



## Decision

**Matter of:** Institute of Museum and Library Services—Applicability of the Impoundment Control Act to Reduction of Agency Functions

**File:** B-337375

**Date:** June 16, 2025

---

### DIGEST

Congress appropriated amounts to the Institute of Museum and Library Services (IMLS) to carry out authorized mission activities for fiscal year 2025. An executive order then directed IMLS to reduce operations. IMLS ceased performing agency functions and withheld from obligation and expenditure funds that Congress appropriated for such functions.

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.<sup>1</sup>

GAO's institutional role is to support the 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. IMLS has not responded to GAO's requests for information regarding the potential impoundment of appropriated funds. Yet publicly available evidence, including sworn testimony,

---

<sup>1</sup> See S. Rep. No. 93-688, at 75 (1974) (explaining that the objective of the ICA 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").

federal court cases, data on USAspending.gov, and information on IMLS's website, indicates that IMLS withheld grant and other appropriated funds. Based on the available evidence and the lack of any special message pertaining to IMLS funds, GAO concludes that IMLS has violated the ICA by withholding funds from obligation and expenditure. GAO also concludes that IMLS violated the ICA by withholding funds that cannot be withheld under the ICA's fourth disclaimer.<sup>2</sup>

---

## DECISION

President Trump issued Executive Order (EO) 14238, March 14, 2025, which directed that "the non-statutory components and functions of the [Institute of Museum and Library Services (IMLS)] . . . shall be eliminated to the maximum extent consistent with applicable law . . . ." See Exec. Order No. 14238 § 2(a), Continuing the Reduction of the Federal Bureaucracy, 90 Fed. Reg. 13043 (Mar. 20, 2025). The President further directed that IMLS "shall reduce the performance of [its] statutory functions and associated personnel to the minimum presence and function required by law." *Id.* Following EO 14238, public evidence indicates that IMLS ceased performing agency functions and withheld funds that Congress appropriated for these functions.

Pursuant to our reporting responsibilities under the Impoundment Control Act of 1974 (ICA), we are issuing this decision.<sup>3</sup> As explained below, we conclude that IMLS violated the ICA when it withheld funds from obligation and expenditure. We also conclude that IMLS violated the ICA by withholding funds that were not eligible for withholding under any circumstance pursuant to the ICA's fourth disclaimer.

In accordance with our regular practice, we contacted IMLS to seek factual information and the agency's legal views.<sup>4</sup> Having requested IMLS's response by May 5, 2025, and having received no communication from the agency, we renewed

---

<sup>2</sup> 2 U.S.C. § 681(4). Section 681 sets our four disclaimers with respect to the application of the ICA. The first three disclaimers, none of which are relevant 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 2 U.S.C. §§ 681(1) – (3).

<sup>3</sup> Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, title X, 88 Stat. 297, 336 (July 12, 1974), 2 U.S.C. § 686.

<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>; Letter from General Counsel, GAO, to Acting Director, IMLS (Apr. 21, 2025).

our request for information on May 12, 2025.<sup>5</sup> At present, we have received no response or other communication from IMLS.

Given our statutory duty to report impoundments to Congress and the absence of a response from IMLS, we have based this decision upon publicly available evidence. Because that evidence indicates that IMLS withheld appropriated funds from obligation and expenditure, and because the burden to justify such withholdings rests with IMLS and the executive branch, we conclude that IMLS violated the ICA by withholding funds from obligation and expenditure, as well as by withholding funds that could not be withheld for any reason under the ICA's fourth disclaimer.

## BACKGROUND

IMLS is a component agency within the National Foundation of the Arts and the Humanities. See 20 U.S.C. § 9102. By law, IMLS is headed by a Director, whose primary responsibility is “to ensure the [adequate] availability of museum, library, and information services” to meet the “needs of the people of the United States.” *Id.* § 9103(a)(1), (c)(1). To accomplish this mission, IMLS's authorizing legislation instructs it to conduct research and analysis “to extend and improve the Nation's museum, library, and information services.” *Id.* § 9108(a). Additionally, IMLS's authorizing legislation contemplates that the agency will enter into contracts, grants, cooperative agreements, and other forms of assistance with museums, libraries, State and local governments, and other entities. See, e.g., *id.* §§ 9108(c), 9123, 9141, 9165, 9173.

