GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

Decision

Matter of: U.S. Department of Agriculture—Application of the Impoundment Control Act to Environmental Quality Incentives Program Inflation Reduction Act Appropriations

File: B-337209

Date: August 5, 2025

DIGEST

Congress appropriated amounts to the U.S. Department of Agriculture, Natural Resources Conservation Service (USDA) to carry out the Environmental Quality Incentives Program (EQIP) for fiscal year (FY) 2023 through FY 2031 as specified in the Inflation Reduction Act of 2022 (IRA). Executive orders issued on January 20, 2025, directed USDA to pause disbursements, undertake certain reviews, and, to the extent allowed by law, terminate equity-related grants and contracts. USDA memoranda issued in March 2025 subsequently directed staff to review all awards still in their period of performance and awards selected for funding but not yet obligated for diversity, equity, and inclusion (DEI) and to ensure that USDA does not fund DEI. USDA briefly paused obligations and expenditures for EQIP.

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. However, GAO has recognized that ordinary programmatic delays are not impoundments under the ICA.

GAO's institutional role is to support the Congress, including in Congress's exercise of its constitutional power of the purse. 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. Considering USDA's discretion under the relevant provisions of the IRA and EQIP authorization and the purposes of the pause; the short length of the pause in light of the time availability of the funds; and USDA's actual obligations and expenditures data, USDA's pause was a permissible programmatic delay, not a violation of the ICA.

DECISION

Congress appropriated amounts to the U.S. Department of Agriculture, Natural Resources Conservation Service (USDA) in Public Law 117-169—commonly known as the Inflation Reduction Act of 2022 (IRA)—to carry out the Environmental Quality Incentives Program (EQIP).[1] On January 20, 2025, the President issued Executive Order (EO) 14154 (Energy Order) directing all agencies to "immediately pause the disbursement of funds appropriated through [IRA]" and to "review their processes, policies, and programs . . . for consistency with the law and the policy outlined in [the EO]."[2] On the same date, the President also issued EO 14151 (DEI Order) directing all agencies, to the extent allowed by law, to terminate equity-related grants and contracts.[3] After these EOs, USDA issued a memorandum directing staff to conduct reviews of all awards still in their period of performance and awards selected for funding but not yet obligated for diversity, equity, and inclusion (DEI) and to ensure that USDA does not fund DEI (Memorandum 1078-004).[4] USDA also issued a memorandum directing staff to conduct a review of agency policies and submit an action plan to remove barriers imposed on the development and use of energy and natural resources (Memorandum 1078-005).[5] USDA briefly paused obligations and expenditures for EQIP. Unsigned Letter from USDA to General Counsel, GAO (July 24, 2025) (Response Letter).[6]

---

[1] An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14, Pub. L. No. 117-169, § 21001(a)(1), 136 Stat. 1818, 2015 (Aug. 16, 2022); 16 U.S.C. §§ 3839aa–3839aa-8. In Public Law 119-21—commonly known as the One Big Beautiful Bill Act (OBBBA)—Congress rescinded on July 4, 2025, the unobligated balances appropriated by IRA for EQIP. An Act To provide for reconciliation pursuant to title II of H. Con. Res. 14, Pub. L. No. 119-21, § 10601(g), 139 Stat. 72 (2025) (hereafter, OBBBA).

[2] Exec. Order No. 14154, *Unleashing American Energy*, § 7(a), 90 Fed. Reg. 8353, 8357 (Jan. 20, 2025).

[3] Exec. Order No. 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*, § 2, 90 Fed. Reg. 8339 (Jan. 20, 2025).

[4] USDA Secretary's Memorandum, *Directive on Departmental Grant and Cooperative Agreement Priorities*, 1078-004 (Mar. 13, 2025).

[5] USDA Secretary's Memorandum, *Expanding Energy and Mineral Opportunities on Federal Forest Lands*, 1078-005 (Mar. 19, 2025).

[6] The Response Letter was not signed and was transmitted to GAO via email from the USDA Senior Counsel.

Pursuant to our reporting responsibilities under the Impoundment Control Act (ICA), we are issuing this decision.[7] As explained below, based on the information and response we received from USDA and the publicly available obligational data,[8] we determined that no improper withholding has occurred and that USDA did not violate the ICA by pausing obligations and expenditures for EQIP. Considering USDA's discretion under the relevant provisions of the IRA and EQIP authorization and the purposes of the pause; the short length of the pause in light of the time availability of the funds; and USDA's actual obligations and expenditures data, USDA's pause was a permissible programmatic delay, not a violation of the ICA.

---

[7] 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. Additionally, on March 31, 2025, the Ranking Members of the House and Senate Budget Committees sent a request to GAO to examine several directives, including the Energy Order, which in part directed agencies to pause the disbursement of funds appropriated through the Inflation Reduction Act of 2022, and OMB Memorandum M-25-13, which in part directed agency heads to pause the obligation and disbursement of all financial assistance. Letter from Ranking Member Boyle and Ranking Member Merkley, to Comptroller General (Mar. 31, 2025).

