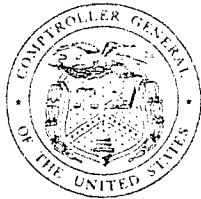


CGM

DECISION



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

10, 178

FILE: B-194063.2

DATE: May 14, 1979

^[Amount of]
MATTER OF: CETA appropriation under 1979 Continuing
Resolution]

^{CAO believes}
^{that the}
DIGEST: Term "current rate for operations" as used in
Continuing Resolutions is equivalent to total
funds which were available for obligation for
program for previous fiscal year. Fiscal year
1979 Continuing Resolution appropriated amount
of funds for CETA programs, which, when added
to 1978 unobligated balances carried over,
equals the total funds that were available for
fiscal year 1978, including funds appropriated
for fiscal year 1978 by Economic Stimulus Appro-
priations Act of 1977.

AGC00009

This decision is in response to an inquiry from the
Assistant Secretary of Labor for Administration and ^{injured}
Management concerning the amount of funds appropriated
for Employment and Training Assistance, and Temporary
Employment Assistance, by the "Joint Resolution Making
continuing appropriations for the fiscal year 1979, and
for other purposes," (Pub. L. No. 95-482, 92 Stat. 1603, ^{per Nick}
approved October 18, 1978). As expressed by the Assistant
Secretary, it is the position of the Department of Labor
that the Continuing Resolution appropriated sufficient
funds to allow these programs to operate throughout
fiscal year 1979 at the "rates of program operations"
in effect at the end of fiscal year 1978. For the rea-
sons indicated below, it is our opinion that the fiscal
year 1979 Continuing Resolution appropriated only the
amount of funds for CETA programs which, when added to
unobligated balances carried over from fiscal year 1978,
equals the total amount that was available for fiscal
year 1978, including funds appropriated for fiscal year
1978 by the Economic Stimulus Appropriations Act of 1977,
Pub. L. No. 95-29, 91 Stat. 122, approved May 13, 1977.

The Continuing Resolution, in section 101(a),
appropriates:

"Such amounts as may be necessary for
continuing the following activities, not

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otherwise provided for, which were conducted in fiscal year 1978. But at a rate for operations not in excess of the current rate:

* * * * *

"activities under the Comprehensive Employment and Training Act, except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by S. 2570 as passed the House of Representatives; * * *." (Emphasis added.)

Upon enactment of the Continuing Resolution, the Department of Labor requested that the Department of the Treasury issue appropriation warrants for fiscal year 1979 in the amounts of \$6,769,758,000 for Employment and Training Assistance and \$3,474,954,000 for Temporary Employment Assistance. Treasury prepared these warrants and submitted them to this Office for countersignature under the requirement of section 11 of the Act of July 31, 1894, as amended, 31 U.S.C. § 76 (1976), as modified by Department of the Treasury-General Accounting Office Joint Regulation No. 5 (September 16, 1974). Based upon information contained in Treasury workpapers, which accompanied the warrants, we countersigned the warrants.

On March 19, 1979, Labor requested an additional \$45,000,000 for the Employment and Training Assistance account. At a meeting held to discuss this request with representatives of Labor, Treasury, and GAO, it was discovered that the original Labor requests, and the warrants issued, were based on an interpretation of the term "current rate for operations," as used in the Continuing Resolution, which differed from previous GAO interpretations of that term. As a result, it appeared that the warrants already issued for the Employment and Training Assistance and Temporary Employment Assistance accounts might have exceeded the actual amount of funds appropriated by the Continuing Resolution. The Assistant Secretary's request was submitted in response to the concerns expressed by the GAO representatives at this meeting.

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* * * * *

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In interpreting Continuing Resolutions, we must keep in mind their unique nature. Although they are passed by both Houses of the Congress and approved by the President of the United States and are thus laws of the United States, Continuing Resolutions differ significantly from normal appropriations acts. Continuing Resolutions are intended by Congress to be temporary stop-gap measures enacted to keep existing Federal programs functioning after the expiration of previous budget authority. The Congress resorts to the Continuing Resolution only when there is no regular appropriation for a program, perhaps because the two Houses have not yet agreed on common language, because authorizing legislation has not yet been enacted, or because the President has vetoed an appropriation act passed by the Congress.

In enacting Continuing Resolutions, there is a clear indication that Congress intends and expects that the normal authorization and appropriation process will eventually produce appropriation acts which will replace the budget authority contained in the resolution. Thus, for example, section 102 of the fiscal year 1979 Continuing Resolution provides that funds appropriated for a program by the resolution will no longer be available if the program is later funded by a regular appropriation act, or Congress indicates its intent to terminate the program by enacting an applicable appropriation act without provisions for the program.

