberts, Assoc. White House Couns., for Fred F. Fielding, Couns. to the President, Regarding Impoundment Authority 1, 2 (Aug. 15, 1985), www.reaganlibrary.gov/public/digitalibrary/smaf/counsel/roberts/box-028/40-485-6908381-028-012-2017.pdf.

¹⁰ *Hearing on Protecting Congress’ Power of the Purse* Before the House Budget Committee, 116th Cong. 117 (2020) (statement of Thomas H. Armstrong, General Counsel, Government Accountability Office), <https://www.congress.gov/116/chrg/CHRG-116hrg41966/CHRG-116hrg41966.pdf>.

¹¹ Act of Feb. 28, 1803, ch. 11, § 3, 2 Stat. 206, <https://tinyurl.com/5byhrt3c>.

¹² See Nile Stanton, *The Presidency and the Purse: Impoundment 1803-1973*, 45 U. Colo. L. Rev. 25 (1973), <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=2648&context=lawreview>; Protect Democracy, *The Myth of Presidential Impoundment Power* 13 (Mar. 2025), <https://protectdemocracy.org/impoundment-myth>.

¹³ Stanton, *supra*, at 27-28.

unless otherwise specified.¹⁴ A typical provision now reads: “For necessary expenses for the Office of Labor-Management Standards, \$48,515,000.”¹⁵

Presidents rarely challenged Congress’s authority to control spending levels. A comprehensive study identified only 12 instances before 1968 where a president impounded funds without statutory discretion, and none established a precedent for unilateral executive spending control.¹⁶ Nearly half of these instances took place during World War II, as the Roosevelt Administration diverted resources to the war effort. When presidents outside of wartime did withhold funds, they justified their actions on statutory or programmatic grounds—not as assertions of an inherent constitutional power. The only unauthorized impoundment to reach the Supreme Court—the Jackson Administration’s refusal to pay government contractors—was overturned in *Kendall v. United States*, which held the President had no authority to prevent the execution of a spending law.¹⁷

The Nixon Administration challenged this historical practice. President Nixon asserted an independent constitutional authority to withhold funds, stating “[t]he constitutional right for the President of the United States to impound funds, and that is not to spend money, when the spending of money would mean either increasing prices or increasing taxes for all the people, . . . is absolutely clear.”¹⁸ In 1972 and 1973, his administration impounded \$18 billion, primarily targeting domestic programs it opposed.¹⁹ These impoundments were challenged in court and resulted in the Supreme Court holding in *Train v. City of New York* that when Congress mandates how much an agency must spend, the agency must comply with the congressional directive.²⁰

In response to the actions of the Nixon Administration, Congress enacted the Impoundment Control Act of 1974 to clarify the narrow circumstances in which a president may impound funds.²¹ The Act allows a president to:

- Defer spending temporarily, but only for three specific reasons: (1) to provide for contingencies (e.g., delaying spending in light of a natural disaster), (2) to achieve savings made possible by changes in requirements or greater efficiency, or (3) as expressly authorized by law. Any other type of deferral is prohibited, and the President must notify Congress of any deferral through a special message.

¹⁴ See 31 U.S.C. § 1301(c)(2), <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-1994-title31-section1301&num=0>.

¹⁵ Further Consolidated Appropriations Act, 2024, div. D, tit. I, Pub. L. No. 118-47, 138 Stat. 636 (2023).

¹⁶ Protect Democracy, *supra*, at 13.

¹⁷ *Id.*

¹⁸ 9 Weekly Compilation of Presidential Documents 105, 110 (1973).

¹⁹ Allen Schick, *Congress and Money: Budgeting, Spending, and Taxing* 46 (1980).

²⁰ *Train v. City of New York*, 420 U.S. 35 (1975). The *Train* litigation began before enactment of the Impoundment Control Act but was decided by the Supreme Court after its passage. The Supreme Court did not base its decision on the Impoundment Control Act.

²¹ Originally, the ICA permitted deferrals subject to a legislative veto by either house of Congress. But after the legislative veto was held unconstitutional, the President’s deferral authority was narrowed to allow for deferrals only under the circumstances described above. See James V. Saturno, Congressional Research Service, R48432, *The Impoundment Control Act of 1974: Background and Congressional Consideration of Rescissions 5* (Feb. 25, 2025), https://www.congress.gov/crs_external_products/R/PDF/R48432/R48432.2.pdf.