[8] In the absence of a USDA response, we conducted a review of the publicly available Standard Form (SF) 133, *Report on Budget Execution and Budgetary Resources*, submitted to OMB by USDA for FY 2023, FY 2024, and FY 2025 for the Farm Security and Rural Investment Programs Account (TAFs 12-1004 23/31, 12-1004 24/31, and 12-1004 25/31). Although USDA eventually submitted its response, this decision continues to rely in part on that publicly available data since we completed our review of the data before USDA submitted its response on July 24, 2025. The SF 133 FY 2025 reports used in our review provide data through May 2025. According to OMB, the SF 133 provides a basis to determine obligation patterns and to prepare outlay rate estimates. OMB Circular No. A-11, *Preparation, Submission, and Execution of the Budget*, § 130.1 (July 2024). SF 133 information submitted for an agency is "certified by an officer duly authorized by the head of the agency to be responsible for the integrity of the submission." *Id*. at § 130.2(d). SF 133s are available at https://portal.max.gov/portal/document/SF133/Budget/FACTS%20II%20-%20SF%20133%20Report%20on%20Budget%20Execution%20and%20Budgetary%20Resources.html by FY and agency. We reviewed the "Status of Budgetary Resources" section of the SF 133 for each FY and TAF that generally shows whether budgetary resources have been obligated. Specifically, we reviewed line 2002 for Category B (EQIP IRA) for each TAF that shows the amount of the direct obligations incurred against the amount apportioned from the EQIP IRA appropriation. Since the section of the SF 133 that shows whether obligated amounts have been disbursed did not provide data exclusive to the EQIP IRA appropriation, we do not rely on the SF 133 reports for expenditure data.

Our practice when rendering decisions is to contact the relevant agencies to seek factual information and their legal views on the subject of the request. GAO, *GAO's Protocols for Legal Decisions and Opinions*, GAO-24-107329 (Washington, D.C.: Feb. 21, 2024), *available at* https://www.gao.gov/products/gao-24-107329. Accordingly, we reached out to USDA to obtain factual information and the agency's legal views. Letter from General Counsel, GAO, to Acting General Counsel, USDA (Apr. 28, 2025) (Development Letter); *see also* Email from Managing Associate General Counsel, GAO, to Senior Counsel, USDA (May 12, 2025); Email from Senior Counsel, USDA, to Managing Associate General Counsel, GAO (May 12, 2025); Email from Managing Associate General Counsel, GAO, to Senior Counsel, USDA (July 17, 2025); Email from Managing Associate General Counsel, GAO, to Senior Counsel, USDA (June 23, 2025). USDA responded to our letter on July 24, 2025. Response Letter.

We requested that USDA provide the apportionment schedules for the IRA appropriation.[9] In the past, in addition to the agency's factual assertions and legal views, we have typically analyzed apportionment schedules and data from an appropriation to determine whether there is any indication of an improper withholding.[10] However, OMB has removed agency apportionment data from its public websites, which in GAO's view is contrary to OMB's duty to make such information publicly available.[11] Having access to such information aids in our review of ICA issues and our support of congressional oversight of programs. While we did not have access to apportionment data, we did receive sufficient information from USDA in its response and its publicly available reports on obligational activity to reach a conclusion here.

[9] Development Letter, at 3.

[10] *See* B-335747, Apr. 22, 2024 (reviewing obligation data from four years of funding to assess whether the Department of Homeland Security (DHS) improperly withheld amounts appropriated for border barrier construction).

[11] *See* Enclosure to B-337581, Apr. 8, 2025.

BACKGROUND

EQIP Authorization and IRA Appropriation

USDA operates EQIP to help producers[12] voluntarily integrate conservation into working lands.[13] The statutory purposes of the program are "to promote" the goals of "agricultural production, forest management, and environmental quality" as "compatible goals" and, "to optimize environmental benefits."[14] To achieve these purposes, USDA "[to] the extent appropriate" offers producers assistance to develop and implement conservation "practices."[15] These practices are improvements to the producer's land and development of conservation plans for that land consistent with the EQIP purposes "as determined by the Secretary."[16]

Through EQIP, USDA provides both technical and financial assistance.[17] Technical assistance is information and training to assist producers in the development of their conservation plans and to advise them on the implementation of practices.[18] After developing a plan, eligible producers may also apply to USDA to receive financial assistance in the form of payments to reimburse producers for a portion of the costs

---

[12] USDA defines producers as "a person, legal entity, Indian Tribe, or joint operation who [USDA] determines is engaged in agricultural production or forestry management." 7 C.F.R. § 1466.3.

[13] 16 U.S.C. §§ 3839aa–3839aa-8; 7 C.F.R. § 1466.6(a). In 2022, Congress extended the authorizing legislation for EQIP through FY 2031. Pub. L. No. 117-169, § 21001(c), 136 Stat. 1818, 2017 (Aug. 16, 2022), 16 U.S.C. § 3839aa-2(a). USDA administers EQIP through the Natural Resources Conservation Service (NRCS). *See generally* 7 C.F.R. § 1466.3 (identifying NRCS as the entity within USDA responsible for administering EQIP).

[14] 16 U.S.C. § 3839aa.

[15] 16 U.S.C. § 3839aa-6.

[16] 16 U.S.C. § 3839aa-1(6). Examples of improvements include structural practices, land management practices, soil testing, soil remediation, and "other practices that the Secretary determines would further the purposes of the program." *Id*. at § 3839aa-1(6)(A). Examples of conservation activities involving the development of plans include planning for crop rotations, soil health planning, conservation planning assessment, and "other plans that the Secretary determines would further the purpose of the program." *Id*. at § 3839aa-1(6)(B).

[17] 16 U.S.C. § 3839aa-6.