On an annual basis, consistent with this legislation, IMLS administers multiple grant programs aimed at assisting specific categories of libraries and museums. See IMLS, *Grant Programs*, available at: <https://www.ims.gov/find-funding/funding-opportunities/grant-programs> (last visited June 12, 2025) (providing an overview of all IMLS grant programs). The largest of these programs is “Grants to States,” a formula grant program by which IMLS must transfer specified sums to each state library administrative agency with an approved state plan. See 20 U.S.C. §§ 9131–34; see also IMLS, *Grants to States*, available at: <https://www.ims.gov/find-funding/funding-opportunities/grants-to-states-overview> (last visited June 12, 2025). For most states, the minimum annual Grants to States allotment is \$680,000, but Congress has provided specific metrics for IMLS to increase or decrease this amount as needed in view of IMLS's appropriation in any given fiscal year. 20 U.S.C. § 9131(b)(3)(A)–(C).<sup>6</sup> Additionally, Congress has specified that IMLS

---

<sup>5</sup> Email from Assistant General Counsel, GAO to Acting Director, IMLS (May 12, 2025).

<sup>6</sup> If IMLS's annual appropriation is “insufficient” to provide this amount, then the amounts distributed to state library administrative agencies “shall be reduced ratably.” 20 U.S.C. § 9131(b)(3)(B). And if IMLS's appropriation “exceeds” what is necessary to provide this amount, then the allotment “shall be increased to \$1,000,000,” or as close to that figure as is possible. See *id.* § 9131(b)(3)(C).

shall pay a “federal share” representing 66 percent of the activities outlined in an approved state plan, and that the Director of IMLS “shall approve” any state plan that includes the statutorily required components.<sup>7</sup> See *id.* §§ 9133–34.

For fiscal year (FY) 2024, Congress appropriated to IMLS \$294,800,000 to carry out the above-referenced functions, to remain available for obligation until September 30, 2024.<sup>8</sup> See Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, div. D, title IV, 138 Stat. 460, 697 (Mar. 23, 2024). In a spending table accompanying this appropriation, Congress directed that, of the \$294,800,000 total, \$180,000,000 was for “Grants to States,” \$5,763,000 was for “Native American Library Services”; \$15,287,000 was for “National Leadership: Libraries”; \$10,000,000 was for the “Laura Bush 21st Century Librarian [Program]”; \$30,330,000 was for “Museums for America”; \$3,772,000 was for “Native American/Hawaiian Museum Services”; \$9,348,000 was for “National Leadership: Museums”; \$6,000,000 was for “Museum Grants for African American History & Culture”; \$6,000,000 was for “Museum Grants for American Latino History & Culture”; \$5,650,000 was for “Research, Analysis, and Data Collection”; and \$22,650,000 was for “Program Administration.” See House of Representatives Comm. on Appropriations, 118<sup>th</sup> Cong., *H.R. 2882/Public Law 118-47*, div. D Explanatory Statement, title IV, IMLS, at 809 (Comm. Print 2024) (“Spending Table”).<sup>9</sup>

For FY 2025, Congress appropriated to IMLS the same amounts referenced above. See Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, div. A, title I, § 1101(a), 139 Stat. 9, 10 (Mar. 15, 2025) (appropriating funds to federal agencies, including IMLS, “at the level” specified in agencies’ FY 2024 appropriations, and “under the authority and conditions” specified in such prior appropriations).

President Trump issued EO 14238 on March 14, 2025, which directed that “the non-statutory components and functions of [IMLS] . . . shall be eliminated to the maximum extent consistent with applicable law . . . .” EO 14238, § 2. The President further directed that IMLS “shall reduce the performance of [its] statutory functions and associated personnel to the minimum presence and function required by law.”