- Request a rescission by sending a special message to Congress requesting passage of legislation canceling the funds. If Congress does not approve the rescission within 45 days of continuous session, the agency must spend the funds as appropriated.

Over the next 45 years, presidents recognized Congress’s power of the purse and followed the Impoundment Control Act. Until the election of President Trump, it appeared to be settled law that presidents could impound funds only in the narrow circumstances allowed under the Impoundment Control Act.²²

The First Trump Administration

During the first Trump Administration, the Office of Management and Budget (OMB) withheld funding appropriated to the Department of Defense for security assistance to Ukraine. According to GAO, this withholding violated the Impoundment Control Act because it was made not for a statutorily permitted reason but for policy reasons. Specifically, OMB had justified the withholding by claiming it was necessary to prevent the funds from being spent “in a manner that could conflict with the President’s foreign policy.”²³

The Second Trump Administration

During his second administration, President Trump has ramped up his attacks on the Impoundment Control Act and has repeatedly asserted a presidential power to impound funds.²⁴ In 2025 alone, he deferred over \$400 billion of appropriated funding.²⁵ On January 20, 2025, just hours after his inauguration, President Trump signed executive orders that froze foreign assistance funding, halted programs funded by the Inflation Reduction Act and Infrastructure Investment and Jobs Act, and directed agencies to terminate existing grants and contracts connected to “diversity, equity, and inclusion” programs.²⁶ On January 27, the Trump Administration went further and issued a

²² Josh Chafetz, *Congress’s Constitution: Legislative Authority and the Separation of Powers* 65 (2017). For examples of past congressional notifications under the law, see 144 Cong. Rec. H195 (Feb. 3, 1998) (message from the President on deferrals of budgetary resources), <https://www.congress.gov/105/crec/1998/02/03/144/5/CREC-1998-02-03-house.pdf>; 128 Cong. Rec. 7672 (Apr. 26, 1982) (statement on rescission and deferral of certain budget authority), <https://www.congress.gov/97/crecb/1982/04/26/GPO-CRECB-1982-pt6-6-2.pdf>; Walter Pincus, *Carter Impounding Mo. Water Funds*, Washington Post, (Mar. 25, 1977), <https://www.washingtonpost.com/archive/politics/1977/03/26/carter-impounding-mo-water-funds/462bf03c-3a30-49db-9ad2-108046b85d97>.

²³ GAO, *Office of Management and Budget—Withholding of Ukraine Security Assistance*, B-331564, 6 (2020), <https://www.gao.gov/products/b-331564> (quoting OMB Response).

²⁴ Greg Rosalsky, *Can President Trump Ignore Congress’ Spending Laws? The Debate Over ‘Impoundment,’* National Public Radio (Feb. 18, 2025), <https://www.npr.org/sections/planet-money/2025/02/18/g-s1-49220/trump-ignore-congress-spending-laws-impoundment>; Mark Paoletta & Daniel Shapiro, *The President’s Constitutional Power of Impoundment*, Center for Renewing America (Sept. 10, 2024), <https://americarenewing.com/the-presidents-constitutional-power-of-impoundment>.

²⁵ U.S. House Committee on Appropriations, *Weeks Away from End of Fiscal Year, Trump is Blocking \$410+ Billion in Funding Owed to Communities Nationwide* (updated September 8, 2026), <https://democrats-appropriations.house.gov/weeks-away-end-fiscal-year-trump-blocking-410-billion-funding-owed-communities-nationwide>.

²⁶ The White House, *Reevaluating and Realigning United States Foreign Aid* (January 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/reevaluating-and-realigning-united-states-foreign-aid>;

memorandum ordering agencies to pause the obligation or disbursement of all federal financial assistance, not just foreign assistance.²⁷ Two days later, the memorandum was rescinded following a court order.²⁸ Nevertheless, agencies continued to pause certain funding under the President’s executive orders, while other funding remained frozen despite court orders.²⁹

OMB defended President Trump’s actions and rewrote the rules governing impoundment. In May 2025, OMB asserted that President Trump’s actions have been constitutional and in compliance with the Impoundment Control Act.³⁰ Three months later, it updated Circular A-11—its instruction manual for budget and apportionment procedures—to claim more expansive authorities. Breaking with past administrations, the Trump Administration redefined permissible “programmatically” delays to include “the time necessary to establish a new program, change the scope or design of existing programs, or develop policies concerning program implementation to align with Administration policy.”³¹ Under this new definition, nearly any policy-driven withholding could qualify as a permissible delay. The revised circular also removed the definition of impoundment, implied that rescissions and deferrals can lawfully occur outside the Impoundment Control Act’s framework, and deleted language requiring that deferrals be temporary and that funds be obligated before expiration.³²