[18] 16 U.S.C. §§ 3839aa–3839aa-6.

they will incur and the income they will forgo to develop and implement the practices described in their application.[19]

Consistent with statutory priorities and preferences, USDA is responsible for developing the criteria to evaluate applications, prioritizing applications, and selecting applications.[20] By statute, payment preferences are provided to certain groups of applicants with whom USDA enters into contracts. In particular, military veteran producers, beginning producers, and limited resource, socially disadvantaged producers may elect to receive advance payment.[21] In addition, USDA must share a larger percentage of the costs these producers incur to implement practices.[22]

Producers selected to receive financial assistance payments must enter into a contract with USDA that identifies the practices to be implemented.[23] The contract must schedule at least one practice for completion within the first twelve months of the contract, although USDA may extend this timeframe if it determines that the producer is unable to complete the practice for reasons beyond the producer's control.[24] The general EQIP expenditure process reimburses producers with contracts (1) after producers expend their funds to implement a practice and after

[19] 16 U.S.C. §§ 3839aa–3839aa-6; 7 C.F.R. § 1466.6(a). USDA accepts applications on a continuous basis throughout the year, although specific geographic deadlines may be set for ranking applications. 7 C.F.R. § 1466.20. Payments generally reimburse producers for a percentage of their implementation costs for a practice and, if applicable, all of the income foregone as a result of implementation of the practice. 16 U.S.C. § 3839aa-2(d).

[20] 16 U.S.C. §§ 3839aa-2, 3839aa-3; 7 C.F.R. § 1466.20.

[21] 16 U.S.C. § 3839aa-2(d)(4)(B). Producers electing advance payments must expend the advance for practice implementation within 90 days from receipt of funds or return the funds to USDA within a reasonable time as determined by the Secretary. *Id*.

[22] 16 U.S.C. § 3839aa-2(d)(4)(A).

[23] 16 U.S.C. § 3839aa-2; 7 C.F.R. § 1466.21(b)(1). The general contract provisions emphasize that these contracts are financial assistance agreements, not procurement contracts, and, as such, not subject to the prompt payment requirements. USDA, *Appendix to Form NRCS-CPA-1202, "Conservation Program Contract,"* General Contract Provisions, paragraph 3B (Nov 7, 2024), *available at* https://www.nrcs.usda.gov/sites/default/files/2024-11/NRCS-CPA-1202%20Appendix%20EQIP%20Nov%202024.pdf (last visited Aug. 4, 2025) (*EQIP Contract*).

[24] 7 C.F.R. § 1466.21(c).

they file a payment application with USDA certifying that the practice satisfies the program requirements, and (2) after a USDA representative signs the payment application stating that the practice has been performed.[25] USDA expenditures are also affected by any contract terminations, contract modifications, and producer refunds of program payments determined by USDA to be in violation of a contract term.[26]

To carry out EQIP, Congress appropriated in IRA an additional $8.45 billion in multiyear funding.[27] As originally enacted by IRA, $250 million was available starting in FY 2023, $1.75 billion was available starting in FY 2024, $3 billion was available starting in FY 2025, and $3.45 billion was available starting in FY 2026.[28] As

---

[25] 16 U.S.C. §§ 3839aa-2(c), 3839aa-3; *EQIP Contract*, General Contract Provisions, paragraph 3Axiv, EQIP Provisions, paragraph 4A; USDA, *CCC-1245, Practice Approval and Payment Application* (Apr. 24, 2002), *available at* https://forms.sc.egov.usda.gov/efcommon/eFileServices/eFormsAdmin/CCC1245.pdf (last visited Aug. 4, 2025); USDA, *Environmental Quality Incentives Program (EQIP) Factsheet, Is EQIP Right for Me?*, *available at* https://www.nrcs.usda.gov/sites/default/files/2022-06/EQIP-Factsheet%20%282%29.pdf (last visited Aug. 4, 2025).

[26] *See* 16 U.S.C. § 3839aa-2(e)(1) (describing the USDA findings that authorize USDA to modify or terminate a contract with producer agreement); *Id*. at § 3839aa-2(e)(2) (describing the USDA findings that authorize USDA to terminate a contract without producer agreement); *Id*. at § 3839aa-4(3) (describing the USDA findings that require producers to refund, or accept adjustments to, payments).

[27] Pub. L. No. 117-169, § 21001(a)(1)(A), (b), 136 Stat. at 2015, 2017; 16 U.S.C. §§ 3839aa–3839aa-8. The IRA appropriation was in addition to the amount appropriated for EQIP through other sources, such as the 2018 Farm Bill. This decision addresses only the IRA appropriation.

[28] Pub. L. No. 117-169, § 21001(a)(1)(A), (b), 136 Stat. at 2015, 2017. These numbers do not reflect the impact of the rescission by OBBBA on July 4, 2025, of the unobligated balances appropriated by IRA. *See* Pub. L. No. 119-21, § 10601(g). The FY 2024 and FY 2025 numbers also do not reflect the impact of sequestration to reduce appropriations when the amount of the enacted appropriation exceeds the spending limit. *See* 2 U.S.C. §§ 901(c)–(e), 901a(6); Order of March 11, 2024, *Sequestration Order for Fiscal Year 2025 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended*, 89 Fed. Reg. 18531 (Mar. 14, 2024); Order of March 13, 2023, *Sequestration Order for Fiscal Year 2024 Pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as Amended*, 88 Fed. Reg. 16171 (Mar. 16, 2023). *See generally* OMB, *OMB Report to the Congress on the BBEDCA 251A Sequestration for Fiscal Year 2024* (Mar. 13, 2023) (describing OMB's computation and implementation of the sequestration rate).