---

<sup>7</sup> These required components include a description of activities the state will carry out using grant funds and a discussion of the consistency of such activities with IMLS’s statutory mission, evaluating the effectiveness of such activities, and assurances regarding reporting the effective use of funds, among other things. See *id.*, at § 9134. Approved state plans are effective for five years. See *id.*

<sup>8</sup> Pursuant to 20 U.S.C. § 9108(g)(2), a small portion of IMLS’s appropriated funds remain available until expended.

<sup>9</sup> See also Pub. L. No. 118-47, § 4, 138 Stat. 461 (specifying that the explanatory statement which included the Spending Table “shall have the same effect with respect to the allocation of funds and implementation of . . . this Act as if it were a joint explanatory statement of a committee of conference.”).

*Id.* Deputy Secretary of Labor Keith E. Sonderling was sworn in as Acting Director of IMLS a few days later, after being appointed to that role by the President. See IMLS, Keith E. Sonderling Sworn in as Acting Director of Institute of Museum and Library Services (Mar. 20, 2025), *available at*: <https://www.ims.gov/news/keith-e-sonderling-sworn-acting-director-institute-museum-and-library-services> (last visited Jun. 12, 2025).

Following his appointment, according to court filings, IMLS Acting Director Sonderling implemented the President's directives in EO 14238 by drastically reducing IMLS operations. About two weeks later, a group of 21 state attorneys general brought suit in the United States District Court of the District of Rhode Island seeking relief from IMLS's alleged actions in "plac[ing] 85% of its staff on administrative leave, dramatically curtail[ing] ... hundreds of grants and grant applications, and terminat[ing] statutorily mandated grant awards to several States." See Complaint, *State of Rhode Island, et al. v. Trump et al.*, ¶ 3. No. 1:25-cv-00128 (D.R.I. Apr. 4, 2025).<sup>10</sup> A few days after that, the American Library Association and the American Federation of State, County, & Municipal Employees brought suit in the United States District Court for the District of Columbia seeking relief from IMLS's actions to "dismantle" agency operations, including by "cancell[ing] statutorily required grants to several state libraries." See Complaint, *American Library. Ass'n v. Sonderling et al.*, No. 1:25-cv-01050, at 2–3 (D.D.C. Apr. 7, 2025).

Consistent with these court filings, agency data on USAspending.gov indicates that IMLS reduced its spending by more than half in this period. Federal law holds agencies accountable for the completeness and accuracy of the data submitted.<sup>11</sup> As of June 3, 2025, the data indicates that IMLS obligated \$89,866,698.12 toward eight grant programs in the first five months of calendar year 2025, whereas IMLS obligated \$191,012,877.27 toward these same programs in the first five months of calendar year 2024 and \$189,852,949.83 toward these same programs in the first

---

<sup>10</sup> The Rhode Island lawsuit also concerns several other executive agencies, but this decision is concerned exclusively with IMLS.

<sup>11</sup> USAspending.gov is the official source of federal government spending data. Various laws and regulations, as well as OMB and Treasury guidance, require agencies to report spending information to USAspending.gov, generally on a monthly or quarterly basis. The Federal Funding Accountability Transparency Act of 2006 (FFATA) was responsible for the initial establishment of USAspending.gov and required agencies to publish data on federal awards equal to or greater than \$25,000. Pub. L. No. 109-282, 120 Stat. 1186 (Sept. 26, 2006) (*codified as amended by* 31 U.S.C. § 6101 note). The Digital Accountability and Transparency Act of 2014 expanded the requirements of FFATA, requiring agencies to link financial information (e.g., obligations) to the related federal awards and requiring OMB and Treasury to develop government-wide data standards and elements for agencies to use when reporting spending data. Pub. L. No. 113-101, 128 Stat. 1146 (May 9, 2014).

five months of calendar year 2023.<sup>12</sup> Additionally, IMLS's online "events" calendar shows the agency had no scheduled public activity since December 10, 2024, in contrast to regular activity before then. See IMLS, *IMLS Events*, available at: <https://www.imls.gov/events-archive> (last visited June 12, 2025). IMLS's online "newsroom" page also shows no activity since the March 20 announcement that Mr. Sonderling had become Acting Director. See IMLS, *News & Announcements*, available at: <https://www.imls.gov/newsroom/news-and-announcements> (last visited June 12, 2025).