Two other approaches used by the Trump Administration to block the expenditure of federal funds have been rescissions and pocket rescissions. In June 2025, the Administration submitted a request to Congress to cancel \$10 billion, primarily from foreign aid funding.³³ The Impoundment Control Act

Unleashing American Energy (January 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy>; *Ending Radical and Wasteful Government DEI Programs and Preferencing* (January 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing>.

²⁷ OMB, *Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs* (January 27, 2025), <https://s3.documentcloud.org/documents/25506186/m-25-13-temporary-pause-to-review-agency-grant-loan-and-other-financial-assistance-programs.pdf>.

²⁸ Chris Megerian, Zeke Miller, & Lisa Mascaro, *Trump White House Rescinds Memo Freezing Federal Money After Widespread Confusion*, Associated Press (January 29, 2025), <https://www.ap.org/news-highlights/spotlights/2025/trump-white-house-rescinds-memo-freezing-federal-money-after-widespread-confusion>.

²⁹ See, e.g., Jonathan Allen, *FEMA Official Ignores Judge’s Latest Order, Demands Freeze on Grant Funding*, NBC News (February 11, 2025), <https://www.nbcnews.com/politics/donald-trump/fema-official-ignores-judge-order-freeze-grant-funding-rcna191674> (reporting that FEMA froze funding for various grant programs despite the rescission of the memorandum and multiple court orders); Lisa Friedman, Brad Plumer & Harry Stevens, *Trump Is Freezing Money for Clean Energy. Red States Have the Most to Lose*, N.Y. Times (February 10, 2025), <https://www.nytimes.com/2025/02/10/climate/trump-clean-energy-republican-states.html> (reporting that the Administration was freezing IRA clean energy grants despite court orders).

³⁰ *Letter from OMB General Counsel Mark Paoletta to GAO General Counsel Edda Emmanuelli Perez* (May 30, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/08/OMB-OGC-Response-to-GAO-letter-on-ICA.pdf>.

³¹ OMB, *OMB Circular A-11: Preparation, Submission, and Execution of the Budget* (August 29, 2025), section 112, at 3, <https://www.whitehouse.gov/wp-content/uploads/2025/08/a11.pdf> (2025 revisions); OMB, *OMB Circular A-11: Preparation, Submission, and Execution of the Budget*, § 112 (July 2024), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2018/06/a11.pdf>.

³² OMB, *OMB Circular A-11: Preparation, Submission, and Execution of the Budget* (August 29, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/08/a11.pdf>.

³³ U.S. House of Representatives, *Congressional Record, Volume 171, No. 94* (June 3, 2025), <https://www.congress.gov/congressional-record/volume-171/issue-94/house-section/article/H2402-1>; Rescissions

provides fast-track procedures for proposed rescissions, including expedited consideration and protection from Senate filibusters.³⁴ Congress approved a modified version of the Administration’s initial proposal—the Rescissions Act of 2025—cancelling \$8.3 billion in international assistance and \$1.1 billion for the Corporation for Public Broadcasting (CPB).³⁵ This marked the first time Congress approved a presidential rescission proposal since 1992.³⁶ On August 1, 2025, the Corporation for Public Broadcasting announced it would shut down in January 2026 due to the rescission.³⁷

At the end of August 2025, the Administration submitted a second rescission proposal to cancel an additional \$4.9 billion in foreign aid funding, less than 45 days before the fiscal year’s end on September 30.³⁸ The timing of the submission was strategic. Under the Impoundment Control Act, the President may withhold funds proposed for rescission while Congress considers the request, but must spend the funds if Congress does not approve the rescission within 45 days.³⁹ By submitting the proposal so late in the fiscal year, the Administration ensured that the 45-day window would extend past September 30, meaning the funds would expire if Congress did not reject the proposal by the end of the fiscal year (September 30). This maneuver, known as a “pocket rescission,” effectively cancels funds without congressional approval.⁴⁰ GAO has concluded that pocket rescissions violated the Impoundment Control Act.⁴¹

Proposals Pursuant to the Congressional Budget and Impoundment Control Act of 1974, 90 Fed. Reg. 24,298 (June 9, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-06-09/pdf/2025-10377.pdf>; see also GAO, *Impoundment Control Act of 1974: Review of the President’s Special Message of August 28, 2025*, B-337805 (September 12, 2025), <https://www.gao.gov/assets/890/881423.pdf>.