originally enacted, each appropriation was available until September 30, 2031; no disbursements may occur after September 30, 2031; and USDA may not enter into any agreement using these funds for a term extending beyond September 30, 2031.[29] IRA directs that the funds "shall be available for 1 or more agricultural conservation practices or enhancements that the Secretary determines directly improve soil carbon, reduce nitrogen losses, or reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions, associated with agricultural production."[30] IRA also directs USDA to carry out EQIP "using the facilities and authorities of the Commodity Credit Corporation" (CCC).[31] One such authority is section 4(j) of CCC's charter act—commonly known as CCC's character and necessity clause—which states that CCC "[s]hall determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid."[32]

After IRA enactment, USDA published a Request for Information in the *Federal Register* seeking public input to implement the IRA funding.[33] In the request, USDA described IRA as providing "unprecedented funding levels" for an "unprecedented opportunity to implement practices and quantify greenhouse gas emission reductions."[34] USDA sought input "to inform the approach to determining the best delivery of the IRA funds and the overall administration of [relevant] conservation programs." [35] According to USDA, public input would be implemented at the "sole discretion" of USDA.[36]

The President's FY 2026 budget and the FY 2026 congressional budget justification for USDA reflect that USDA would continue to obligate IRA funds for EQIP in

---

[29] Pub. L. No. 117-169, § 21001(b), 136 Stat. at 2017.

[30] Pub. L. No. 117-169, § 21001(a)(1)(B)(iii), 136 Stat. at 2016.

[31] Pub. L. No. 117-169, § 21001(a)(1), 136 Stat. at 2015.

[32] 15 U.S.C. § 714b(j); Response Letter, at 3.

[33] *Request for Public Input About Implementation of the Inflation Reduction Act Funding*, 87 Fed. Reg. 70770 (Nov. 21, 2022).

[34] *Id*. at 70771.

[35] *Id*. In particular, USDA stated that it was interested in input and recommendations "to improve, expand, and/or build on scientifically-designed quantification systems to monitor and quantify improvements in soil carbon, reductions in nitrogen losses, and the reduction, capture, avoidance, or sequestration of carbon dioxide, methane, or nitrous oxide emissions, associated with agricultural production." *Id*.

[36] *Id*.

FY 2025.[37] However, in the OBBBA, Congress rescinded on July 4, 2025, the unobligated balances appropriated by IRA for EQIP.[38]

Recent Actions Affecting the Program

On January 20, 2025, the President issued the Energy Order that directed all agencies to "immediately pause the disbursement of funds appropriated through [IRA]."[39] During this pause, the Energy Order directed agencies to "review their processes, policies, and programs for issuing . . . contracts, or any other financial disbursements of such appropriated funds[,] for consistency with the law and the policy outlined in section 2" of the Energy Order.[40] After completing such review, the Energy Order directed agencies to submit a report to OMB and others within 90 days of the order "that details the finding of this review, including recommendations to enhance . . . alignment with the policy set forth" in the Energy Order.[41] The Energy Order stated "[n]o funds . . . shall be disbursed by a given agency until the Director of OMB and Assistant to the President for Economic Policy have determined that such disbursements are consistent with any review recommendations they have chosen to adopt."[42] USDA issued Memorandum 1078-005 to execute the Energy Order.[43] This memorandum stated that the President "declared that it is in the national interest to unleash America's affordable and reliable energy and natural resources . . . by ensuring that no Federal funding is employed in a manner contrary" to certain principles "unless required by law." [44] The memorandum directed USDA to

[37] *Technical Supplement to the 2026 Budget*, *Appendix*, "Farm Security and Rural Investment Programs," (May 30, 2025), at 116; 2026 *USDA Budget Explanatory Notes – Natural Resources Conservation Service*, at 28-62, *available at*, www.usda.gov/sites/default/files/documents/28-2026-CJ-NRCS.pdf (last visited Aug. 4, 2025).

[38] Pub. L. No. 119-21, § 10601(g).

[39] Exec. Order No. 14154, § 7(a), 90 Fed. Reg. at 8357.

[40] *Id*.

[41] *Id*.

[42] *Id*.

[43] Response Letter, at 2.

[44] USDA Secretary's Memorandum 1078-005, at ¶ 3.

review agency policies and submit within thirty days an action plan to implement the EOs.[45]

On January 20, 2025, the President also issued the DEI Order that directed all agencies to "terminate, to the maximum extent allowed by law, all" offices and positions related to diversity, equity, and inclusion (DEI), diversity, equity, inclusion, and accessibility (DEIA), and environmental justice; "all 'equity action plans,' 'equity' actions, initiatives, or programs, 'equity-related' grants or contracts; and all DEI or DEIA performance requirements for employees, contractors, or grantees."[46] USDA issued Memorandum 1078-004 to execute the DEI Order.[47] This memorandum directed USDA staff to review all awards still in their period of performance and awards selected for funding but not yet obligated "to ensur[e] that [USDA] does not fund or no longer funds discriminatory practices–including in the form of DEI–that are either contrary to law or to the [USDA's] policy objectives, as well as to ensure that all awards are free from fraud, abuse, and duplication." [48] In its response to us, USDA stated it assessed its policies and forms to comply with the DEI Order, updated its forms, and requested that the forms be updated on USDA's website.[49]

As an initial matter, USDA stated it did not receive instructions from OMB to withhold obligations or expenditures.[50] USDA stated that there was "brief" pause of obligations and expenditures for EQIP IRA funding.[51] While USDA did not specify when the pause began, publicly available evidence indicates that the pause began on January 21, 2025.[52] USDA did not state when the pause on obligations ended,

---

[45] *Id.* at ¶ 2.

