

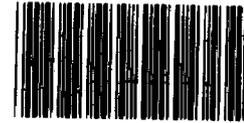


COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

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May 17, 1982

B-205053



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

This letter reports four deferrals of budget authority, totalling \$320.1 million, provided for the Department of Defense, which should have been, but were not, reported to Congress pursuant to the Impoundment Control Act, 31 U.S.C. §§1401 et seq.

In the four accounts involved, the amounts provided in the 1982 Department of Defense Appropriation Act, Pub. L. No. 97-114 (December 29, 1981), and earmarked for specific items or activities in the accompanying committee reports, exceed the funding levels specified in the 1982 Department of Defense Authorization Act, Pub. L. No. 97-86 (December 1, 1981). The amounts withheld from obligation and reported herein as deferrals correspond to the amounts by which the Appropriation Act levels exceed the authorized levels. In two of the accounts (Shipbuilding and Conversion, Navy; Aircraft Procurement, Navy), the funds are being withheld pursuant to a decision by the Office of the Secretary of Defense not to allot the funds to the Navy. Funds in the two other accounts (Operation and Maintenance, Air Force; Research, Development, Test and Evaluation, Air Force), are being withheld pursuant to a direction from the Air Force.

Based on our review of budget documents and discussions with DOD officials, it is clear to us that the primary reason for withholding the funds is the Department's concern over the disparity between the appropriations and the authorized funding levels. Our conclusion is supported by testimony by Dr. Jack R. Borsting, DOD Controller, during hearings before the House Defense Appropriations Subcommittee on March 17, 1982. When asked whether a freeze had been imposed on any appropriations, Dr. Borsting replied that "[c]ertain items are being withheld from obligation until we get better guidance" from Congress (Hearings, unpublished transcript, p. 42.). In addition, although DOD officials told us that other, program-related, reasons may exist to support the withholdings, the documents we examined do not indicate any such justifications. To the contrary, those documents which mention the reasons for the withholdings allude solely to the disparity between the authorized and appropriated funding levels.

Section 1011(1) of the Impoundment Control Act, 31 U.S.C. §1401(1), defines "deferral of budget authority" to include--

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"(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

"(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority * * *."

Budget authority consists of the full amount appropriated; it is not limited by an earlier authorization of a lesser amount. Thus, the withholdings in the four accounts of the amounts by which the appropriations exceed the authorization fall within the statutory definition of deferral. While the withholdings are not illegal and may be prudent from the Department's viewpoint, nevertheless they were required to be reported pursuant to section 1013 of the Act, 31 U.S.C. 1403. Because the executive branch has not reported the deferrals, section 1015 of the Act, 31 U.S.C. 1405, directs our Office to report the deferrals to Congress.

The accounts and amounts involved are:

--Shipbuilding and Conversion, Navy

The Department of Defense is withholding from availability \$181.6 million earmarked for the Fast Logistics Ship (TAKRX). The budget document that establishes the withholding states that "TAKRX funding which lacks authorization is withheld pending clarification." In addition, Navy officials told us that the funds were withheld in response to the disparity between the appropriated and authorized funding levels.

--Aircraft Procurement, Navy

The Department of Defense is withholding from availability \$64 million earmarked for the KC-130 aircraft. The documents we examined give no explanation for the withholding.

--Operation and Maintenance, Air Force

A total of \$39.7 million is being withheld from availability, representing \$20.8 million earmarked for fuel cost rein-statement and \$18.9 million for B-52 retirement. The document

establishing the withholding, a directive from Air Force headquarters, states that the funds are not available for obligation "pending resolution of the difference between the authorization and appropriations committees."

--Research, Development, Test and Evaluation, Air Force

A budget authorization document issued by Headquarters, Air Force Systems Command, on February 2, 1982, withdrew from availability \$34.8 million which previously had been allocated for the air launched cruise missile. The document states that the funds were withdrawn "pending clarification of authorized and appropriated differences."

for 
Comptroller General
of the United States