



Decision

Matter of: Department of Health and Human Services—Agency for Healthcare Research and Quality—Application of Impoundment Control Act to the Availability of Funds for Grants

File: B-337872

Date: October 7, 2026

DIGEST

Congress appropriated lump sum amounts to the Agency for Healthcare Research and Quality (AHRQ) to carry out various research initiatives for fiscal year 2025. In accordance with an executive order, the Department of Health and Human Services (HHS) announced a reorganization of the department and a reduction in force (RIF) for AHRQ personnel responsible for administering grants. In the following months, AHRQ reduced its awarding of grants.

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 or expenditure, 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.

GAO's institutional role is to support 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.

Lump-sum appropriations, like the one available for AHRQ's grants programs, afford an agency significant discretion with respect to the funding of programs within their scope. Further, committee report direction on how lump-sums are to be allocated does not bind the agency or constrain its discretion as a legal matter, absent language incorporating such direction into the appropriation by reference. However, an agency does not have the discretion to withhold funds from obligation or

expenditure altogether simply because they were appropriated as part of a lump-sum appropriation. Rather, the agency must prudently obligate or expend those funds for another permissible purpose under the lump-sum.

We find that HHS violated the ICA when the agency, without submitting a special message to Congress, withheld funds from obligation and expenditure following the RIF of AHRQ personnel responsible for grant administration. This withholding was an impoundment subject to the ICA and not a programmatic delay.

GAO is aware of ongoing litigation involving the delay in AHRQ grant funds. We have included the most up to date information related to the litigation in this decision.

DECISION

In March 2025, the Department of Health and Human Services (HHS) announced a reorganization of the department to merge the Agency for Healthcare Research and Quality (AHRQ) with the Office of the Assistant Secretary for Planning and Evaluation, among other changes. HHS subsequently announced a reduction in force (RIF) action across AHRQ and other HHS agencies. Affected AHRQ employees were officially separated from the agency in July 2025. In the months following the announcement of the RIF, AHRQ's obligation and expenditure of funds slowed resulting in an unobligated balance of \$78 million at the close of fiscal year (FY) 2025.

We received a request for a decision as to whether these actions resulted in a withholding of AHRQ funds in violation of the Impoundment Control Act of 1974 (ICA).¹ As explained below, we conclude HHS violated the ICA when the agency, without submitting a special message to Congress, withheld funds from obligation and expenditure following the announcement of a RIF.

We note that there is ongoing litigation involving the delay of AHRQ grant funds. In August 2025, two nonprofit-membership organizations comprised in part of AHRQ grantees, brought suit in the United States District Court for the District of Maryland.² Among other claims, the plaintiffs allege that the cessation of AHRQ grant programs violated the Administrative Procedure Act (APA).³ Our decision does not address whether AHRQ violated the APA. Instead, our decision addresses only whether AHRQ withheld funds in violation of the ICA.

¹ Letter from Representative Diana DeGette and Representative Doris Matsui to Comptroller General (Sept. 22, 2025); Letter from Rep. Donlad S. Beyer Jr. to Comptroller General (Dec. 9, 2025) (joining the previous request).

² *Society of General Internal Medicine, No. 8:25-cv-02751* (D. Md. Aug. 21, 2025).

³ *Id.*, Complaint for Declaratory and Injunctive Relief, ECF No. 1 (Aug. 21, 2025).

Our practice when rendering decisions is to contact the relevant agencies to obtain factual information and their legal views on the subject of the request.⁴ Accordingly, we contacted HHS to seek the agency's views,⁵ and HHS provided its response on April 24, 2026.⁶ In addition, we reviewed publicly available information, including spending data as well as documents submitted by HHS, AHRQ, and grantees in federal court litigation.

BACKGROUND

AHRQ Grant Review

AHRQ is a component agency of HHS. Congress established AHRQ to enhance the quality, appropriateness, and effectiveness of health services and access to such services, through the establishment of a broad base of scientific research.⁷ As the "principal agency for health care research and quality," AHRQ's statutory responsibilities include conducting research into healthcare practices, supporting other researchers and research institutions, and providing training and technical assistance to healthcare systems and providers nationwide.⁸ The Public Health Service Act authorizes, and in some instances mandates, AHRQ to award grants, contracts, and other agreements in furtherance of this mission.⁹

Pursuant to the Public Health Service Act, "appropriate technical and scientific peer review shall be conducted with respect to each application for a grant."¹⁰ To carry

⁴ 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>.