[46] Exec. Order No. 14151, § 2, 90 Fed. Reg. at 8339.

[47] Response Letter, at 2.

[48] USDA Secretary's Memorandum 1078-004, at ¶ 2.

[49] Response Letter, at 2. USDA also stated it did not remove public access to application forms, which remained available at various websites and the NRCS local service centers. *Id*. at 2–3.

[50] *Id*. at 1.

[51] *Id*. at 2, 3. USDA stated that, "[a]s of January 30, 2025, the unobligated balance of paused EQIP IRA financial assistance totaled $1.639 billion for fiscal year 2025." *Id*. at 2. According to USDA, it incurred obligations of about $435 million against the IRA funds that became available in FY 2025. *Id*. at 1.

[52] Declaration of Director of the Transparency and Accountability Reporting Division of the Office of the Chief Financial Officer at USDA, *Woonasquatucket River Watershed Council v. USDA*, No. 1:25-cv-00097 (D.R.I. Mar. 13, 2025), Dkt. No.
(continued...)

but publicly available data reported by USDA indicates that it incurred some obligations against the IRA funding after January 2025. For January 2025, USDA's SF 133 reported an obligated balance of $339,183,961.74.[53] USDA's SF 133 reported increasing obligated balances in the following months to a total of $440,743,534.04 through May 2025.[54] USDA stated that the pause on expenditures has ended and, as of February 21, 2025, producers have been paid or will be paid upon completion and certification of a completed conservation practice.[55]

USDA stated that the pause of obligations and expenditures was a "brief programmatic delay" rather than a withholding within the meaning of the ICA.[56] Specifically, USDA cited B-333110, June 15, 2021, as support for the proposition that "a brief programmatic delay" while USDA "assessed [program] implementation in accordance with the Executive Orders and Presidential Memorandums" and "as the new Administration assessed how best to use these funds" did not violate the ICA.[57] USDA stated that increased payments and advanced payments continued to be offered to military veteran producers, beginning producers, and limited resource, socially disadvantaged producers.[58]

USDA noted the absence of a "legal requirement in the IRA or in the ICA to obligate multiyear EQIP funds during the first year those funds were made available, or indeed, by any specific date, and the appropriations' expiration date is more than six years" away.[59] USDA also cited the direction in IRA to carry out EQIP using CCC's authorities.[60] According to USDA, for this direction and CCC's character and necessity clause, which is one of CCC's authorities, "to be given force and effect,

---

56-2, ¶ 4 (April 25, 2025) (stating that on January 21, 2025, the Acting Secretary of USDA imposed a "short-term moratorium on the execution of new grants, cooperative agreements and contracts to conform to all applicable policies of the new Administration").

[53] *See* discussion of USDA's SF 133 data, *supra* note 8.

[54] *Id*.

[55] Response Letter, at 4.

[56] *Id.* at 2, 3.

[57] *Id.* at 2, 3.

[58] *Id.* at 4.

[59] *Id.* at 3.

[60] *Id*.

USDA must have the flexibility to obligate" EQIP IRA funds "as determined to be necessary by the CCC."[61]

DISCUSSION

At issue here is whether USDA's actions to pause obligations and expenditures for EQIP violated the ICA. As explained below, we conclude that the pause was a permissible programmatic delay, not a violation of the ICA.

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."[62] 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.[63] This process does not grant the President the authority to pass his own laws or to ignore or amend a law duly enacted by Congress.[64] Instead, the President must "faithfully execute" the law as Congress enacts it.[65] 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.[66] In fact, Congress was concerned about the failure to prudently obligate according to its congressional prerogatives when it enacted and later amended the ICA.[67]

---

[61] *Id.* at 4 (emphasis omitted).

[62] U.S. Const. art. I, § 9, cl. 7.

[63] *Id.* at art. I, § 7, cl. 2, 3.

[64] *See* B-331564, Jan. 16, 2020 (citing *Clinton v. City of New York*, 524 U.S. 417, 438 (1998)).

[65] U.S. Const., art. II, § 3.

[66] *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).

[67] See generally, H.R. Rep. No. 100-313, at 66–67 (1987); see also S. Rep. No. 93-688, at 75 (1974) (explaining that the objective was to assure that "the practice of

(continued...)

The Constitution grants the President no unilateral authority to withhold funds from obligation.[68] 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.[69] The ICA separates impoundments into two exclusive categories—deferrals and rescissions. First, the President may seek to temporarily withhold funds by proposing a "deferral."[70] 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."[71]

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.[72] These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA.[73] 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 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.[74] With respect to deferrals, the ICA specifies that the funds at issue are only temporarily withheld and must still be obligated before expiration.[75] And with respect

---

reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress").

[68] *See* B-135564, July 26, 1973.

[69] *See* 2 U.S.C. §§ 681–688.

[70] *Id.* at § 684.

[71] *Id.* at § 683.

[72] *Id.* at §§ 683–684.