³⁴ 2 U.S.C. § 668(b)-(c), <https://uscode.house.gov/view.xhtml?path=/prelim@title2/chapter17B&edition=prelim>.

³⁵ Rescissions Act of 2025, Pub. L. No. 119-28, 139 Stat. 467 (2025), <https://www.congress.gov/119/plaws/publ28/PLAW-119publ28.pdf>; CBO, Cost Estimate - H.R. 4, Rescissions Act of 2025 (June 6, 2025), https://www.cbo.gov/system/files/2025-06/hr4_Rescissions_Act_of_2025.pdf.

³⁶ Congressional Research Service, *Pocket Rescissions and the Impoundment Control Act: Legal Authority and Options for Congress* (September 25, 2025), <https://www.congress.gov/crs-product/LSB11374>.

³⁷ Corporation for Public Broadcasting, *Corporation for Public Broadcasting Addresses Operations Following Loss of Federal Funding* (August 1, 2025), <https://cpb.org/pressroom/corporation-public-broadcasting-addresses-operations-following-loss-federal-funding>.

³⁸ U.S. House of Representatives, *Congressional Record, Volume 171, No. 142* (August 29, 2025),

<https://www.congress.gov/congressional-record/volume-171/issue-142/house-section/article/H3715-1>;

³⁹ The 45-day period is for a period of 45 “calendar days of continuous session of Congress,” which includes all calendar days—including weekends and holidays—during which Congress remains in session without adjourning for more than three consecutive days. If either chamber adjourns for longer than three days (e.g., during a recess), those adjourned days are excluded from the count, effectively pausing the 45-day clock. As a result, the total elapsed time on a traditional calendar may exceed 45 days, depending on congressional adjournments. See Zachary Price, *A Primer on the Impoundment Control Act*, Lawfare (January 28, 2025), <https://www.lawfaremedia.org/article/a-primer-on-the-impoundment-control-act>.

⁴⁰ Protect Democracy, *Pocket Rescissions Explainer* (June 2025), <https://protectdemocracy.org/wp-content/uploads/2025/06/Pocket-Rescissions-Explainer.pdf>.

⁴¹ GAO, *Impoundment Control Act—Withholding of Funds through Their Date of Expiration*, B-330330 (2018), <https://www.gao.gov/assets/b-330330.pdf>.

Challenges to the Second Trump Administration's Actions

Judicial Challenges

Courts have been an avenue for challenging the Trump Administration's grant cancellations and funding pauses, but a series of Supreme Court decisions in 2025 have made challenges more difficult in distinct ways. Most of these rulings were issued on the Court's emergency docket without full briefing or explanation, leaving important questions about their scope unresolved. First, the Court has pushed many disputes over cancelled grants into the Court of Federal Claims, a specialized court that under the Tucker Act hears contract suits seeking monetary damages from the federal government. Cases before the Court of Federal Claims often proceed more slowly and relief extends only to the plaintiffs before the court. Second, the Supreme Court has limited district courts' ability to issue nationwide orders restoring funding. Third, the Court has cast doubt on the ability of private plaintiffs to challenge impoundments in court. Together, these rulings reduce the speed and reach of judicial remedies.

In *Department of Education v. California*, grantees had sued in district court to restore cancelled education grants, alleging the cancellations violated the prohibition in the Administrative Procedure Act (APA) on arbitrary and capricious agency action.⁴² The district court agreed, restoring the grants and ordering payment. The Supreme Court paused the court order, concluding that the suit could not be heard by a district court, but only the Court of Federal Claims, which the Court concluded had jurisdiction under the Tucker Act. The Court reasoned that restoring the grants effectively required the government to honor grant agreements and pay money owed under them. As a result, even though the plaintiffs had brought their case as an APA challenge rather than a breach-of-contract claim, the Court treated the suit as one seeking monetary relief based on a federal contract.⁴³

The Court applied similar reasoning in *National Institutes of Health v. American Public Health Association*.⁴⁴ There, the Supreme Court left in place the district court's order setting aside NIH guidance that had restricted certain research funding. At the same time, it stayed the district court's order restoring the grants cancelled pursuant to that guidance. The deciding opinion by Justice Barrett reasoned that while invalidating agency guidance is permissible under the APA, requiring payment under cancelled grants effectively enforces a contractual obligation and therefore must proceed in the Court of Federal Claims.⁴⁵

After these two decisions, plaintiffs challenging grant cancellations may now need to prevail in district court to invalidate an agency policy and then bring a separate action in the Court of Federal Claims to recover payment. What previously could be resolved in a single case may now require two separate proceedings, and relief in the Court of Federal Claims will extend only to the parties before the court.