The D.C. District Court issued a temporary restraining order (TRO) in May providing that IMLS "shall not take any further actions to dissolve IMLS or its operations . . . [to terminate or] place any additional IMLS staff on administrative leave . . . [or to] pause, cancel, or otherwise terminate IMLS grants or contracts . . . ." See Memorandum Order, *American Library. Ass'n v. Sonderling et al.*, No. 1:25-cv-01050 (May 1, 2025) (opining that "defendants' conduct contravene[d] Congress's appropriation of almost \$300 million to IMLS . . .").<sup>13</sup> Later that same month, the District Court for the District of Rhode Island issued a preliminary injunction directing IMLS to reinstate anyone "placed on leave or involuntarily terminated" due to EO 14238, to refrain from "further paus[ing], cancel[ing], or otherwise terminat[ing]" grants or contracts, to "resume the processing, disbursement, and payment of already-awarded funding" and to "release awarded funds previously withheld or rendered inaccessible." See Preliminary Injunction, *State of Rhode Island et al. v. Trump et al.*, No. 1:25-cv-00128 (D.R.I., May. 13, 2025). Additionally, the preliminary injunction ordered the defendants to file a report within 7 days to "confirm [their] full compliance" with the preliminary injunction. *Id.* at 4.

In a sworn statement filed in *State of Rhode Island*, Acting Director Sonderling

---

<sup>12</sup> The eight referenced programs are Grants to States, National Leadership Grants, Laura Bush 21<sup>st</sup> Century Librarian Program, Museum Grants for African American History and Culture, Museums for America, Native American and Native Hawaiian Library Services, Native American/Native Hawaiian Museum Services Program, and Save America's Treasures. Notably, the final five programs in this list all had either \$0 or negative obligation amounts indicated for the first five months of 2025. To compile these numbers, GAO staff searched USAspending.gov for "grant" award types and "Institute of Museum and Library Services" as the granting agency. We then downloaded the data at the transaction level. Given IMLS's non-responsiveness, we have not been able to independently verify these specific amounts with the agency or recipients.

<sup>13</sup> This TRO expired on May 29, 2025. On June 6, 2025, the judge denied plaintiffs' motion for a preliminary injunction because he found that the Tucker Act, 28 U.S.C. §§ 1346(a) and 1491 (which grants the Court of Federal Claims exclusive jurisdiction over certain monetary claims against the federal government) may require plaintiffs to file suit elsewhere. See Memorandum Opinion, *American Library. Ass'n v. Sonderling et al.*, No. 1:25-cv-01050 (Jun. 6, 2025). The judge did not address the applicability of the ICA. *Id.*

described the actions that IMLS had taken to carry out EO 14238, as well as to comply with the May 13 preliminary injunction. See Declaration of Keith E. Sonderling, *State of Rhode Island et al. v. Trump et al.*, No. 1:25-cv-00128 (May 19, 2025). First, Acting Director Sonderling explained that “as part of IMLS’s initial compliance with EO 14238 . . . three Grants to States FY24 awards were terminated on April 1, 2025,” but that he “authorized back payments” to these three grants on May 1, 2025, and then “fully reinstated them” on May 5, 2025. *Id.* at ¶ 9. Also, with respect to Grants to States, Acting Director Sonderling said that he had “authorized partial FY25 grant payments to all state grantees,” but that they remained incomplete “because IMLS ha[d] not yet received its FY25 apportionment from the Office of Management and Budget.” *Id.* With respect to IMLS’s other grants, Acting Director Sonderling said “approximately 1,200 [competitive] grants were terminated pursuant to EO 14238,” which left “approximately 100” in place. *Id.* at ¶ 10.