⁵ Letter from General Counsel, GAO, to General Counsel, HHS (Jan. 20, 2026).

⁶ Letter from Principal Deputy General Counsel, HHS, to General Counsel, GAO (Apr. 24, 2026) (Response Letter).

⁷ Health Care Research and Quality Act of 1999, Pub. L. No. 106-129, 113 Stat. 1653 (Dec. 6, 1999), 42 U.S.C. § 299.

⁸ 42 U.S.C. § 299b-1(a)(1).

⁹ *E.g.*, 42 U.S.C. § 299a(b)(1) (permitting the award of training grants in the field of health services research); 42 U.S.C. § 299b-31(c) (directing the award of "grants, contracts, or intergovernmental agreements to eligible entities for purposes of developing, improving, updating, or expanding quality measures"); 42 U.S.C. § 299b-34(a) (mandating the award of technical assistance grants or contracts related to quality improvement).

¹⁰ 42 U.S.C. § 299c-1.

out this directive, the Act mandates that AHRQ establish such technical and scientific peer review groups as may be necessary.¹¹ By regulation, AHRQ prescribed a detailed process for its review and award of grants.¹² To apply for a grant, an entity or individual must submit an application in the form and at the time that the Administrator of AHRQ requires.¹³ The application then undergoes a peer review by a panel of experts.¹⁴ Once an application has been peer reviewed, it is evaluated by the Administrator who must consider certain factors including the degree to which the purposes of Title IX of the Public Health Service Act are being addressed, recommendations by the peer review group, and the appropriateness of the budget, among others.¹⁵ The Administrator then determines whether to give consideration for funding, defer for a later decision pending receipt of additional information, or give no further consideration.¹⁶ The Administrator may award grants for projects that “in the judgment of the Administrator” best promote the purposes underlying AHRQ’s authorizing laws and the agency’s priorities.¹⁷

AHRQ grant responsibilities are carried out by multiple offices within the agency. The Office of Extramural Research, Education, and Priority Populations (OEREP) directs the selection, review, and funding of grants and develops peer review regulations, policy notices and program announcements.¹⁸ The Office of Management Services (OMS) provides leadership and oversight of grants by providing grant analysis, negotiation, outreach, and information dissemination.¹⁹

For FY 2024, Congress appropriated a lump-sum of \$369 million to AHRQ for “carrying out titles III and IX of the [Public Health Service] Act, part A of title XI of the Social Security Act, and section 1013 of the Medicare Prescription Drug,

¹¹ 42 U.S.C. § 299c-1(c).

¹² 42 C.F.R. § 67.10 *et seq.*

¹³ 42 C.F.R. § 67.14.

¹⁴ 42 C.F.R. § 67.15.

¹⁵ 42 C.F.R. § 67.16.

¹⁶ 42 C.F.R. § 67.16(b).

¹⁷ 42 C.F.R. § 67.17(a).

¹⁸ AHRQ, *Office of Extramural Research, Education and Priority Populations (OEREP)* (Apr. 2026), available at <https://www.ahrq.gov/cpi/centers/oerep/index.html> (last visited Sept. 28, 2026).

¹⁹ AHRQ, *Office of Management Services (OMS)* (Jan. 2026) available at <https://www.ahrq.gov/cpi/centers/oms/index.html> (last visited Sept. 28, 2026).

Improvement, and Modernization Act of 2003.”²⁰ For FY 2025, Congress continued funding AHRQ at the same level with an annual lump-sum appropriation.²¹

The explanatory statement for FY 2024 directed that \$73.1 million of the AHRQ appropriation be used for program support. However, this explanatory statement was not incorporated by reference into the FY 2024 or FY 2025 appropriations acts as law.²² The appropriations acts do not specify a particular amount or proportion of the appropriation that must be used for grants. Instead, the amount is a lump-sum appropriation that can be used for any authorized purpose in furtherance of AHRQ’s mission.

HHS’s Actions

On February 11, 2025, the President issued an executive order directing agencies to promptly undertake preparations to initiate large-scale RIFs, consistent with applicable law.²³ In accordance with the executive order, HHS announced a reorganization of the department on March 27, 2025.²⁴ Among other changes, the reorganization merged AHRQ with the Office of the Assistant Secretary for Planning and Evaluation to create the Office of Strategy. The stated purpose of the merger

²⁰ Further Consolidated Appropriations Act, 2024, Pub. L. No. 118-47, div. D, title II, 138 Stat. 460, 661–62 (Mar. 23, 2024).

