



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

096886

096886

~~76-0201~~

December 12, 1975

B-115398



Speaker of the House  
President of the Senate

We were furnished copies of deferrals and proposed rescissions which the President submitted to the Congress on November 18, in his seventh special message for fiscal year 1976 pursuant to the Impoundment Control Act of 1974. The special message transmits six rescission proposals, three new deferrals, and two revised deferrals. The President estimates that the proposed rescissions will reduce fiscal year 1976 outlays by \$181.7 million. Enclosure I summarizes, by agency, the total budget authority and FY 1976 outlay reductions involved in the message.

The Impoundment Control Act requires us to review each message and report promptly to the House and Senate as to the facts surrounding each action, including the probable effect thereof and, in the case of deferrals, to render a judgment as to whether the action is in accordance with existing legal authority. We are also required to notify the Congress if supplementary information revising earlier messages necessitates changes in the original reports submitted by us. Enclosure II contains our comments on each impoundment proposal transmitted by the President's seventh special message.

For at least one of the proposed rescissions, R76-13, our check of Executive Branch records indicates that the \$768 million of budget authority had been impounded but unreported by OMB since at least October 29, or 20 days before the Congress was made aware of the proposed rescission. This unreported impoundment affects the length of time before the proposed rescission can be rejected. Enclosure III is a listing of pertinent actions taken by Administration officials regarding the Office of Education rescission proposals.

Sincerely yours,

Comptroller General  
of the United States

~~702515~~

096886

ACG-76-11

Enclosures

BUDGET AUTHORITY AND OUTLAY REDUCTIONS CONTAINED IN  
 RESCISSIONS AND DEFERRALS TRANSMITTED WITH THE  
 PRESIDENT'S SEVENTH FY 76 SPECIAL MESSAGE  
 NOVEMBER 18, 1975

(dollars in thousands)

	<u>BUDGET AUTHORITY</u>	<u>OUTLAY REDUC- TIONS FY 1976</u>
<u>PROPOSED RESCISSIONS</u>		
Department of Health, Education, and Welfare	\$1,289,103	\$181,700
 <u>DEFERRALS</u>		
Department of Health, Education, and Welfare	4,804	0
Dept. of State	2,572	0
Dept. of the Treasury	<u>11,833</u>	<u>(75,900)</u>
 TOTAL RESCISSIONS AND DEFERRALS	 <u>\$1,308,312</u>	 <u>\$105,800</u>

COMMENTS ON THE SEVENTH FY 1976 SPECIAL MESSAGE  
 TRANSMITTED BY THE PRESIDENT ON NOVEMBER 18, 1975,  
 PURSUANT TO THE IMPOUNDMENT CONTROL ACT OF 1974

DEPARTMENT OF HEALTH, EDUCATION, & WELFARE

- R76-9      Office of Education  
Elementary and Secondary Education  
7560279   756/70279   75X0279
- R76-10     Office of Education  
School Assistance in Federally  
Affected Areas   7560280   75X0280
- R76-11     Office of Education  
Education for the Handicapped  
7560282   756/70282
- R76-12     Office of Education  
Occupational, Vocational, and Adult  
Education 7560273   756/70273   75X0273
- R76-13     Office of Education  
Higher Education  
7560293   756/70293   75X0293
- R76-14     Office of Education  
Library Resources  
7560212

Information in the above six messages is essentially correct and the actions being proposed are reasonably clear. Based on the current congressional schedule, the 45 days of continuous session will end on February 5, 1976. Agency officials disputed statements in several messages that certain programs are duplicative or that their purposes could be fulfilled through other funding. They also stated that several

messages appear to minimize the adverse impact the rescission proposals, if accepted, would have on the programs. For instance, in the case of Vocational Personnel Training (R76-12), program officials stated that the funds proposed for rescission are critical to meet the shortage of vocational education teachers because other funds for training are limited and, in some cases, potential candidates are not eligible to receive those funds.

We noted that if funds for the Supplemental Educational Opportunity Grants and Direct Loans are rescinded as proposed in message R76-13, this may contradict the provisions of title IV, section 411(b)(4)(A) of the Higher Education Act of 1965 as amended by P.L. 92-318 which requires a certain level of appropriations for Supplemental Opportunity Grants and capital contributions in order to make basic grant payments.

Part of the budget authority proposed for rescission in R76-10 (Federal Impact Aid), R76-13 (Higher Education), and R76-14 (Library Resources), was the subject of prior deferrals--D76-42, D76-43, and D76-44 respectively.

The timing of the proposed rescissions included in this message highlights a major problem in the Impoundment Control Act--when should proposed rescissions be reported to the Congress?