Acting Director Sonderling’s sworn statement further explained that IMLS’s FY 2025 apportionment request “was based on compliance with EO 14238 and a minimal staffing posture,” whereas the preliminary injunction would require OMB to apportion (and IMLS to spend) more funds. Declaration of Keith E. Sonderling, at ¶ 14. Specifically, Acting Director Sonderling said that to comply with the preliminary injunction, IMLS must bring back “57 staff,” which will increase staff-related costs by “approximately \$900,000 per month”; that it must reinstate “at least 755 competitive grants” costing “approximately \$78.5 million [for purposes] counter to the administration’s priorities”; and that it must spend “\$4 to \$5 million” to “reinstate contracts that were in the process of being terminated for convenience.” *Id.* at ¶¶ 14, 17–18.

## DISCUSSION

At issue here is whether IMLS’s actions to implement EO 14238 violated the ICA. For the reasons explained below, and based on available information, we conclude that IMLS violated the ICA by improperly withholding appropriated funds from obligation and expenditure. We also conclude that IMLS improperly withheld funds that are not eligible for withholding under the ICA’s fourth disclaimer.

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>14</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 houses of Congress, and Congress may subsequently override a presidential veto.<sup>15</sup> This process does not grant the President the authority to pass his own laws or to

---

<sup>14</sup> U.S. Const. art. I, § 9, cl. 7.

<sup>15</sup> *Id.* at art. I, § 7, cl. 2, 3.



ignore or amend a law duly enacted by Congress.<sup>16</sup> Instead, the President must “faithfully execute” the law as Congress enacts it.<sup>17</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>18</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.

The Constitution grants the President no unilateral authority to withhold funds from obligation.<sup>19</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>20</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>21</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>22</sup>

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>23</sup> These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA.<sup>24</sup> The burden to justify a withholding of budget authority rests with the executive branch.

While the ICA does not circumscribe when funds can be proposed for rescission, it only permits deferral of budget authority in a limited range of circumstances: to

---

<sup>16</sup> See B-331564, Jan. 16, 2020 (citing *Clinton v. City of New York*, 524 U.S. 417, 438 (1998)).

<sup>17</sup> U.S. Const., art. II, § 3.

<sup>18</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>19</sup> See B-135564, July 26, 1973.

<sup>20</sup> See 2 U.S.C. §§ 681 – 688.

<sup>21</sup> *Id.* at § 684.

<sup>22</sup> *Id.* at § 683.

<sup>23</sup> *Id.* at §§ 683–684.

<sup>24</sup> See 2 U.S.C. §§ 683 – 684; B-237297.4, Feb. 20, 1990 (vague or general assertions are insufficient to justify the withholding of budget authority).



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>25</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>26</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>27</sup> The ICA's fourth disclaimer further clarifies that the ICA's deferral and proposed 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.

GAO's institutional role is to support the 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<sup>28</sup> and reporting impoundments the President has not reported.<sup>29</sup>

### Application of the ICA to IMLS

In this case, the Administration has not sent a special message under the ICA related to the IMLS nor has IMLS provided any information or its legal views to GAO. Nevertheless, publicly available evidence shows that the agency withheld funds from obligation and expenditure in its efforts to implement EO 14238.

Outside the context of Grants to States, which we discuss separately below, the evidence shows multiple withholdings for which IMLS should have followed—but did not follow—the ICA's procedures for deferring or proposing the rescission of appropriated funds. According to Acting Director Sonderling, IMLS terminated "approximately 1,200 [competitive] grants" in or around March 2025, leaving only about "100" in place. See Declaration of Keith E. Sonderling, at ¶ 10. By Acting Director Sonderling's estimation, the costs associated with these terminated grants were "approximately \$78.5 million." See *id.* at ¶¶ 14–18. The data on USAspending.gov appears to corroborate Acting Director Sonderling's testimony by indicating a reduction of roughly \$100,000,000 in IMLS's grant obligations during the

---

<sup>25</sup> 2 U.S.C. § 684(b).