²¹ Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101, 139 Stat. 9, 10–11 (Mar. 15, 2025). From October 1, 2024, through March 15, 2025, AHRQ was funded by a series of short-term continuing resolutions. See Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 118-83, 138 Stat. 1524 (Sept. 26, 2024); American Relief Act, 2025, Pub. L. No. 118-158, 138 Stat. 1722 (Dec. 21, 2024).

²² See S. Rep. No. 118-84 at 156 (2023); Explanatory Statement, Further Consolidated Appropriations Act 2024 – Division D – Departments of Labor, Health and Human Services, Education and Related Agencies Appropriations Act, 2024, 170 Cong. Rec. H1886 (daily ed. Mar. 22, 2024) (noting that the language in Senate Report No. 118-84 “carries the same weight as language included in [the] explanatory statement and should be complied with” unless otherwise noted).

²³ Exec. Order No. 14210, *Implementing the President’s “Department of Government Efficiency” Workforce Optimization Initiative*, 90 Fed. Reg. 9669 (Feb 14, 2025).

²⁴ HHS, *HHS Announces Transformation to Make America Healthy Again* (Mar. 27, 2025) available at <https://www.hhs.gov/press-room/hhs-restructuring-doge.html> (last visited Sept. 28, 2026).

was to enhance research that informs the Secretary's policies and improves the effectiveness of federal health programs.²⁵

In an August 2025 declaration submitted in court proceedings,²⁶ a former AHRQ employee stated that on April 1, 2025, HHS sent out emails announcing a RIF action across AHRQ and other HHS agencies.²⁷ Affected AHRQ employees were notified that they would be placed on administrative leave that day and later separated from the agency.²⁸ On July 14, 2025, more than 120 AHRQ employees were officially separated from the agency, including a substantial portion of personnel in OEREP and OMS grant offices.²⁹

Following the RIF, AHRQ grant applicants and awardees allege AHRQ's grantmaking function was delayed or shutdown entirely.³⁰ They assert that AHRQ halted its statutorily required peer review process for new grant awards and cancelled peer review meetings that had previously been scheduled for May and June 2025.³¹ They also assert that AHRQ declined to award grants for activities that had already been favorably reviewed and failed to provide continuing funding for grants that were previously awarded.³²

²⁵ HHS, *Fact Sheet: HHS' Transformation to Make America Healthy Again* (Mar. 27, 2025) available at <https://www.hhs.gov/press-room/hhs-restructuring-doge-fact-sheet.html> (last visited Sept. 28, 2026).

²⁶ *Society of General Internal Medicine*, No. 8:25-cv-02751. As of September 28, 2026, the case is ongoing with the court currently evaluating a Motion to Dismiss filed by the defendants. See *id.*, Defendants Motion to Dismiss, ECF No. 33 (Jan. 20, 2026).

²⁷ *Id.*, Motion for Preliminary Injunction, Ex. 1, Declaration of John Doe #1 ¶ 3, ECF No. 4-3 (Aug. 21, 2025) (Declaration of John Doe #1).

²⁸ *Id.* at ¶ 4.

²⁹ See U.S. Senate Health, Education, Labor and Pensions Committee, Minority Staff Report, *Trump's War on Science* at 11 (May 13, 2025); Motion for Preliminary Injunction, Ex. 2, Declaration of John Doe #2, at ¶ 10, ECF No. 4-4 (Aug. 21, 2025) (Declaration of John Doe #2) ("Following the RIF, the only employee left in OEREP was the office's director.").

³⁰ See e.g., Motion for Preliminary Injunction, Ex. 4, Declaration of Alan Katz ¶¶ 8, 11–14, *Society of General Internal Medicine*, ECF No. 4-6 (Aug. 21, 2025); *id.* Ex. 6, Declaration of Jeffrey Schnipper ¶¶ 4–5, ECF 4-8 (Aug. 21, 2025).

³¹ Declaration of John Doe #2, at ¶ 12.

³² *Id.* Ex. 3, Declaration of Eric B. Bass ¶¶ 9–12, ECF No. 4-5 (D. Md. Aug. 21, 2025).

At the close of the fiscal year on September 30, 2025, AHRQ had obligated a total of \$290 million of its FY 2025 appropriation, of which \$75 million was obligated for 185 grants.³³ A total of more than \$78 million remained unobligated.