Further, Continuing Resolutions are usually enacted in a great hurry toward the end of a session of Congress, and may not be the product of the detailed committee deliberations which produce regular appropriation acts. In sum, Continuing Resolutions are meant to provide only temporary, minimal funding and their language must be interpreted accordingly.

The 1979 Continuing Resolution appropriates sufficient funds to operate activities under the Comprehensive Employment and Training Act (CETA) "at a rate for operations not in excess of the lower of the current rate or the rate authorized by S. 2570 as passed the House of Representatives." In order to determine the amount of

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funds appropriated by the Continuing Resolution we must ascertain both the "current rate" and the rate authorized by S. 2570.

The S. 2570 rate is more easily determined. The conference committee report on S. 2570 contains a table showing the authorization levels of the bill as it passed the House. The table indicates authorization levels of \$4 billion for Title II of CETA, \$800 million for Title II, \$2.25 billion for Title IV, \$500 million for Title VII, and \$350 million for Title VIII. The bill further authorized appropriation, under Title VI of CETA, of an amount sufficient to fund jobs for 20 percent of the unemployed in excess of a 4 percent unemployment rate. The Department of Labor has calculated that for fiscal year 1979 this Title VI authorization is equivalent to \$3,753,600,000. Therefore, the total rate authorized for fiscal year 1979 by S. 2570 as it passed the House is \$11,653,600,000.

Determination of the "current rate" is more difficult. Recently, we have reiterated our position that the term "current rate," as used in Continuing Resolutions, refers to a sum of money rather than a program level. See Department of Labor Appropriations under Continuing Resolution, B-194063 (May 4, 1979); Elderly Feeding Program under the fiscal year 1979 Continuing Resolution, B-194362 (May 1, 1979). We stated that it has repeatedly been our position that "current rate" is equivalent to the total appropriation or the total funds which were available for obligation for a program during the previous fiscal year. Id.

In those instances in which the program in question has been funded by one-year appropriations in prior years, the current rate is equal to the total funds appropriated for the program for the previous fiscal year. See Elderly Feeding Program, supra. In those instances where the program has been funded by multi-year or no-year funds in prior years, the current rate is equal to the total funds appropriated for the previous fiscal year plus the total of unobligated budget authority carried over from prior years. See our letter to Senator William Proxmire, B-152554, October 9, 1970 (116 Cong. Rec. 36298).

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According to the "Treasury Combined Statement of Receipts, Expenditures and Balances of the United States" for fiscal year 1978, there was a total of \$3,440,930,000 appropriated for Employment and Training Assistance for fiscal year 1978. There were no appropriations for Temporary Employment Assistance. The same statement indicates carryovers into fiscal year 1978 of approximately \$1,859,832,000 in unobligated Employment and Training Assistance funds, and about \$1,861,241,000 in unobligated Temporary Employment Assistance funds. Using these figures, the total funds available for obligation in fiscal year 1978--the current rate--was about \$5,300,762,000 for Employment and Training Assistance and \$1,861,241,000 for Temporary Employment Assistance, or a total of about \$7,162,000,000.

The Department of Labor argues, however, that part of the funds appropriated by the Economic Stimulus Appropriations Act of 1977, Pub. L. No. 95-29, 91 Stat. 122, approved May 13, 1977, were intended to be advance funding for fiscal year 1978, and that these funds should be included in calculating the current rate. Most of these funds were obligated in fiscal year 1977 for the 1978 program and were thus not carried over into fiscal year 1978 as unobligated budget authority.

The Economic Stimulus Appropriations Act, in Title I, Chapter II, appropriated \$2,578,000,000 for Employment and Training Assistance, and \$6,847,000,000 for Temporary Employment Assistance, both sums to remain available until September 30, 1978. The legislative history of this act indicates that Congress intended a portion of these funds to be advance funding for fiscal year 1978. Thus, in the report of the House Committee on Appropriations it is stated:

" * * * The budget request considered by the Committee includes \$1,016,000,000 that was requested by the President in the fiscal year 1978 budget for public service employment under the Comprehensive Employment and Training Act (CETA). Consideration of this 1978 request in fiscal year 1977 is essentially a bookkeeping

transaction as far as the budget figures are concerned. The Committee decided to proceed in this fashion in order to provide advance funding for fiscal year 1978 in this bill for public service employment under titles II and VI of CETA. This appropriation account contains the funding for title II of CETA. Funds for title VI are in the Temporary Employment Assistance account." (H.R. Rept. No. 95-66, 95th Cong., 1st Sess. 15-16 (1977).)