[73] *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).

[74] 2 U.S.C. § 684(b).

[75] 2 U.S.C. §§ 683–684; B-329092, Dec. 12, 2017; 54 Comp. Gen. 453 (1974).

to proposed rescissions, the funds must still be obligated unless Congress acts within 45 days to pass a new law rescinding them.[76]

Importantly, however, GAO has recognized that not all delays in obligation or expenditure of budget authority constitute impoundments under the ICA. We have recognized, for example, that "delays in the obligation or expenditure of budget authority that result from agency compliance with statutory requirements" are "programmatic" in nature and therefore permissible.[77] Similarly, we have said that "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," that delay is a "programmatic" one, not an impoundment.[78]

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 functions under the ICA, such as reviewing special messages[79] and reporting impoundments the President has not reported.[80]

Application of the ICA to USDA's Pause of EQIP IRA Appropriations

In this case, considering USDA's discretion under the relevant provisions of the IRA and EQIP authorization and the purposes of the pause; the short length of the pause in light of the time availability of the funds; and USDA's actual obligations and expenditures data, USDA's pause was a permissible programmatic delay, not a violation of the ICA.

We turn first to USDA's discretion and stated purposes of the pause. The level of agency discretion over program funding has bearing, from an ICA standpoint, on the reasonableness of a potential delay in obligations or expenditures.[81] Where an agency shows it's actions are within its statutory authority, we will not find an improper impoundment.[82] For example, in B-337233, July 23, 2025, we addressed

---

[76] 2 U.S.C. § 683. The ICA also does not authorize the withholding of budget authority through its date of expiration. *See* B-330330, Dec. 10, 2018. As such, so-called "pocket rescissions" are not consistent with the ICA.

[77] *See* B-337137, May 22, 2025, at 15 (citing B-333110, June 15, 2021).

[78] *Id.* (citing B-331564.1, Feb. 10, 2022).

[79] 2 U.S.C. § 685.

[80] 2 U.S.C. § 686.

[81] B-337233, July 23, 2025.

[82] B-337233, July 23, 2025; B-335747, Apr. 22, 2024; B-319189, Nov. 12, 2010.

whether a pause to Department of Interior (Interior) obligations for a grant program following issuance of the Energy Order constituted an impoundment. Key to our analysis was Interior's authority and discretion under the program statute—in that case, the Infrastructure Investment and Jobs Act (IIJA).[83] Under the IIJA, Interior was charged with taking several actions in administering the program, including determining whether proposed projects provided a federal benefit and whether an eligible entity was financially solvent, and giving priority to projects that would provide multiple benefits.[84] We concluded that it was within Interior's legal discretion to pause obligations while it revisited whether its determinations and prioritizations comported with IIJA.[85]

Here, as in B-337233, the provisions in the EQIP authorization and IRA appropriation confer substantial discretion and require USDA to exercise considerable judgment when obligating and expending IRA funds for EQIP. The IRA directs USDA to carry out EQIP using CCC's authorities, which include CCC's character and necessity clause.[86] This clause gives CCC "broad autonomy and flexibility to determine the character and necessity of its obligations and expenditures" within the limits of applicable laws.[87] The EQIP authorization directs USDA to determine what types of practices are covered by EQIP and eligible for payments.[88] For the IRA appropriation specifically, USDA must determine that the practice or enhancement will "directly improve soil carbon, reduce nitrogen losses, or reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions, associated with agricultural production."[89] The EQIP authorization also directs USDA to develop the criteria to evaluate applications for financial assistance that will ensure that national, State, and local conservation priorities are effectively addressed.[90] In the evaluation of applications, the authorization directs USDA to group, "[t]o the greatest extent practicable," applications for "similar farming operations" and to prioritize applications based on various factors, including the "overall level of cost-effectiveness," "how effectively and comprehensively the project addresses the designated resource concern," and whether it "best fulfill[s] the

[83] B-337233, July 23, 2025.

[84] *Id.*

[85] *Id.*

[86] Pub. L. No. 117-169, § 21001(a)(1), 136 Stat. at 2015; 15 U.S.C. § 714b(j).

[87] B-330628, Dec. 9, 2024.

[88] 16 U.S.C. §§ 3839aa-1(6), 3839aa-2.

[89] Pub. L. No. 117-169, § 21001(a)(1)(B)(iii), 136 Stat. at 2016.

[90] 16 U.S.C. § 3839aa-3(a).

purposes of the program."[91] The authorization also directs USDA to determine the amount and rate of payments to producers that enter into financial assistance contracts with USDA, and, when determining payments for foregone income, authorizes USDA to "accord great significance to a practice that, as determined by the Secretary, promotes" certain goals from a list provided in the statute.[92] The authorization also provides that USDA may modify or terminate EQIP contracts with producer agreement if USDA determines modification or termination is "in the public interest."[93] The authorization also provides that USDA may, without producer agreement, terminate a contract if USDA determines the producer violated the contract[94] and, if USDA determines the violation "does not warrant termination," require the producer to refund, or accept adjustments to, payments as USDA determines "to be appropriate."[95]

Just as we found that Interior had discretion to pause to revisit its funding determinations based on the Energy Order to ensure compliance with IIJA, USDA had discretion to pause obligations and expenditures of EQIP funds based on the EOs and USDA memoranda to ensure implementation and use of funds comported with the IRA and EQIP authorization. Specifically, USDA had discretion to reassess elements such as the eligible practices, amount and rate of payments, prioritization of applications, evaluation of the "public interest" as it relates to the potential for contract termination, and evaluation of the appropriateness of refunds, or adjustments to, the payments provided when contract violations occur but termination is not warranted.[96] Based on the legal discretion provided to USDA under the IRA and EQIP authorization, along with the direction in the Energy Order, DEI Order, and USDA memoranda to comply with the law,[97] the pause here was a permissible programmatic delay, not a violation of the ICA.

