

Judge Orders U.S.A.I.D. and State Dept. to Pay Funds ‘Unlawfully’ Withheld

The order prohibited the agencies from “unlawfully impounding congressionally appropriated foreign aid funds” owed to contractors and grant recipients. It applied to work completed before Feb. 13.

**By Zach Montague
New York Times**

A federal judge barred the Trump administration on Monday from “unlawfully impounding congressionally appropriated foreign aid funds” that the State Department and the U.S. Agency for International Development owed to grant recipients and contractors, requiring it to pay for work completed in the first several weeks of President Trump’s term.

The ruling, handed down by Judge Amir H. Ali of the Federal District Court for the District of Columbia, was the latest step in a winding dispute over foreign aid payments since Mr. Trump has tried to vastly shrink the nation’s foreign assistance. While forcing the administration to pay for work completed before Feb. 13, Judge Ali said the limits of the case prevented him from ordering payments on future work or restoring canceled contracts.

But he left no doubt that he believed that the administration had exceeded its authority in trying to block funding, a warning that could echo through a deluge of lawsuits over Mr. Trump’s efforts to unilaterally halt spending.

“Here, the executive has unilaterally deemed that funds Congress appropriated for foreign aid will not be spent,” he wrote. “The executive not only claims his constitutional authority to determine how to spend appropriated funds, but usurps Congress’s exclusive authority to dictate whether the funds should be spent in the first place.”

The [order](#) on Monday prohibited the State Department and U.S.A.I.D. from implementing much of a Jan. 24 [memorandum](#) outlining plans to reorient and shrink U.S. foreign aid. It further required them to pay out hundreds of millions of dollars still owed to a constellation of groups for work completed before Feb. 13, as Judge Ali had ordered last month.

The order dealt with a broad freeze on foreign aid funding that Mr. Trump put into effect the day he took office. It stopped short of the much more significant step of invalidating the Trump administration’s decision to cancel thousands of contracts through what it described as an expedited line-by-line review, after the lawsuit was

already underway. Judge Ali found that the court was restrained to addressing the specific harms laid out in the lawsuit, not “supervision of discrete or ongoing executive decisions.”

Earlier on Monday, Secretary of State Marco Rubio [said](#) on social media that a review of U.S.A.I.D.’s contracts, which he thanked Elon Musk’s team for undertaking, would result in 83 percent of the agency’s contracts being cut. He added that the roughly 1,000 contracts the agency had decided to keep would be administered by the State Department.

Judge Ali wrote that the aid groups suing the government had made an “unrebutted showing of enormous harm,” after the government’s review of its contracts left them scrambling to keep lifesaving operations going.

During a hearing on Thursday, Judge Ali had given the agencies until Monday at 6 p.m. to process old invoices and pay the groups suing for work completed before Feb. 13. The order on Monday also required the government to file a report by the end of the week outlining how it would pay others that previously received federal funding before the review.

Aid groups have argued that the funding pause jeopardized their mission. But even after Judge Ali provided an initial ruling in their favor last month, ordering the government to unfreeze some payments on Feb. 13, a variety of groups, including some not involved in the lawsuit, have said they still had not received expected payouts. That included several that the Trump administration said it would make exceptions for, because of [their work on lifesaving projects](#), such as disbursing H.I.V. medications.

Lawyers representing the government have argued that those failures to pay were not in defiance of the court, but rather that many payments effectively got lost in the shuffle when the agencies decided to end most of their programs after the line-by-line review, while simultaneously putting most of the employees normally responsible for processing payments [on leave](#).

Last week, the Supreme Court [declined to](#) release the agencies from Judge Ali’s previous order, directing them to pay out nearly \$2 billion. It asked Judge Ali to “clarify what obligations the government must fulfill,” noting that the Feb. 26 deadline he had previously set for the government to unfreeze the payments had passed.

The court voted 5 to 4, and as is customary in such emergency applications, the majority offered no reasoning. But a dissent by Justice Samuel A. Alito Jr. may have offered a preview of coming legal fights in other cases where groups have sued the Trump administration, accusing it of withholding funds authorized by Congress.

Justice Alito, joined by Justices Clarence Thomas, Neil M. Gorsuch and Brett M. Kavanaugh, wrote that the government was likely to prevail in the case because of federal sovereign immunity, which prevents groups from suing to force payments from the Treasury.

“The government must apparently pay the \$2 billion posthaste — not because the law requires it, but simply because a district judge so ordered,” he wrote. “As the nation’s highest court, we have a duty to ensure that the power entrusted to federal judges by the Constitution is not abused. Today, the court fails to carry out that responsibility.”