

What Is a Legal Deferral Under the Impoundment Control Act?



As the name suggests, the Impoundment Control Act (ICA) helped reinforce Congress's control over the executive branch's spending of funds and provided an explicit pathway for the President to request that lawfully provided funds either be temporarily paused ("withheld" or "deferred") or permanently taken back by Congress ("rescinded"). The ICA was enacted in response to President Nixon's unilateral efforts to impound (i.e., not spend) appropriated funds without congressional approval, which the courts had already ruled unlawful.

Under the ICA, the President can request a temporary pause on spending for only three reasons:

- To provide for contingencies, such as when the President anticipates a greater need for the funds later in the fiscal year;
- When waiting to spend can achieve savings made possible by changes in requirements or greater efficiency of operations; or
- When such pauses are expressly provided for in law.

The ICA does not permit deferrals for policy reasons — whether a reconsideration of priorities or to better advance the President's agenda or political preferences — nor to accommodate indeterminate programmatic reviews.

In enacting the ICA, Congress explicitly eliminated previous authority that presidents had to lawfully delay spending funds when savings would be made possible through "other developments subsequent to the date on which such appropriation was made available." This change, and a [subsequent amendment](#), made even clearer Congress's intention that proposed deferrals are "permissible only" for the three reasons given above and cannot be undertaken for any other reasons, including policy reasons (with the prohibition on deferring funds for policy reasons reaffirmed in a U.S. Court of Appeals decision in 1987). The ICA also makes clear that funds temporarily delayed must still be spent before expiration and that presidents cannot propose to delay spending lawfully appropriated funds beyond the end of a fiscal year.

Under the ICA, any time the President wishes to defer funds, they are required to submit a special message to Congress that clearly documents which funds are being paused, for how long, and the allowable reason why. With the transmittal of a special message compliant with the law, the President can pause the spending of funds without the affirmative approval of Congress. Though Congress hypothetically can take action to end a requested pause through an expedited procedure requiring only a simple majority in the House and Senate, it would still be subject to a presidential veto.

Additionally, the ICA lays out a separate procedure for when a President wishes for Congress to rescind funds. The ICA's offering of a separate procedure for preventing funds from being spent at all makes clear that temporarily paused funds still must be spent. (The ICA also prohibits proposing deferrals of funds the President has also proposed for rescission.)

For more information, see Devin O'Connor and Jacob Leibenluft, "Deferral Requests Would Be Another Tactic in the Trump Administration's Illegal Strategy to Withhold Congressionally Approved Funding," CBPP, August 5, 2025, <https://www.cbpp.org/research/federal-budget/deferral-requests-would-be-another-tactic-in-the-trump-administrations>.