Section 1012(a) of the Act states, "Whenever the President determines that all or part of any budget authority will not be required \* \* \* the President shall transmit to both Houses of Congress a special message \* \* \*." The HEW Education Appropriation Act (P.L. 94-94) was passed into law on September 10 by the congressional override of the President's veto. By statute, OMB has 30 days within which to apportion the appropriated budget authority to the agency. In this instance, that time period expired on October 10 and the funds were apportioned to HEW.

A check of HEW records for proposed rescission R76-13 (Higher Education) disclosed that the \$768 million of budget authority had been impounded by HEW--HEW submitted reapportionments to OMB which reflected the proposed rescission amounts--but unreported to the Congress since October 21, or 28 days prior to November 18, the date Congress was made aware of the proposed rescission. OMB concurred with this impoundment by signing the reapportionment schedule submitted by HEW on October 29, or 20 days prior to the date of the special message. This delay affects the starting date of the prescribed 45-day time period causing an unwarranted extension of time before the rescission can be rejected.

We are aware that under the Act, rescissions are not required to be reported to the Congress until the President signs the special message. However, section 1015(a) of the Act empowers the Comptroller General to report to the Congress any unreported rescissions (whether proposed by the President, OMB, or the head of any agency of the United States) when he finds them. In this instance, were we aware of HEW's actions of October 21, or OMB's actions of October 29, we would have informed the Congress of an unreported proposed rescission and the 45 days of continuous session would have started running from the date of that letter.

A listing of pertinent actions taken by administration officials regarding the Office of Education rescission proposals is included as Enclosure III.

DEPARTMENT OF HEALTH, EDUCATION, & WELFARE

D76-65 Office of Assistant Secretary for Health  
Assistant Secretary for Health (Program  
Direction and Support Services) 7561101

DEPARTMENT OF STATE

D76-66 International Center  
Washington, D.C. 19X5151

DEPARTMENT OF THE TREASURY

D76-67 Office of the Secretary  
State and Local Government Fiscal  
Assistance Trust Fund 20X811

The information provided in the above messages is essentially correct and the actions taken are reasonably clear.

The new budget authority for D76-65 is understated by about \$5 million but it does not affect the amount being deferred. Deferral 76-65 is authorized by § 1013 of the Impoundment Control Act, D87-66 is in accordance with the authority conferred by the Antideficiency Act (31 U.S.C. 665), and the legal authority for D76-67 is contained in P.L. 92-512. We agree with these citations. For deferral D76-65, the authority exists until either House of the Congress passes a resolution disapproving the action or until an applicable appropriation bill is enacted. For D76-66 and D76-67, the authority exists until either House of the Congress passes a resolution disapproving the action or until the end of the fiscal year.

DEPARTMENT OF HEALTH, EDUCATION, & WELFARE

D76-10A Office of the Secretary  
Special Institutions Howard University  
(Construction) 75X0106

DEPARTMENT OF THE TREASURY

D76-25C Office of the Secretary  
State and Local Government Fiscal  
Assistance Trust Fund 20X8111

Our July 17 report to the Congress (B-115398) commented on the original deferral messages revised by the above supplementary messages. The President's supplementary information does not require us to modify our earlier comments. In the case of D76-10A, university officials advise us that another revision may be forthcoming to reduce the amount being deferred.

## CHRONOLOGY OF EVENTS - OFFICE OF EDUCATION RESCISSIONS

<u>Date</u>	<u>Remarks</u>
1. July 18	Final Congressional Action on OE Appropriations Bill.
2. July 25	Presidential veto.
3. September 3	[HEW internal] memo covering principles on rescissions sent to Secretary - also informally provided to OMB.
4. September 10	Congress overrode veto (Bill enacted - P.L. 94-94).
5. September 10	Rescissions submitted to OMB for: (1) SAFA (2) ESEA (3) ESA (4) Occ., Voc., Adult (5) Library Resources (6) Higher Education.
6. September 18-19	All apportionments related to P.L. 94-94 submitted to OMB. Revised rescission for Higher Ed. also provided.
7. October 2	OMB requested revised rescission proposals based on OMB's position.
8. October 4	Submitted to OMB five revised rescissions plus a new rescission for Handicapped and nine revised apportionments reflecting OMB's proposal.
9. October 10	30 days runs out. OMB signed apportionments making available all appropriated funds.
10. October 22	Schedule furnished to OMB telling them when funds would normally be obligated under each program.
11. October 22	Submitted nine reapportionments reflecting proposed rescission amounts.
12. October 29	OMB signed Higher Ed. reapportionments reflecting unapportioned amounts proposed for rescission.

<u>Date</u>	<u>Remarks</u>
13. November 4	Revised rescission and reapportionments submitted to reflect funds awarded for Public Libraries.
14. November 18	Presidential transmittal of rescissions forwarded to Congress. Reapportionments signed by OMB.

Source: Department of Health, Education, and Welfare