GFOA PRIMER

The Impoundment Control Act

What it is, how it works, and what it means for your funds

Enacted in 1974 after high-profile impoundment disputes, the Impoundment Control Act sets the only lawful process for the executive branch (via the President/OMB) to delay or cancel appropriated funds.

Since enactment, presidents have repeatedly proposed rescissions—more than 1,100 in total, with approximately $25 billion approved by Congress.

Knowing the steps—and the timelines—helps you gauge risk to grants, formula programs, and pass-through awards to states and local governments.

THE TWO TOOLS UNDER THE ICA

1) Deferral (temporary delay)

- Must be explained in a **presidential "special message"** with amounts, duration, and reasons.
- Allowed only to **provide for contingencies**, **achieve savings/efficiency**, or when **otherwise provided by law**.
- **May not extend past the end of the fiscal year**.

2) Rescission (permanent cancellation)

- Proposed via a **special message**; during consideration, funds may be temporarily reserved.
- **Takes effect only if Congress enacts a rescission bill within 45 calendar days of continuous session**; if not, **the funds must be released**.
- Withholding funds until they **expire** to sidestep Congress (a "**pocket rescission**") is **illegal**.

Funds proposed for rescission **must be made available** unless Congress completes action on a rescission bill within 45 days of continuous session.

GAO—WHO THEY ARE AND WHY THEY MATTER HERE

GAO (Government Accountability Office) is an **independent, nonpartisan agency that works for Congress**—often called the congressional watchdog. It provides fact-based audits, evaluations, and legal decisions on appropriations law. Under the ICA, GAO **reviews special messages**, **reports violations**, and the **Comptroller General may sue** to compel release of illegally withheld funds.

What "impoundment" looks like in practice

1. Withholding occurs (agency slows or pauses obligations).
2. Special message is transmitted to both chambers of Congress and to GAO the same day.
3. Congress decides: disapprove a deferral or enact a rescission within 45 days; otherwise, funds must be released and available for obligation before they expire.

Risks and impacts for states & local governments

- **Cash-flow disruption / timing risk**: Even lawful deferrals can delay reimbursements or awards until late in the fiscal year, compressing obligation windows. (Withholding through expiration to force lapses is not permitted.)
- **Uncertainty for multi-year projects:** Late-year holds can force re-sequencing of contracts, increase costs, or jeopardize match timing.
- **Administrative burden**: Additional coordination, re-budgeting, and documentation to track impacts for oversight inquiries.

WHAT GFOA MEMBERS SHOULD DO NOW

Verify status and documentation: Ask your **grant/program officer** whether a special message has been sent and for which **accounts/amounts**; request the statutory justification in writing.

Map the timeline: Note each account's **fund type** (annual vs. multi-year/no-year) and **FY end**; track any **45-day rescission window** in play.

Identify potential contingency funds: Build a buffer into project budget so that work can proceed if funding is not provided. For critical payments, consider sequencing late in the federal fiscal year (deferrals cannot run past fiscal year end).

Document impacts: Maintain a log of **delayed drawdowns**, **missed milestones**, **and added costs** for use with congressional offices and GAO reviews.

Engage policymakers: Share concise memos with your **delegation** tying local impacts to specific accounts and deadlines; GAO and Congress rely on such detail when evaluating impoundments.