DISCUSSION

At issue here is whether HHS's actions with respect to AHRQ grants complied with the requirements of the ICA.³⁴ As explained below, we conclude that HHS withheld funds when it declined to obligate or expend more than \$78 million of its FY 2025 appropriation before the close of the fiscal year. We further conclude that this withholding constituted an impoundment under the ICA rather than a programmatic delay. Because HHS did not submit a special message proposing to rescind AHRQ funds, HHS's actions violated the ICA.

Impoundment Control Act

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."³⁵ 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.³⁶ 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.³⁷ Instead, the President must "faithfully execute" the law as Congress enacts it.³⁸

³³ Response Letter, at 2.

³⁴ While we were not asked to opine specifically on whether the RIF itself constituted an impoundment, we have previously noted that a reduction to federal positions for the purpose of reducing federal personnel costs was not automatically a withholding or delay that required the transmittal of a special message under the ICA. See page 11, *infra* (discussing our conclusions on the RIF of Department of Homeland Security personnel in B-337366, July 31, 2025).

³⁵ U.S. Const. art. I, § 9, cl. 7.

³⁶ *Id.* § 7, cl. 2.

³⁷ See B-331564, Jan. 16, 2020 (citing *Clinton v. City of New York*, 524 U.S. 417, 438 (1998)).

³⁸ U.S. Const. art. II, § 3.

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.³⁹ In fact, Congress was concerned about the failure to prudently obligate according to its congressional prerogatives when it enacted and later amended the ICA.⁴⁰

The Constitution grants the President no unilateral authority to withhold funds from obligation.⁴¹ 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.⁴² The ICA separates impoundments into two exclusive categories – deferrals and rescissions. First, the President may seek to temporarily withhold funds by proposing a “deferral.”⁴³ 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.”⁴⁴

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.⁴⁵ These special messages must provide detailed and specific reasoning to justify the withholding, as set out in the ICA.⁴⁶ The burden to justify a withholding of budget authority rests with the executive branch.⁴⁷

³⁹ 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.).

⁴⁰ 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 reserving funds does not become a vehicle for furthering Administration policies and priorities at the expense of those decided by Congress.”).

⁴¹ See B-135564, July 26, 1973.

⁴² See 2 U.S.C. §§ 681–688.

⁴³ 2 U.S.C. § 684.

⁴⁴ 2 U.S.C. § 683.

⁴⁵ 2 U.S.C. §§ 683–684.

⁴⁶ See *id.*; B-237297.4, Feb. 20, 1990 (vague or general assertions are insufficient to justify the withholding of budget authority).

⁴⁷ See, e.g., B-337137 (May 22, 2025).

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.⁴⁸ With respect to deferrals, the ICA specifies that the funds at issue are only temporarily withheld and must still be obligated before expiration.⁴⁹

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.⁵⁰

Application of the ICA to AHRQ Grant Administration

When examining whether an agency complied with the ICA, we consider the extent to which the relevant statutory authority affords the agency discretion to withhold or delay the obligation or expenditure of funds.⁵¹ We also examine whether there was in fact a withholding or delay; if not, the ICA does not apply.⁵² If there was a withholding or delay, we next determine whether such action constituted an impoundment covered by the ICA, or a "programmatic delay," which is not.⁵³ If the agency's action constitutes an impoundment and the agency did not submit a

⁴⁸ 2 U.S.C. § 684(b).

⁴⁹ See 2 U.S.C. § 684; B-329092, Dec. 12, 2017 ("Any amount of budget authority deferred must be prudently obligated before the end of the period of availability."); 54 Comp. Gen. 453 (1974) (deferral provision should be used when the withholding is temporary and when prudent obligation of funds within the period of availability is not precluded by the withholding). With respect to proposed rescissions, the funds must still be prudently obligated unless Congress acts within 45 days to pass a new law rescinding them. 2 U.S.C. § 683(b). The ICA also does not authorize the withholding of budget authority through its date of expiration. See B-330330, Dec. 10, 2018.

⁵⁰ 2 U.S.C. §§ 685–686.

⁵¹ See, e.g., B-337137, May 22, 2025.

⁵² See, e.g., B-337142, June 16, 2025 (concluding that the U.S. Department of Energy did not take actions to withhold funding for the relevant program).

