



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

IN REPLY B-115398
REFER TO:

December 27, 1977

The Honorable Harold Brown
Secretary of Defense

Dear Mr. Secretary:

Pursuant to my responsibilities to monitor executive branch compliance with the Impoundment Control Act of 1974, members of this Office have discussed informally with representatives of the Department of Defense (DOD) the status and progress of DOD's efforts to restart production activities in connection with the B-1 bomber program. Briefly, our understanding of what DOD has done to date is as follows.

When the Congress failed to act favorably on the President's request to rescind \$462 million in budget authority determined to be excess to DOD's needs as a result of his decision to terminate production of the B-1 bomber, the funds were made available for obligation and the Department began taking steps to utilize the budget authority. Initially, DOD embarked on determining those actions needed to restart B-1 bomber production. To fund these "restart planning" activities, DOD released for expenditure \$88,000 in the month of October and \$100,000 in the month of November. The \$188,000 was obtained from the \$462 million proposed, but rejected, for rescission.

DOD planned to increase the rate of obligation on the B-1 program after November 1977. The Department of the Air Force considered spending about \$2 million a month for the period December 1977 through February 1978. Pursuant to this plan it released \$2 million for proposal formulation activities during the month of December. The total of \$6 million over the 3 month period would be used to complete formulation of a formal proposal to begin B-1 production activities. Representatives of DOD told us that they estimated it would take about 3 more months to complete a definitized contract for B-1 bomber production after the proposal was completed.

We discussed these plans with representatives of Rockwell International (Rockwell), one of the prime contractors for the B-1 program. Rockwell told us that it could begin

production activities soon after receipt of authority from DOD to do so. The corporation's representatives informally advised us that it could have actual production activities restarted within 30 days of receipt of such authority and have full-scale production underway within 60 days.

Since the amount of funds presently being made available for the B-1 bomber is substantially less than the amount made available prior to the proposed termination of the program, it would appear to us that there is an impoundment in an amount as great as \$459.8 million (\$462 million minus about \$2.2 million obligated since October 1977). Accordingly, we wish your response to the following question:

If our understanding is correct, do you intend to use the funds without further delay, or do you plan to submit a deferral to the Congress pursuant to the Impoundment Control Act of 1974?

If you should conclude the present circumstances warrant a deferral of budget authority, we believe you should consider our letter of October 14, 1977, to Representative John J. LaFalce, copy enclosed. We stressed in that letter our need to consider on a case-by-case basis the permissibility of proposing the deferrals of expending funds previously proposed, but rejected, for rescission. Accordingly, if you conclude the present circumstances warrant a "deferral of budget authority" as that phrase is used in the Impoundment Control Act, please provide us with a full statement of the facts and circumstances you believe justifies application in this case of section 1013 of the Impoundment Control Act to a second impoundment of funds previously rejected for rescission.

A response to this letter at your earliest convenience will be appreciated.

Sincerely yours,


ACTING Comptroller General
of the United States

Enclosure