<sup>26</sup> 2 U.S.C. §§ 683–684; B-329092, Dec. 12, 2017; 54 Comp. Gen. 453 (1974).

<sup>27</sup> 2 U.S.C. § 683. The ICA also does not authorize the withholding of budget authority through its date of expiration. See B-330330, December 10, 2018. As such, so-called "pocket rescissions" are not consistent with the ICA.

<sup>28</sup> 2 U.S.C. § 685.

<sup>29</sup> 2 U.S.C. § 686.

first five month of this year as compared with that period during the last two years.<sup>30</sup> Additionally, Acting Director Sonderling said that IMLS terminated contracts in this period worth “\$4 to \$5 million,” as well as reduced IMLS’s staff to a degree that Acting Director Sonderling suggested had lowered IMLS’s monthly costs by about \$900,000. *See id.* Using Acting Director Sonderling’s figures, this would represent a decrease of roughly \$93,300,000 in annual spending for activities other than Grants to States, which leaves \$21,500,000, or about 19% of the \$114,800,000 that Congress directed for such activities in FY 2025.<sup>31</sup> While there is no numeric threshold for an ICA violation, the obligation of roughly 19% does not suggest a reasonable attempt by the agency to carry out the purposes of the appropriation.<sup>32</sup>

As Acting Director Sonderling has explained, he was not seeking to repurpose these funds for IMLS’s obligation toward other mission activities—he was planning to not use them, contrary to the amounts directed in the FY 2024 and FY 2025 appropriations. *See* Declaration of Keith E. Sonderling, at ¶¶ 14–18 (discussing how he had requested a reduced FY 2025 apportionment from OMB and how the Preliminary Injunction will require IMLS to spend millions more in available budget authority than he had planned to spend); *see also* discussion *supra* at p. 4 (outlining the specific amounts directed for IMLS activities in FY24 and FY25). Thus, the only way that IMLS could have sought to effectuate these budget cuts is by following the procedures outlined in the ICA and sending a special message to Congress.<sup>33</sup> *See* discussion *supra* pp. 7–8; *cf.* B-115398.32, Nov. 20, 1974 (explaining how “savings realized as a result of” an agency downsizing would “clearly” represent proposed rescissions and require a special message, even if the downsizing itself was conducted through lawful means). The ICA was specifically designed to prevent

---

<sup>30</sup> *See* discussion *supra*, p. 5. The USAspending.gov data includes Grants to States amounts, which may explain the roughly \$20 million disparity between that data and Acting Director Sonderling’s estimate.

<sup>31</sup> GAO calculated this figure as follows: IMLS’s full FY 2025 appropriation was for \$294,800,000, of which \$180,000,000 was designated in the Spending Table for Grants to States. *See* discussion *supra* at p. 4. That leaves \$114,800,000 (i.e., \$294,800,000 - \$180,000,000) for other IMLS activities. Mr. Sonderling describes approximately \$93,300,000 in cuts to these activities (i.e. \$78,500,000 associated with competitive grants, \$4,000,000 associated with contracts, and \$10,800,000 (\$900,000 x 12 months) associated with staffing costs. \$114,800,000 - \$93,300,000 = \$21,500,000.

<sup>32</sup> Compare B-333110, Jun. 15, 2021 (finding a permissible programmatic delay considering, among other things, that the agency had obligated 95% or more of its relevant appropriated funds).

<sup>33</sup> The ICA does not allow deferrals for policy-based reasons, so to the extent a special message had proposed the deferral (rather than the rescission) of IMLS funds solely for compliance with the policies outlined in EO 14238, that likely would have been impermissible. *See* B-331564, Jan. 16, 2020 (policy-based deferments are impermissible); B-237297.3, Mar. 6, 1990; B-224882, Apr. 1, 1987.

unilateral withdrawals by the executive branch; by failing to send a special message and by taking action to cut its own budget authority without Congress's input, IMLS violated the ICA's requirements.

