



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

~~1981~~

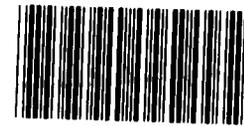
B-200685

August 17, 1981 116209

To the President of the Senate and the
Speaker of the House of Representatives

On July 16, 1981, the [President's twelfth special message for fiscal year 1981] was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposed a new rescission of \$173.0 million, 10 new deferrals totalling \$495.1 million, and revisions to four previously reported deferrals totalling \$76.4 million, as follows:

DEPARTMENT OF ENERGY



116209

R81-166

Energy Programs
Fossil Energy Construction
89X0214

The justification section of the special message states that the proposal to rescind \$173 million includes \$100 million previously deferred by deferral D81-33B. While the \$173 million figure for the proposed rescission is accurate, the source of these funds as identified in the special message is incorrect. As explained in detail below, the amount actually deferred by D81-33B as of the date of the special message was only \$73 million. The additional \$100 million proposed for rescission derives from funds deferred by the Supplemental Appropriations and Rescission Act, 1981, Pub. L. 97-12 (June 5, 1981).

On April 27, 1981, the President reported D81-33B which originally deferred \$100 million from the Fossil Energy Construction account, and provided that the funds deferred were those targeted for the SRC II coal liquefaction project. The Supplemental Appropriations and Rescission Act provided that of the funds in the Construction account, \$89.4 million were rescinded and \$235 million would not become available for obligation until October 1, 1981. The Conference Report, H.R. Rep. No. 97-124 (1981), stated on page 62 that of the \$235 million deferred by Congress, \$100 million had been for SRC II, and that this was in addition to the amount deferred in D81-33B.

On June 16, 1981, the Office of Management and Budget (OMB) released \$27 million of the \$100 million deferred in D81-33B, leaving a \$73 million deferral. Together with the \$100 million legislative deferral enacted on June 5, 1981, the total

018200

OGC-81-15

amount of funds for SRC II that were deferred as of June 16 was \$173 million. These are the funds now proposed for rescission in R81-166.

The cumulative report submitted by the Administration to the Congress under section 1014(e) of the Impoundment Control Act, 31 U.S.C. 1404(e), incorrectly reports that the \$73 million deferral still exists separate from the \$173 million proposed for rescission. OMB officials have acknowledged the error and have informed us that the next cumulative report, scheduled for September 10, 1981, will reflect that the \$73 million deferral now is part of the proposed rescission.

Based on the current legislative calendar, the fiscal year will expire before the end of the 45-day period of continuous session during which the funds may be withheld pending congressional consideration of a rescission bill. Consequently, the requirement in section 1012(b) of the Impoundment Control Act, 31 U.S.C. 1402(b), that the funds be made available at the end of the prescribed 45-day period will not affect the funds proposed for rescission in R81-166.

Proposing rescissions and withholding the funds late in the fiscal year is troublesome because it may operate to preclude full and prudent use of the budget authority should Congress decline to enact a rescission bill. Proposing deferrals late in the fiscal year raises similar concerns. Even if Congress disapproves any of the deferrals proposed in this message, there may not be enough time remaining in the fiscal year for agencies to obligate the funds prudently. This is particularly important with regard to D81-120 and D81-121, discussed later in this report, because the appropriations for D81-120 and D81-121 will expire at the end of the fiscal year. Therefore, we encourage the Executive to propose impoundments as early in the fiscal year as possible in order to afford the Congress the opportunity to effectively respond to such proposals.

U. S. DEPARTMENT OF AGRICULTURE

- D81-107A Foreign Assistance Program
Expenses, Public Law 480, Foreign
Assistance Programs, Agriculture
12X2274
- D81-120 Agricultural Stabilization and
Conservation Service
Dairy and beekeeper indemnity programs
1213314

D81-121 Farmers Home Administration
Rural development planning grants
1212068

The funds deferred by D81-120 and D81-121 initially were proposed for rescission (R81-44 and R81-46) on March 17, 1981, in the President's seventh special message. The Supplemental Appropriations and Rescission Act, 1981, Pub. L. 97-12 (June 5, 1981), provides that these funds may be withheld from obligation until October 1, 1981.