⁵³ See, e.g., B-337137, May 22, 2025.

special message under the ICA proposing to defer or rescind the affected funds, then the agency's actions violate the ICA.⁵⁴

(1) Statutory Framework

We start our analysis with a review of the level of discretion provided to the agency by its authorizing statute and relevant appropriation.⁵⁵ As codified in chapter 42 of the United States Code, the Public Health Service Act, authorizes and in some instances mandates AHRQ to award grants, contracts, and other agreements in furtherance of its mission.⁵⁶ For instance, the Act states that AHRQ “may provide training grants” in the field of health services research related activities to include pre- and post- doctoral fellowships and training programs.⁵⁷

While that particular provision authorizes AHRQ to award grants without requiring it, other provisions specifically mandate that AHRQ award grants or contracts. Section 299b-31(c) states that AHRQ “shall award grants, contracts, or intergovernmental agreements” to eligible entities for purposes of developing, improving, updating, or expanding quality measures that allow the assessment of health outcomes and functional status of patients among other authorized purposes.⁵⁸ Thus, AHRQ is required to award financial assistance for the specified purposes, but retains discretion to decide which funding vehicle to use.

The Act also contains provisions further constraining the agency's discretion by mandating a specific funding vehicle. Section 299b-36(e)(2) states that AHRQ “shall provide grants” for the establishment and support of Shared Decisionmaking Resource Centers to provide technical assistance to providers and to develop and

⁵⁴ See, e.g., B-337208, July 31, 2025; B-337375, June 16, 2025. Although not at issue here, the ICA's fourth disclaimer prohibits withholding from obligation or expenditure funds appropriated for programs for which there is a mandate to spend, notwithstanding the submission of a special message. See 2 U.S.C. § 681(4); B-337137, May 22, 2025.

⁵⁵ See B-337209, Aug. 5, 2025; B-337233, July 23, 2025; B-337142.1, June 16, 2025; see also B-337366 July 31, 2025, citing B-337142.1, June 16, 2025 (“When analyzing whether an agency has complied with the ICA, we look for actions that are required by law or instances where an agency's discretion is limited with respect to the obligation of funds”).

⁵⁶ E.g., 42 U.S.C. § 299b-34(a) (mandating the award of technical assistance grants or contracts related to quality improvement).

⁵⁷ 42 U.S.C. § 299a(b).

⁵⁸ 42 U.S.C. § 299b-31(c).

disseminate best practices and other information.⁵⁹ With this provision, AHRQ is required to fund this technical assistance and must do so via grant, rather than a contract or other funding vehicle.

AHRQ is funded by a lump-sum appropriation. Lump-sum appropriations fund several programs or activities without specifying how much is to be spent for each one activity specifically.⁶⁰ Lump-sum appropriations therefore afford an agency significant discretion with respect to how it wishes to administer the programs funded by that appropriation and the funding level to be provided to each.⁶¹ On the other hand, line-item appropriations provide specific amounts for narrow, particular purposes.⁶² In contrast to the broad discretion afforded by lump-sum appropriations, line-item appropriations “reflect[] Congress’s intent to limit agency discretion.”⁶³

In previous ICA decisions, we have noted that an agency’s use of a lump-sum appropriation to carry out some, but not all, of the programs authorized under such appropriation does not necessarily constitute an impoundment.⁶⁴ So long as budgetary resources are used for authorized purposes, there is no withholding. For instance, we concluded that the Department of Homeland Security’s (DHS) actions to conduct RIFs and close three offices did not result in an unlawful withholding of funds.⁶⁵ Because DHS was funded by a lump-sum appropriation and continued to obligate and expend the funds for other authorized purposes despite the office closures, there was no improper impoundment.⁶⁶

⁵⁹ 42 U.S.C. § 299b-36(e)(2).

⁶⁰ B-207697, Oct. 4, 1982.

⁶¹ See *Lincoln v. Vigil*, 508 U.S. 184, 192 (1993) (“After all, the very point of a lump-sum appropriation is to give an agency the capacity to adapt to changing circumstances and meet its statutory responsibilities in what it sees as the most effective or desirable way.”).

⁶² GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 64.

⁶³ B-337208, July 31, 2025.

⁶⁴ B-115393.33, Apr. 5, 1978 (noting that a hiring limitation would not result in an impoundment of funds available for increased staffing levels so long as the budget authority was made available for obligation for other authorized purposes, such as salary increases, and the agency intended to use the funds).

⁶⁵ B-337366, July 21, 2025.