There is no evidence to suggest that IMLS's multiple withholdings constituted an ordinary programmatic delay of the sort that GAO has recognized does not implicate the ICA. "Programmatic delays occur when an agency is taking reasonable and necessary steps to implement a program or activity, but the obligation or expenditure of funds is unavoidably delayed." B-331564.1, Feb. 10, 2022. "Programmatic delays include delays in the obligation or expenditure of budget authority that result from agency compliance with statutory requirements." B-337137, May 22, 2025; *see also* B-333110, June 15, 2021. There was nothing unavoidable about IMLS's withholdings in this instance, nor was IMLS withholding funds to comply with statutory requirements. The purpose of IMLS's withholdings, as explained by Acting Director Sonderling, was to comply with EO 14238 and prevent spending for purposes "counter to the administration's priorities." Declaration of Keith E. Sonderling Declaration at ¶¶ 14–18.

#### Application of the Fourth Disclaimer to IMLS

Acting Director Sonderling's sworn statement also shows that IMLS withheld Grants to States funds that cannot be withheld consistent with the ICA's fourth disclaimer prohibition for funds "require[d]" to be spent. 2 U.S.C. § 681(4). Specifically, Acting Director Sonderling said that he "terminated" three Grants to States FY 2024 awards for approximately one month beginning on April 1, 2025, and that only "partial" Grants to States payments had been made for FY 2025 because IMLS requested a reduced apportionment from OMB "based on [its planned] compliance with EO 14238." *See* Declaration of Keith E. Sonderling at ¶¶ 9, 14.

The consideration for whether something is covered by the ICA's fourth disclaimer is "whether the relevant statutory scheme constitute[s] a mandate to spend the full amounts available or confer[s] spending discretion."<sup>34</sup> In B-205053, Mar. 10, 1982, which concerned a then-applicable version of the Grants to States statute, we said the grants contemplated in this statute were subject to the ICA's fourth disclaimer because funds were "allotted" to states by a specific "formula," which at least two federal courts had found sufficient to trigger the fourth disclaimer. B-205053, Mar. 10, 1982.

The current Grants to States program retains the relevant characteristics that GAO described in B-205053, Mar. 10, 1982. It includes an allotment formula. *See* 20 U.S.C. §§ 9131-32 (prescribing minimum allotments and the procedures to increase or decrease such allotments, along with federal share requirements). It includes elements of notice. *See id.* at §§ 9133–34 (IMLS "shall approve" compliant state plans, which remain in place for five years thus giving states notice of future cutoffs).

---

<sup>34</sup> B-205053, Mar. 10, 1982; *see also* B-337137, Mar 22, 2025.

And it includes a clear spending mandate. See *id.* § 9131 (directing that IMLS “shall award” grants in the formula-specified amounts). Accordingly, Grants to States funds are covered by the ICA’s fourth disclaimer—as we have said with regard to the predecessor statute—and are not eligible for deferral or rescission consistent with ICA procedures. Since the amounts currently available for the program are subject to the ICA’s fourth disclaimer, they may not be withheld from obligation and expenditure under the ICA.

## CONCLUSION

GAO’s institutional role is to support the 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 IMLS help ensure compliance with the ICA and appropriations law. GAO does not take a position on the policy goals of IMLS, and this decision is not to be interpreted as taking a position on the underlying policies entailed. Changes to IMLS can be addressed through the legislative process with Congress and the Administration.

The publicly available information, as presented by Acting Director Sonderling’s sworn testimony, by federal court cases, by the data on [USAspending.gov](https://www.usaspending.gov), and by the information on IMLS’s website indicates that following EO 14238, IMLS stopped obligating and expending the funds that Congress had appropriated without regard to the process provided for in the ICA.

IMLS violated the ICA when it withheld appropriated funds, some of which were not eligible for ICA-based withholdings due to the ICA’s fourth disclaimer. The burden to justify withholdings rests with the executive branch and GAO has a statutory duty to report impoundments to Congress. If IMLS wishes to make changes to the appropriation provided to IMLS, it must propose funds for rescission or otherwise propose legislation to make changes to the law for consideration by Congress.



Edda Emmanuelli Perez  
General Counsel