The appropriations for the dairy and beekeeper indemnity program and the rural development planning grants program are annual appropriations. When budget authority that is provided for only one fiscal year is to be reserved from obligation for the entire fiscal year, the action is categorized as a rescission for purposes of the Impoundment Control Act. 31 U.S.C. 1402(a). Therefore, budget authority provided for one fiscal year may be deferred under the Impoundment Control Act only for part of the fiscal year.

The Supplemental Appropriations and Rescission Act, in effect, exempts D81-120 and D81-121 from this limitation by specifically providing that the funds may be withheld until October 1, 1981. If the Administration allows D81-120 and D81-121 to run until October 1, the funds then will expire because they are part of an annual appropriation.

D81-122 Farmers Home Administration
Rural housing insurance fund
12X4141

D81-123 Farmers Home Administration
Agricultural credit insurance fund
12X4140

D81-124 Forest Service
Construction and Land Acquisition
12X1103

DEPARTMENT OF COMMERCE

D81-125 National Oceanic and Atmospheric
Administration
Coastal Zone Management
13X1451

DEPARTMENT OF DEFENSE - CIVIL

D81-126 Cemeterial Expenses, Army
Salaries and Expenses
21X1805

DEPARTMENT OF HEALTH AND HUMAN SERVICES

D81-10A Alcohol, Drug Abuse, and Mental Health
Administration
Construction and Renovation,
Saint Elizabeth's Hospital
75X1312

D81-127 Human Development Services
Human Development Services
(White House Conference on Aging)
75X1636

DEPARTMENT OF JUSTICE

D81-16B Federal Prison System
Buildings and Facilities
15X1003

President Carter proposed a deferral of \$19.8 million on January 15, 1981, in the third special message for fiscal year 1981 (D81-16A). Those funds were deferred pending enactment of legislation transferring them to other accounts in the Department of Justice. On January 24, 1981, 9 days after D81-16A was reported to the Congress, an additional \$9,083,419 was withheld, but not reported to the Congress. This increased the total amount deferred to \$28,883,419, the amount which is identified as deferred in D81-16B.

The Supplemental Appropriations and Rescission Act, 1981, Pub. L. No. 97-12 (June 5, 1981), transferred \$19.8 million to four accounts in the Department of Justice. The funds were released by the Office of Management and Budget on June 25, 1981, so that they could be transferred to the designated accounts. Therefore, the amount now actually deferred in D81-16B is \$9,083,419. The supplementary report accompanying D81-16B acknowledges that the January 24 increase in the amount deferred was not reported. OMB informed us that the reason D81-16B identifies a deferral of \$28,883,419, rather than the actual amount now deferred, \$9,083,419, is to inform Congress of the total amount of funds which have been deferred from this account since it was first subjected to impoundment on January 15, 1981.

DEPARTMENT OF LABOR

D81-36B Employment and Training Administration
Employment and training assistance
161/20174

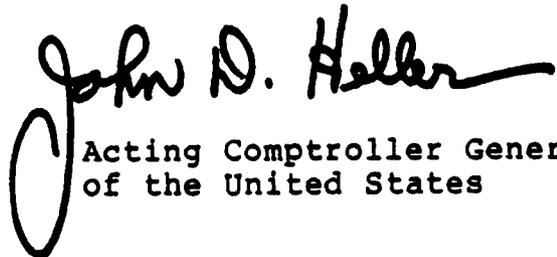
RAILROAD RETIREMENT BOARD

D81-128 Milwaukee railroad restructuring,
administration
60X0108

UNITED STATES RAILWAY ASSOCIATION

D81-129 Payments for purchase of Conrail
securities
98X0111

We have reviewed the twelfth special message. Except as noted above, we have identified no additional information that would be useful to the Congress in its consideration of the President's proposals and we believe that the proposed deferrals are in accordance with existing authority.


Acting Comptroller General
of the United States