⁴² *Dep't of Educ. v. California*, 604 U.S. 650 (2025) (per curiam).

⁴³ The five-justice majority acknowledged that an APA claim may ultimately result in the government paying money under a contract without automatically requiring the case to proceed in the Court of Federal Claims under the Tucker Act. *Id.* at 651. Nevertheless, it concluded that the Tucker Act controls when a court order would effectively require the government to "enforce a contractual obligation to pay money," as the district court's order did here. *Id.* The Court offered little guidance on how lower courts should draw this distinction, leaving uncertain when an APA challenge to grant cancellations crosses the line into a claim that must be brought in the Court of Federal Claims.

⁴⁴ *Nat'l Insts. of Health v. Am. Pub. Health Ass'n*, 145 S. Ct. 2658 (2025) (per curiam).

⁴⁵ *Id.* at 2661 (Barrett, J., concurring).

The additional cost and delay will likely deter some grantees from filing suit and may delay recovery for those that do.

In *Trump v. CASA, Inc.*, the Court further limited the ability of lower courts to halt executive funding actions on a nationwide basis.⁴⁶ The Court held that federal district courts generally lack authority to issue nationwide injunctions blocking federal policies beyond the plaintiffs before the court. At the same time, the Court left unresolved the authority of district courts to “set aside” unlawful agency action under the APA.⁴⁷ As a result, it remains unclear whether courts may grant broad relief under the APA in response to unlawful executive funding actions.⁴⁸

Separately, in *Department of State v. AIDS Vaccine Advocacy Coalition*, the Court cast doubt on the longstanding practice of private parties bringing APA suits to enforce appropriations laws—a practice that produced Supreme Court relief in *Train v. City of New York* in 1975.⁴⁹ The recent case arose from a suit by private plaintiffs seeking to block the Administration’s impoundment of foreign aid funding. The Administration defended its action by arguing that the Impoundment Control Act precluded APA suits to enforce appropriations by (1) setting out a procedure for Congress to consider impoundments and (2) authorizing GAO to sue over them. Allowing private plaintiffs to bring APA claims, the Administration argued, would supplant interbranch negotiations and GAO’s enforcement role.⁵⁰

No court had previously adopted this view. Nevertheless, a six-justice majority concluded that “at this early stage,” the Administration had “made a sufficient showing” that the Impoundment Control Act precludes the plaintiffs’ challenge.⁵¹ The Court emphasized, however, that its decision reflects only a “preliminary view” and “should not be read as a final determination on the merits.”⁵²

GAO Challenges

In response to requests from members of Congress and under its independent authority, GAO also reviewed the legality of the Trump Administration’s impoundments. By the end of 2025, GAO had issued nine decisions evaluating the Administration’s compliance with the Impoundment Control Act and found violations in five decisions.⁵³ These violations affected programs at the Departments of Energy, Health and Human Services, Homeland Security, and Transportation, as well as the Institute of Museum and Library Services.⁵⁴ In each case, GAO found that the Administration had withheld funds that Congress

⁴⁶ *Trump v. CASA, Inc.*, 606 U.S. 831 (2025).

⁴⁷ *Id.* at 847 n.10.

⁴⁸ See CRS, “Set Aside” and Vacatur Under the Administrative Procedure Act, LSB11357 (2025), https://www.congress.gov/crs_external_products/LSB/PDF/LSB11357/LSB11357.1.pdf.

⁴⁹ *Dep’t of State v. AIDS Vaccine Advoc. Coal.*, 146 S. Ct. 19 (2025) (per curiam) (granting stay of injunction), https://www.supremecourt.gov/opinions/24pdf/25a269_bp7c.pdf.

⁵⁰ See *id.* at 21 (Kagan, J., dissenting) (describing the government’s arguments).

⁵¹ *Id.* at 19.