⁶⁶ *Id.*

If an agency decides not to spend some or all of its money on a particular program, the ICA requires that it must nonetheless use those funds on other eligible programs funded by the lump-sum.⁶⁷ An agency does not have the discretion to withhold funds from obligation or expenditure altogether simply because they were appropriated as part of a lump-sum appropriation.⁶⁸ Rather, the agency must prudently obligate or expend those funds for another permissible purpose under the lump-sum. Thus, we concluded that an agency violated the ICA when it declined to obligate funds saved through a reduction in the agency's functions and personnel for other authorized purposes.⁶⁹

AHRQ was funded by a lump-sum appropriation for FY 2025. Congress did not mandate any specific funding levels for particular grants. Because AHRQ has discretion to choose how to allocate spending among permissible purposes, it could choose not to fund certain types of grants, so long as it obligated its appropriation for otherwise authorized purposes.

(2) Withholding or Delay

We next turn to whether there was in fact a withholding or delay. In this case, AHRQ grant obligations slowed following HHS's announcement of a RIF in April 2025. Publicly available data shows that in that month, AHRQ obligated only \$191,795 for grants followed by \$0 for grants in May 2025.⁷⁰ By comparison, AHRQ obligated \$10.1 million and \$20.1 million for grants in April and May 2024 respectively.⁷¹ In July 2025, after affected employees were officially separated from the agency, AHRQ grant obligations ceased again and did not restart until September 10, 2025.⁷²

⁶⁷ B-207697, Oct. 4, 1982.

⁶⁸ See B-207697, Oct. 4, 1982 (explaining that such a withholding from a lump-sum appropriation "presumably would constitute an impoundment").

⁶⁹ B-337375, June 16, 2025.

⁷⁰ TAGGS, *Award Search*, available at <https://taggs.hhs.gov/SearchAward> (last visited Sept. 28, 2026). To compile these numbers, we searched TAGGS for "Issue Date FY" and "Funding Date FY" for 2024 and 2025 respectively. We then filtered by Operating Division by "AHRQ". This allowed us to identify the obligations that took place using FY 2024 and FY 2025 one-year funds. TAGGS is HHS's management and reporting platform that "assembles financial assistance data from across [HHS] into one consolidated repository." TAGGS, *About TAGGS*, available at <https://taggs.hhs.gov/About> (last visited Sept. 28, 2026).

⁷¹ See note 50, *supra*.

⁷² See *id*.

Although AHRQ's lump-sum appropriation afforded the agency with discretion to decide how to allocate its spending among permissible purposes, budget documents show that AHRQ did not increase obligations for other purposes to compensate for the declining rate of obligation for its grants. In fact, AHRQ obligated proportionally fewer dollars for other purposes such as research contracts than it had in previous years.⁷³ In FY 2023 and 2024, AHRQ obligated \$147 million and \$135 million for research and development contracts respectively. In FY 2025, AHRQ obligated only \$118 million for research and development contracts. AHRQ budget documents show similar declining rates of obligation for other object classifications including total personnel compensation, civilian personal benefits, and services from non-federal sources.⁷⁴ Unlike DHS's continued obligation and expenditure of funds in B-337366 for other authorized purposes, AHRQ's large unobligated balance near the close of the fiscal year demonstrates that AHRQ did not obligate funds for alternative priorities. As such, we find that AHRQ withheld budget authority.

In its response to us, HHS indicated that a large portion of the unobligated balance of the AHRQ appropriation at the end of the fiscal year was due to a court order. On September 29, 2025, the United States District Court for the District of Maryland ordered AHRQ to preserve and set aside \$70 million of its FY 2025 funds pending resolution of the litigation so that meaningful relief would be available to the plaintiffs should they prevail.⁷⁵ In its order, the Court noted that while the litigation is pending,

⁷³ See OMB, *Budget FY 2027 – Technical Supplement to the 2027 Budget: Appendix, Department of Health and Human Services*, at 459 (FY 2027 Budget Appendix); OMB, *Budget FY 2026 – Technical Supplement to the 2026 Budget: Appendix, Department of Health and Human Services*, at 355 (FY 2026 Budget Appendix). OMB, *Budget FY 2025 – Technical Supplement to the 2025 Budget: Appendix, Department of Health and Human Services*, at 417 (FY 2025 Budget Appendix).

⁷⁴ FY 2027 Budget Appendix, at 459; FY 2026 Budget Appendix, at 355; FY 2025 Budget Appendix, at 417.

