Congress of the United States
Washington, DC 20515

December 11, 2025

Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, N.W.
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Mr. Dodaro:

I request that GAO issue a legal decision on (1) whether particular funds designated for emergency requirements, as further described in this letter, were available for obligation and expenditure in fiscal year 2025 or thereafter; and (2) if they were not available, whether obligation or expenditure of these funds violated the Antideficiency Act.

Under the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA), Congress may designate appropriated amounts as "emergency requirements."[1] In years in which discretionary spending limits under BBEDCA are in place – such as for fiscal year 2025 – appropriations designated as an emergency requirement under section 251 of BBEDCA mandate an increase in the limits to accommodate those amounts.[2] Emergency designations under section 251 of BBEDCA thereby play an important role in the calculation of discretionary limits and potentially any sequestration that would be required to stay within such limits, though section 251 of BBEDCA does not speak to the availability of such funds for obligation or expenditure. Amounts so designated are also generally exempt from budgetary enforcement rules in both the House and the Senate.[3]

For fiscal year 2025, Congress exercised its authority and designated amounts in several accounts as emergency requirements.[4] Congress also provided, as it generally does, that most of those funds would be available for obligation and expenditure only if the President also designated all such funds as

[1] *See* 2 U.S.C. § 901(b)(2)(A).
[2] *See* 2 U.S.C. §901(b)
[3] *See* 2 U.S.C. § 645.
[4] *See* Pub. L. No. 119–4, § 1110(a), 139 Stat. 9, 13 (Mar. 15, 2025) (incorporating by reference emergency designations contained in FY 2024 appropriations acts); *see also* Pub. L. No. 118–47, 138 Stat. 460, 742–744, 747, 749, 849–850, (Mar. 23, 2024) (designating amounts as emergency requirements for FY 2024); Pub. L. No. 118–42, 138 Stat. 25, 117, 121–123, 128, 137, 139, 149, 158, 160, 162, 177, 189–190, 345, 365 (Mar. 9, 2024) (designating amounts as emergency requirements for FY 2024).

emergency requirements.[5] Specifically, Congress provided that the following provision would apply to amounts designated as an emergency pursuant to section 1110(a):

> "Each amount designated in this Act by the Congress as an emergency requirement pursuant to [BBEDCA] shall be available . . . *only if* the President subsequently so designates *all* such amounts and transmits such designations to Congress."[6]

In other words, those emergency designations are required in statute to be an all-or-nothing proposition. The President may designate all amounts designated by Congress as emergency requirements, in which case all the funds become available for obligation and expenditure. Alternatively, the President may choose to designate some or none of the funds Congress has designated, but in that case, *none* of the funds would be available for obligation or expenditure.

On March 24, 2025, the President transmitted to Congress a notice "to designate as emergency requirements 16 [*sic*] appropriations (including the transfer and repurposing of funds)."[7] The President expressly excluded other amounts designated by the Congress as an emergency requirements, stating "[m]y designation does not include the remaining 11 [*sic*] appropriations…and I do not concur that the added spending is truly for emergency needs."[8, 9]

Of the 17 appropriations designated as emergency requirements by both the Congress (pursuant to section 1110(a) of Public Law 119–4) and the President (pursuant to the above-referenced letter), 14 were subject to a standard all-or-nothing contingency, while three were not.[10] An additional 13 appropriations provided by section 1101(a) of Public Law 119–4, were designated by the Congress as an emergency requirement in statute pursuant to section 1110(a) of such law, and were subject to the all-or-nothing provisions of section 1110(b) of such law.[11]

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[5] *See, e.g.,* Pub. L. No. 119–4, § 1110(b); Pub. L. No. 118–47, § 6; Pub. L. No. 118–42, § 6. The President must also designate funds in order for the funds to be excluded from sequestration calculations. 2 U.S.C. § 901(b)(2)(A).

[6] Pub. L. No. 118–47, § 6; Pub. L. No. 118–42, § 6 (emphasis added). The full-year continuing resolution for fiscal year 2025 expressly incorporated this provision. *See* Pub. L. No. 119–4, § 1110(b).

[7] House Document 119–31, *A Designation as an Emergency Requirements 16 Appropriations So Designated by the Congress in the Act Pursuant to Section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and in Accordance with Section 1110 of the Full-Year Continuing Appropriations and Extensions Act, 2025* (March 24, 2025).

[8] *Id.*

[9] The enclosure referenced in the March 24, 2025, letter specifies 17 appropriations (including the transfer and repurposing of funds) from 16 accounts that the President designated as an emergency requirement pursuant to section 251 of BBEDCA.

[10] *See, e.g.,* Pub. L. No. 119–4, § 1110(b), which applies to amounts "incorporated by reference" in section 1110(a), but does not extend to emergency-designated amounts provided elsewhere in Public Law 119–4. Such amounts were provided and designated in sections 1207, 1808, and 11206 of such Act, and were designated in the President's March 24, 2025, letter, though not subject to an "all-or-nothing" requirement.

[11] These appropriations were continued in effect by section 1101(a) for fiscal year 2025, but originally contained in the following provisions of law for fiscal year 2024: Amounts totaling $2.9 billion that were provided in division F of Public Law 118–47 under the headings "International Disaster Assistance", "Economic Support Fund", "Assistance for Europe Eurasia and Central Asia", "Migration and Refugee Assistance", "International Narcotics Control and Law Enforcement", "International Security Assistance", together with amounts repurposed pursuant to section 7068(b) of such division); $434 million provided in division C of Public Law 118–42 for "International Trade Administration—Operations and Administration", "Bureau of Industry and Security—Operations and Administration", "Economic Development Administration—Economic Development Assistance Programs", "National Oceanic and Atmospheric Administration—

As of September 30, 2025, based on widely available financial information from the Office of Management and Budget, the Drug Enforcement Administration, U.S. Marshals, National Aeronautics and Space Administration, and Department of Housing and Urban Development, have collectively obligated over $9.3 billion, and expended more than $7.7 billion, from amounts subject to section 1110(b).[12]

The collection of statutes known as the Antideficiency Act provides that no officer or employee of the government may obligate or expend in excess of an available appropriation.[13] At least $12.375 billion in funding, and additional amounts permitted to be transferred or repurposed, that were designated as emergency requirements by Congress pursuant to section 1110(a) of Public Law 119–4 only become available for obligation and expenditure when the President has subsequently designated *all* such amounts. Here, the President has not done so.

Therefore, I request that GAO provide a legal decision determining whether the amounts described herein were available for obligation and expenditure and, if not, whether obligation or expenditure of these funds violated the Antideficiency Act.

The points of contact on this matter for Ranking Member DeLauro are Raquel Spencer (Raquel.Spencer@mail.house.gov) and Adam Wilson (adam.wilson@mail.house.gov), and for Vice Chair Murray are John Righter (John_Righter@appro.senate.gov), and Carly Rush (Carly_Rush@appro.senate.gov).

Sincerely,

Rosa L. DeLauro, Ranking Member
House Committee on Appropriations

Patty Murray, Vice Chair
Senate Committee on Appropriations

Procurement, Acquisition and Construction", "Office of Justice Programs—State and Local Law Enforcement Assistance", and "National Science Foundation—Major Research Equipment and Facilities Construction".

[12] *Disaster and Emergency Funding SF-133 Reports*.

[13] *See* 31 U.S.C. § 1341.