⁵² *Id.*

⁵³ GAO, *Recent Impoundment Control Act Decisions* (2025), <https://www.gao.gov/legal/appropriations-law/impoundment-control-act#RecentDecisions>.

⁵⁴ GAO, *Department of Homeland Security—Application of the Impoundment Control Act to Federal Emergency Management Agency Prior Year Federal Assistance Appropriations*, B-337204.2 (September 29, 2025), <https://www.gao.gov/assets/890/881838.pdf>; GAO, *Department of Health and Human Services—National Institutes of Health—Application of Impoundment Control Act to Availability of Funds for Grants*, B-337203 (August 5, 2025), <https://www.gao.gov/assets/890/880607.pdf>; GAO, *Department of Health and Human Services—*

had appropriated, substituting its own policy preferences over the appropriations Congress enacted. According to GAO, the Administration compounded these violations by failing to submit the special messages that the Impoundment Control Act requires, denying Congress notice.

GAO also concluded that the Trump Administration’s pocket rescission proposal was illegal, applying its view that pocket rescissions violate the ICA.⁵⁵

The Trump Administration has resisted GAO’s oversight role. In its May 2025 letter, OMB characterized GAO’s impoundment investigations as “voluminous, burdensome and inappropriately invasive” and “an invasion by an arm of Congress of the internal processes and deliberative materials of the Executive Branch.”⁵⁶ OMB indicated it would cooperate with GAO only “in a manner that ensures that the burdens of such engagements do not unduly impede OMB’s ability to implement the President’s agenda.”⁵⁷

Congressional Challenges

Congressional Democrats have repeatedly challenged the Administration’s spending freezes. The ranking members for the House and Senate Appropriations Committees objected immediately to the January 2025 OMB funding-freeze memorandum,⁵⁸ and the ranking members for the Budget Committees formally asked GAO to assess several Trump Administration funding pauses for compliance with the Impoundment Control Act.⁵⁹ Democratic appropriators also published a public tracker of

Application of the Impoundment Control Act to Availability of Head Start Program Funds, B-337202 (July 23, 2025), <https://www.gao.gov/assets/890/880226.pdf>; GAO, *Institute of Museum and Library Services—Applicability of the Impoundment Control Act to Reduction of Agency Functions*, B-337375 (June 16, 2025), <https://www.gao.gov/assets/880/878908.pdf>; GAO, *U.S. Department of Transportation, Federal Highway Administration—Application of the Impoundment Control Act to Memorandum Suspending Approval of State Electric Vehicle Infrastructure Deployment Plans*, B-337137 (May 22, 2025), <https://www.gao.gov/assets/880/877916.pdf>.

⁵⁵ GAO, *Impoundment Control Act of 1974: Review of the President’s Special Message of August 28, 2025*, B-337805 (September 12, 2025), <https://www.gao.gov/assets/890/881423.pdf>; see also GAO, *Testimony Before the House Committee on the Budget: Proposals to Reinforce Congress’s Constitutional Power of the Purse*, GAO-21-538T (Apr. 29, 2021), <https://www.gao.gov/assets/gao-21-538t.pdf>; GAO, *What is a “Pocket Rescission” and is It Legal?* (August 6, 2025), <https://www.gao.gov/blog/what-pocket-rescission-and-it-legal>.

⁵⁶ *Letter from OMB General Counsel Mark Paoletta to GAO General Counsel Edda Emmanuelli Perez* (May 30, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/08/OMB-OGC-Response-to-GAO-letter-on-ICA.pdf>.

⁵⁷ *Id.*

⁵⁸ Patty Murray & Rosa L. DeLauro, *Vice Chair Murray, Ranking Member DeLauro Raise Alarm on New OMB Memoranda, Trump Administration’s Efforts to Defy Federal Law, Constitution to Withhold Approved Federal Funding* (Jan. 27, 2025), <https://www.appropriations.senate.gov/news/minority/vice-chair-murray-ranking-member-delauro-raise-alarm-on-new-omb-memoranda-trump-administrations-efforts-to-defy-federal-law-constitution-to-withhold-approved-federal-funding>.