⁷⁵ Order, *Society of General Internal Medicine*¹, ECF No. 27 (Sept. 29, 2025) (September 29th Order). In an earlier order, the Court extended the obligation deadline for AHRQ's FY 2025 appropriation to December 31, 2025. Order, *Society of General Internal Medicine*, No. 8:25-cv-02751, ECF No. 21 (D. Md. Sept. 19, 2025) (vacated). The defendants challenged that order on the basis that the court lacked authority to extend the deadline of the entire lump-sum appropriation when only the portion of the appropriation pertaining to grant funds was at issue before the court. Emergency Motion to Vacate or, in the Alternative, to Amend Order, *Society of General Internal Medicine*, ECF No. 23 (Sept. 28, 2025). The court subsequently vacated its September 19th Order when it issued its September 29th Order. September 29th Order.

AHRQ may continue to obligate the funds at issue through the award of grants under the grantmaking program at issue in the case.⁷⁶

The ICA defines “deferral” as “withholding or delaying the obligation or expenditure of budget authority” or “any other type of *Executive action* or inaction which effectively precludes the obligation or expenditure of budget authority.”⁷⁷ “Executive action,” as used in the ICA, necessarily excludes withholdings made pursuant to a court order.⁷⁸ As such, AHRQ’s withholding of funds *following* the court order, would not constitute an impoundment.

Nonetheless, the court order does not justify the agency’s withholding of a significant portion of its appropriation prior to September 29, 2025. The ICA does not impose a specific requirement on the executive branch as to the rate at which appropriations must be obligated or expended.⁷⁹ For there to be a violation, there must be sufficient evidence of an intent to refrain from obligating or expending available budget authority, based on the facts and circumstances present. Agencies must take reasonable and necessary steps to implement programs and prudently obligate amounts before such funds expire.⁸⁰

AHRQ’s FY 2025 funds were set to expire September 30, 2025. As of September 1, 2025, AHRQ had obligated only \$214 million of its \$369 million appropriation, less than 60 percent.⁸¹ In comparison, at the same point in FY 2024, AHRQ had obligated \$328 million of its \$369 million appropriation, roughly 89 percent.⁸² While

⁷⁶ September 29th Order.

⁷⁷ 2 U.S.C. § 682(1) (emphasis added).

⁷⁸ See GAO, *Civil Litigations Concerning the Section 236 Housing Program*, GAO/OGC-77-9 (Washington, D.C.: Dec. 23, 1976) (no impoundment of HUD housing subsidies where the funds were withheld pursuant to a court order).

⁷⁹ B-200685, Dec. 23, 1980.

⁸⁰ B-329739, Dec. 19, 2018; B-330330.1, Dec. 10, 2018.

⁸¹ For obligation data, we reviewed the “Status of Budgetary Resources” section of the Standard Form (SF) 133, Report on Budget Execution and Budget Resources, for FY 2024 and FY 2025 for Treasury Appropriation Fund Symbols (TAFS) 075-1700/24 and 075-1700/25. Specifically, we reviewed line 2004 that shows direct obligations incurred by month for the selected TAFS. 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>.

⁸² *Id.*

the rate of an agency's obligations or expenditures of a given appropriation may vary from year to year, an agency's obligations and expenditures, at any time throughout the fiscal year, should reflect a "reasonable attempt by the agency to carry out the purposes of the appropriation."⁸³ In consideration of the statutory and regulatory processes AHRQ is required to follow before awarding grants, the short window of time remaining to obligate funds prior to expiration, and the significant amount of unobligated budget authority going into the final weeks of the fiscal year, we find sufficient evidence that AHRQ refrained from obligating or expending available budget authority.

(3) Type of Withholding

Not all delays in the obligation or expenditure of budget authority constitute impoundments under the ICA.⁸⁴ For example, "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.⁸⁵ Such programmatic delays include delays in the obligation or expenditure of budget authority that result from agency compliance with statutory requirements.⁸⁶

In its response to us, HHS noted that even if its actions resulted in a withholding of funds, such a withholding would constitute a programmatic delay as AHRQ was taking necessary steps to implement its grant-making authority in accordance with applicable statutory and regulatory requirements.⁸⁷

AHRQ is required by statute and regulation to take certain steps when it chooses to obligate funds by awarding grants. For instance, grant applications must undergo a peer review by a panel of experts.⁸⁸ From there, the Administrator must consider the application in light of certain factors and reach a decision on whether to give further consideration for funding.⁸⁹ Taking time to abide by these statutory and

⁸³ B-337375, June 16, 2025 (finding that "[w]hile there is no numeric threshold for an ICA violation," the obligation of roughly 19 percent did not suggest a "reasonable attempt by the agency to carry out the purposes of the appropriation").