---

[91] *Id*. at § 3839aa-3(b), (c).

[92] *Id*. at § 3839aa-3(d). Examples of the goals for which USDA may "accord great significance" include "soil health," "water quality and quantity improvement," and "air quality improvement." *Id*.

[93] *Id*. at § 3839aa-2(e)(1).

[94] *Id*. at § 3839aa-2(e)(2).

[95] *Id*. at § 3839aa-4(3).

[96] Although USDA did not specify in its response the particular considerations involved in its review during the pause here to ensure compliance with the law, the IRA and EQIP authorization specify requirements, determinations, and findings that USDA must make and allow it such discretion to carry out EQIP.

[97] *See* Exec. Order No. 14151, § 2, 90 Fed. Reg. at 8339 (directing agencies to terminate "equity-related" contracts "to the maximum extent allowed by law"); Exec.

(continued...)

Furthermore, the facts of the brief programmatic delay here are not unlike the programmatic delay that occurred in the prior Administration in FY 2023. USDA's SF 133 data for FY 2023 reports that there were no obligations against the IRA funds for the first five months that the funds were available.[98] Before beginning in March 2023 to obligate funds, USDA published a Request for Information on November 21, 2022, to implement the funding.[99] USDA stated that it would consider comments received by December 21, 2022.[100] The IRA requires USDA to use the funds for those agricultural conservation practices or enhancements that the Secretary determines improve soil carbon, reduce nitrogen losses, or reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with agricultural production.[101] This direction requires USDA to make a determination, but provides USDA discretion in that it does not specify how USDA is to determine, for example, what practices or enhancements lead to the desired outcome as well as how to measure that outcome. USDA sought public input to inform its approach to implement the IRA funds.[102] Here, the five month delay in obligations resulted in part from USDA taking the steps to gather input it believed necessary to exercise its discretion and implement the program. Consistent with our prior precedent, this was a programmatic delay.[103]

We turn next to the length of USDA's pause and time availability of IRA's appropriations for EQIP. The ICA does not impose a specific requirement on agencies as to the rate at which appropriations must be obligated or expended beyond the general requirement to obligate before expiration, which in this case, prior to the rescission of the unobligated balances, was September 30, 2031.[104] The

---

Order No. 14154, § 7(a), 90 Fed. Reg. at 8357 (directing agencies to ensure "consistency with the law"); USDA Secretary's Memorandum 1078-004, at ¶ 2 (directing USDA to ensure that it does not fund DEI practices "contrary to law"); USDA Secretary's Memorandum 1078-005, at ¶ 3 (directing USDA to ensure funds are employed in a manner consistent with certain principles "unless required by law").

[98] *See* discussion of USDA's SF 133 data, *supra* note 8.

[99] 87 Fed. Reg. 70770.

[100] *Id*. at 70771.

[101] Pub. L. No. 117-169, § 21001(a)(1)(B)(iii), 136 Stat. at 2016.

[102] 87 Fed. Reg. at 70771.

[103] B-331564.1, Feb. 10, 2022.

[104] B-319189, Nov. 12, 2010.

amount of time required for prudent obligation and expenditure will vary from one program to another.[105] As originally enacted by IRA, the EQIP appropriation for FY 2025 was available for obligation and expenditure until September 30, 2031.[106] We agree with USDA that neither the IRA nor the ICA require it to obligate multiyear funds during the first year those funds become available for obligation.[107] Here, the pause occurred in the first year that the FY 2025 funds became available for obligation. Furthermore, the pause on expenditures was short and, as of February 21, 2025, producers have been paid or will be paid upon completion and certification of a completed conservation practice.[108] While USDA did not indicate a specific date on which the pause on obligations ended, USDA's SF 133 data reflects an increase in obligated balances from January 2025 through May 2025, which is consistent with USDA's statement that the delay was "brief."[109] Considering that more than six years remained until the funds expired, it is reasonable to conclude that more than sufficient time remained for prudent obligation and expenditure of the funds.

Finally, we consider the actual rate of obligation and expenditure.[110] Here, the data indicate that EQIP funds have not been improperly withheld from obligation or expenditure. We first describe data with respect to FY 2023 funds and FY 2024 funds. As of May 23, 2025, USDA had almost fully obligated the amounts appropriated by IRA for FY 2023 and FY 2024 for EQIP and had an outlay rate of almost fifty percent for these obligations.[111] USDA reported that it obligated about \$224 million of the \$250 million that IRA appropriated for EQIP for FY 2023,[112] or about 90 percent of the amount Congress appropriated. For these obligations,

---

[105] B-337233, July 23, 2025; B-335747, Apr. 22, 2024; B-330330, Dec. 10, 2018.

[106] Pub. L. No. 117-169, § 21001(a)(1)(A), (b), 136 Stat. at 2015, 2017.

[107] Response Letter, at 3.

[108] *Id.* at 4.