⁵⁹ *Letter from Brendan F. Boyle, Ranking Member, H. Comm. on the Budget, & Jeff Merkley, Ranking Member, S. Comm. on the Budget, to Gene L. Dodaro, Comptroller Gen. of the U.S.* (Mar. 31, 2025), <https://www.budget.senate.gov/imo/media/doc/3312025budgetcommitteesicarequestlettertogao.pdf>.

blocked funds,⁶⁰ and House Budget Democrats introduced the Congressional Power of the Purse Act to tighten anti-impoundment rules.⁶¹

Some Republicans have objected to the Administration's deferrals and impoundments, primarily in discrete disputes over the execution of enacted appropriations. Several Republican senators objected when the Administration withheld or delayed congressionally funded disaster-mitigation grants, education formula funds, and NIH research funding, and the funds were largely released following those interventions.⁶² Senators Collins, Reed, Gillibrand, and Murkowski also sought assurances that appropriated funding for the Institute of Museum and Library Services would continue after President Trump directed its elimination to the maximum extent permitted by law and froze its grants.⁶³ Finally, Senator Collins directly challenged the Administration's use of a pocket rescission, stating that "[a]ny effort to rescind appropriated funds without congressional approval is a clear violation of the law."⁶⁴ At the same time, Congress has not enacted new statutory constraints on executive impoundment authority. Despite hearings, public letters, GAO opinions, proposed reforms, and some bipartisan objections in discrete funding disputes, neither chamber has passed legislation amending the Impoundment Control Act, prohibiting particular funding pauses, or otherwise altering the governing legal framework. Oversight and episodic intervention have occurred, but the underlying statutory structure—and the broader separation-of-powers dispute—remain unchanged.

⁶⁰ Press Release, H. Comm. on Appropriations Democrats, *New: In First 100 Days, Trump Blocking at Least \$430 Billion in Funding Owed to the American People* (Apr. 29, 2025), <https://democrats-appropriations.house.gov/news/press-releases/new-100-days-trump-blocking-least-430-billion-dollars-funding-owed-american>.

⁶¹ Press Release, H. Comm. on the Budget Democrats, *Boyle Leads Budget Democrats to Fight Back Against Trump's Power Grab and Protect Essential Programs* (Sept. 9, 2025), <https://democrats-budget.house.gov/news/press-releases/boyle-leads-budget-democrats-fight-back-against-trumps-power-grab-and-protect>; see Congressional Power of the Purse Act, H.R. 5220, 119th Cong. (2025).

⁶² See, *Ten Republican Senators Urge Trump to Reverse School Funding Freeze*, Reuters (July 16, 2025), <https://www.reuters.com/world/us/ten-republican-senators-urge-trump-reverse-school-funding-freeze-2025-07-17> (reporting on letter by ten Republican senators urging OMB to release congressionally approved K-12 funds that had been withheld); Katie Britt, *U.S. Senator Katie Britt Leads Republican Colleagues in Advocating for Critical NIH Research Funding* (July 25, 2025), <https://www.britt.senate.gov/news/press-releases/u-s-senator-katie-britt-leads-republican-colleagues-in-advocating-for-critical-nih-research-funding> (announcing letter from 14 Republican senators urging prompt release of FY 2025 NIH funds); Murray, Van Hollen, Tillis, Murkowski Lead Bipartisan, Bicameral Letter Calling on DHS to Reinstate Disaster Mitigation Program Critical to Local Communities, Senate Comm. on Appropriations (May 13, 2025), <https://www.appropriations.senate.gov/news/minority/murray-van-hollen-tillis-murkowski-lead-bipartisan-bicameral-letter-calling-on-dhs-to-reinstate-disaster-mitigation-program-critical-to-local-communities> (announcing letter from 23 Senate Democrats, 3 Senate Republicans, 49 House Democrats, and 11 House Republicans)

⁶³ Susan Collins, *Senator Collins, Bipartisan Group Push to Preserve Support for Public Libraries & Museums* (Mar. 26, 2025), <https://www.collins.senate.gov/newsroom/senator-collins-bipartisan-group-push-to-preserve-support-for-public-libraries-and-museums>. A federal court permanently blocked the executive order in November 2025, and the Institute reinstated all federal grants in early December. See Greg Landgraf, *One Year of the Trump Administration*, American Libraries Magazine (Jan. 23, 2026), <https://americanlibrariesmagazine.org/2026/01/23/one-year-of-the-trump-administration>.

⁶⁴ Susan Collins, *Senator Collins' Statement on OMB's Rescissions Proposal* (Aug. 29, 2025), <https://www.appropriations.senate.gov/news/majority/senator-collins-statement-on-ombs-rescissions-proposal>.