⁸⁴ B-337137, May 22, 2025.

⁸⁵ *Id.* (citing B-331564.1, Feb. 10, 2022).

⁸⁶ *Id.* (citing B-333110, June 15, 2021).

⁸⁷ Response Letter, at 3.

⁸⁸ 42 C.F.R. § 67.15.

⁸⁹ 42 C.F.R. § 67.16.

regulatory requirements would support a finding of a programmatic delay rather than an impoundment.⁹⁰

However, publicly available data indicate that AHRQ did not proceed with these requirements. Shortly after announcing the RIF, AHRQ removed information pertaining to grant peer review sessions previously scheduled for May and June 2025.⁹¹ Through the end of the fiscal year, AHRQ did not post any new notices of meetings for such peer review groups as it had done in the past.⁹² In a sworn declaration, a former AHRQ employee stated that between the announcement of the RIF on April 1, 2025, and the date affected employees were separated from the agency, AHRQ did not hold any such meetings and had no plans to do so.⁹³ By refraining from scheduling and conducting peer review meetings, AHRQ precluded itself from following statutory directives in order to obligate funds.

Additionally, the RIF itself does not support the agency taking reasonable and necessary steps to implement its statutory functions. In the *Society of General Internal Medicine* litigation, plaintiffs allege that the RIF eliminated nearly all relevant grants personnel from OEREP including project officers with scientific expertise in health services research that crafted notices of funding opportunities and processed grant applications.⁹⁴ The RIF also eliminated grant management personnel within the OMS that were responsible for the logistics of AHRQ grants, such as issuing grant awards and monitoring compliance with HHS regulations. By removing a significant portion of key grant personnel shortly before the close of the fiscal year, HHS eliminated AHRQ's capacity to carry out its authorized functions. The elective decision to remove a substantial number of key grant administration personnel cannot then be offered as an unavoidable circumstance causing reasonable delay to the program implementation and the obligation of appropriations.

⁹⁰ See B-333110, June 15, 2021.

⁹¹ AHRQ, *Scientific Peer Review Meeting Schedules*, available at <https://web.archive.org/web/20250218200914/www.ahrq.gov/funding/process/study-section/prvmtgs.html> (archived on Feb. 18, 2025) (listing various standing study section scientific review meetings schedule for May and June 2025).

⁹² See e.g., Notice of Meeting, 89 Fed. Reg. 104155 (Dec. 20, 2024) (announcing grant application review meeting dates in February 2025); Notice of Meeting, 89 Fed. Reg. 70651 (Aug. 30, 2024) (announcing grant application review meeting dates in October 2024).

⁹³ Declaration of John Doe #2, ¶ 12.

⁹⁴ Declaration of John Doe #1, at ¶¶ 9–19 (discussing the roles of OEREP and the RIF of OEREP personnel).

AHRQ communications also suggest that the agency did not have a plan in place to continue obligations following announcement of the RIF. After the majority of grant personnel were separated from the agency in July 2025, the Director of OEREP sent an email to grantees noting that the agency was currently unable to process grant awards and that FY 2025 funding of non-competing applications was uncertain.⁹⁵

Collectively, the substantial unobligated balance of funds near the close of the fiscal year, the cancellation of grant peer review sessions, the RIF separating key grant personnel from the agency, and admissions by agency management of funding uncertainty suggest a lack of intent to prudently obligate funds. Based on the foregoing, HHS's actions did not constitute the type of unavoidable delays or efforts to comply with statutory requirements that we have previously recognized as programmatic delays. Instead, HHS's actions indicate an intentional withholding of funds in violation of the ICA.

CONCLUSION

Based on the information available to us, we conclude that HHS violated the ICA when the agency, without submitting a special message to Congress, withheld AHRQ funds from obligation and expenditure following the announcement of a RIF. The burden to justify withholdings rests with the executive branch, and GAO has a statutory duty to report to Congress impoundments the President has not reported.

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 regarding HHS help ensure compliance with the ICA. We do not take a position on HHS's policy goals, and this decision is not to be interpreted as taking a position on those policies.



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General Counsel

⁹⁵ Motion for Preliminary Injunction, Ex. 5, Declaration of Amal N. Trivedi, Ex. A, *Society of General Internal Medicine*, ECF No. 4-7 (Aug. 21, 2025) (email from OEREP Director to grantees).