[109] *Id*. at 2, 3. *See* discussion of USDA's SF 133 data, *supra* note 8.

[110] B-335747, Apr. 22, 2024 (concluding that DHS did not violate the ICA when DHS had obligated about 47 percent of its appropriation. With about 48 percent of its appropriation remaining available for obligation, DHS stated it would continue to obligate the funds, and the funds were available for obligation for more than one full FY); B-331298, Dec. 23, 2020 (concluding there was no impoundment where funds were not withheld and were obligated at a "robust yet measured pace").

[111] *See* Response Letter, at 1.

[112] Response Letter, at 1; Pub. L. No. 117-169, § 21001(a)(1)(A), 136 Stat. at 2015.

USDA reported expenditures of about $107 million,[113] or an outlay rate of about 48 percent for the FY 2023 IRA funds. USDA reported that it obligated about $1.565 billion of the $1.75 billion that IRA appropriated for EQIP for FY 2024,[114] or about 89 percent of the amount Congress appropriated. For these obligations, USDA reported expenditures of about $634 million,[115] or an outlay rate of about 41 percent for the FY 2024 IRA funds. The rate at which USDA incurred obligations and expenditures for the FY 2023 and FY 2024 funds is consistent with the ICA.

We next describe data with respect to FY 2025 funds. As of May 23, 2025, USDA's actual obligations against the FY 2025 IRA appropriation for EQIP reflect the programmatic delay USDA acknowledged in its response.[116] USDA reported obligations of about $435 million of the $3 billion that IRA appropriated for EQIP for FY 2025,[117] or about 15 percent of the amount Congress appropriated. As of May 2025, the SF 133 data showed that USDA obligated the FY 2025 funds at an increasing pace, but that pace was slower than prior years.[118] In addition to the rate of obligations, we have previously addressed situations in which we found an impoundment when agencies withheld funds pending congressional action on a proposed cancellation in the President's budget.[119] Unlike the facts at issue in those decisions, both the President's FY 2026 budget and the FY 2026 congressional budget justification for USDA indicated that USDA would continue to obligate the IRA funds for EQIP in FY 2025 (these documents estimated that the FY 2025 obligated balance would reach about $2.510 billion).[120] Without accounting for the

---

[113] Response Letter, at 1.

[114] Response Letter, at 1; Pub. L. No. 117-169, § 21001(a)(1)(A), 136 Stat. at 2015.

[115] Response Letter, at 1.

[116] *See* Response Letter, at 1.

[117] Response Letter, at 1; Pub. L. No. 117-169, § 21001(a)(1)(A), 136 Stat. at 2015.

[118] For January 2025, USDA's SF 133 reported an obligated balance of $339,183,961.74, or about 11.31% of the amount Congress appropriated. Between February 2025 and May 2025, USDA continued to incur obligations albeit at a lower percentage than the FY 2024 obligations against the FY 2024 appropriation. *See* discussion of USDA's SF 133 data, *supra* note 8.

[119] B-329092, Dec. 12, 2017; B-308011, Aug. 4, 2006; B-307122, B-307122.2, Mar. 2, 2006.

[120] *Technical Supplement to the 2026 Budget*, *Appendix*, "Farm Security and Rural Investment Programs," (May 30, 2025), at 116; 2026 *USDA Budget Explanatory Notes – Natural Resources Conservation Service*, at 28-62, *available at*,

(continued...)

rescission of the funds and with an obligated balance of about $2.510 billion, USDA would have obligated about 83 percent of the amount Congress appropriated for FY 2025.

The obligation data shows that USDA obligated the FY 2025 funds at an increasing pace through May 2025, but that pace was slower than prior years. Although amounts remained available for obligation in May 2025, the Administration indicated it planned to obligate most of the remaining balance in FY 2025 and, prior to the rescission of the unobligated balances, more than sufficient time remained for additional obligational activity before the period of availability expired on September 30, 2031. The data does not indicate that USDA withheld the FY 2025 appropriation from obligation in violation of the ICA.

For these obligations against the FY 2025 IRA funds, USDA reported expenditures of about $207 million,[121] or an outlay rate of about 48 percent. This outlay rate, which is similar to the rate for prior FYs, appears to support the USDA representation that the pause on expenditures has ended.[122] The outlay rate for the obligations against the FY 2025 funds is consistent with the ICA.

CONCLUSION

GAO's institutional role is to support Congress, including in Congress's exercise of its constitutional power of the purse. This includes GAO's functions under the ICA, such as reviewing special messages and reporting impoundments the President has not reported. Our analysis and conclusions here help ensure compliance with the ICA and appropriations law. We take no position on the directives and the program at issue. In addition to the rescission of the unobligated balances of the IRA, further changes to these policies and priorities can be addressed through the legislative process with Congress and the Administration.

USDA did not violate the ICA by briefly pausing obligations and expenditures for EQIP consistent with the EOs and USDA memoranda. Considering USDA's discretion under the relevant provisions of the IRA and EQIP authorization and the

---

www.usda.gov/sites/default/files/documents/28-2026-CJ-NRCS.pdf (last visited Aug. 4, 2025).

[121] Response Letter, at 1.

[122] *Id.* at 4.

purposes of the pause; the short length of the pause in light of the time availability of the funds; and USDA's actual obligations and expenditures as reported by USDA in its response to us and in publicly available data, USDA's pause was a permissible programmatic delay, not a violation of the ICA.

Edda Emmanuelli Perez
General Counsel