Tables included in the reports of the House and Senate Appropriations Committees and in the Congressional Record indicate that \$1,016,000,000 of the Employment and Training Assistance appropriation and \$4,855,000,000 of the Temporary Employment Assistance appropriation, or \$5,871,000,000 of the total CETA appropriation was intended to be advance funding for fiscal year 1978. See H.R. Rept. No. 95-66, supra, at 20; S. Rept. No. 95-58, 95th Cong., 1st Sess. 19 (1977); 123 Cong. Rec. H2089 (daily ed. March 15, 1977); Id. S6882 (daily ed. May 2, 1977). Moreover, the legislative history of the Departments of Labor and Health, Education and Welfare and Related Agencies Appropriations Bill, 1978, H.R. 7555 (95th Cong.), which was incorporated by reference into the fiscal year 1978 Continuing Resolution, indicates that no funds were being appropriated in that bill for public service employment under CETA for fiscal year 1978, because these funds had already been appropriated by the Economic Stimulus Appropriations Act. See H.R. Rept. No. 95-381, 95th Cong., 1st Sess. 7 (1977); S. Rept. No. 95-283, 95th Cong., 1st Sess. 8, 10 (1977).

It is clear that substantial portions of the fiscal year 1978 CETA programs were funded by the 1977 Economic Stimulus Appropriations Act. Therefore, in order to ascertain the full amount of funds available for fiscal year 1978 it is necessary to include the advance funding provided in the 1978 Act. Part of these funds, however, are included in the amounts of unobligated budget authority carried over into fiscal year 1978, discussed above. The Department of Labor indicates that of the advance funding, approximately \$668,719,000 of Employment and Training Assistance, and \$3,010,759,000 of Temporary Employment Assistance funds, were not included in the Treasury Combined Statement as carryovers of unobligated budget authority. Adding these figures to the ones

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calculated above, the current rate for fiscal year 1978 was about \$5,969,481,000 for Employment and Training Assistance and \$4,872,000,000 for Temporary Employment Assistance, or a total of \$10,841,481,000 for all CETA programs.

The rate authorized by S. 2570 was \$11,653,600,000. The current rate was \$10,841,481,000. Since the current rate is lower, under section 101(a) of the Continuing Resolution, it represents the maximum rate for operations in fiscal year 1979.

The Treasury Combined Statement, referred to above, indicates that about \$238,800,000 in Employment and Training Assistance funds remained unobligated at the end of fiscal year 1978 and were carried over into fiscal year 1979. This carryover must be deducted from the current rate in calculating the amount of funds appropriated by the Continuing Resolution. Otherwise, the 1979 program would be funded at a higher level than the 1978 program, which is prohibited by the language of the 1979 Continuing Resolution, supra.


The Continuing Resolution appropriated funds for "activities under the Comprehensive Employment and Training Act." Although in prior years, as indicated above, these activities were funded by two separate appropriations--Employment and Training Assistance, and Temporary Employment Assistance--we interpret the Continuing Resolution as appropriating a single lump-sum amount. The CETA program was restructured by the ~~Comprehensive Employment and Training Act Amendments of 1978, Pub. L. No. 95-524, 92 Stat. 1909, approved October 27, 1978.~~ Some CETA programs that were funded under the Temporary Employment Assistance account in fiscal year 1978 apparently are now considered part of the permanent CETA program. Nevertheless, the Continuing Resolution covers both programs under one designation--"activities under the Comprehensive Employment and Training Act." The Department of Labor, in calculating the amounts it requested for appropriation warrants, attempted to adjust the "current rate"

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to reflect these program changes. Rather than attempting to verify Labor's calculations, and because the language of the Continuing Resolution does not refer to two separate appropriations for CETA, we calculated a single appropriation based on the combined current rate for fiscal year 1978.

This differs from the approach we followed in B-194063 and B-194362, referred to above, in which we calculated separate current rates for two Older Americans Act programs also funded by the 1979 Continuing Resolution. In those decisions, however, the two programs were administered by two different agencies and it would have been impossible to calculate a single lump-sum appropriation for the two programs.

In sum, we conclude that the fiscal year 1979 Continuing Resolution appropriated a total of \$10,602,664,000 for activities under CETA--\$10,841,481,000 ("current rate") minus \$238,800,000 (carryover funds). To date, appropriation warrants totaling \$10,244,712,000 have been issued by Treasury and countersigned by GAO. Should Treasury present an additional warrant for \$45,000,000, as requested by Labor, we shall countersign that warrant.


Deputy Comptroller General
of the United States