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General Accounting Office  
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Office of the General Counsel

RELEASED

B-225832.5

May 26, 1987

The Honorable Daniel K. Inouye  
Chairman  
Subcommittee on Foreign Operations  
Committee on Appropriations  
United States Senate

Dear Mr. Chairman:

This is in response to your letter dated May 22, 1987, requesting the views of this Office on whether or not the expedited House and Senate procedures for consideration of requests for assistance to the Nicaraguan Democratic Resistance authorized by section 215 of Title II of the Military Construction Appropriations Act, 1987, lapse at the end of fiscal year 1987.

We conclude that section 215 of Title II of the Military Construction Appropriations Act, 1987, would appear to constitute permanent legislation. Because of the necessarily short period of time available to prepare this letter, our conclusions represent only the tentative opinion of this Office. Further, these provisions deal with rules of the Senate and, accordingly, the final authority to interpret these provisions rests with the Senate itself.

BACKGROUND

Subsection 722(p) of the International Security and Development Cooperation Act of 1985, Pub. L. No. 99-83, 99 Stat. 1907 258 (1985) (ISDCA), provides for submission by the President of requests for "budget and other authority to provide additional assistance for the Nicaraguan democratic resistance."

Subsection (s) of section 722 provides for expedited consideration of "a joint resolution with respect to the request submitted by the President pursuant to subsection (p)" in the House of Representatives. The expedited House procedures include time limits on committee consideration and expedited parliamentary procedures. The provisions

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specifically were to apply "during the 99th Congress." 99 Stat. 258.

Subsection (t) of section 722 provides for generally similar expedited procedures in the Senate, incorporating by reference certain procedures set forth in the Department of Defense Appropriations Act, 1985, Pub. L. No. 98-473, § 8065, 98 Stat. 1837, 1935-36 (1984). The Senate procedures, however, were not limited to the 99th Congress.

Section 215 of Title II of the Military Construction Appropriations Act, 1987, Pub. L. No. 99-591, 100 Stat. 3341, 3341-307 (1986), provides as follows:

"The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply--

"(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

"(2) with respect to any request by the President for additional economic assistance for the Central American democracies \*\*\*

"except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane."

#### ANALYSIS

The specific question posed in your May 22 letter is as follows:

"It is my impression that the provisions of an annual appropriations act lapse at the end of the fiscal year for which that act makes appropriations, and that, therefore, any authorities arising out of section 215 of the Military Construction Title of P.L. 99-591 lapse at the end of fiscal year 1987. Is that reading of the law correct?"

There is a presumption that any provision in an annual appropriation act is effective only for the covered fiscal year. 65 Comp. Gen. 588, 589 (1986) (ASAT testing ban applicable only during fiscal year 1986). That presumption, however, can be overcome if the provision in question includes "words of futurity" such as "hereafter" or "after the date of approval of this Act." Id. at 589. Section 215

of Title II of the Military Construction Appropriations Act, 1987, includes such words of futurity. Section 215 refers to requests submitted by the President "on or after the date of enactment of this title." We have found similar language in the past to constitute words of futurity. See Id.; 36 Comp. Gen. 434 (1956). Accordingly, section 215 would appear to constitute permanent legislation.

The clause in subsection (s) of section 722, which limited the application of the House expedited procedures to the 99th Congress, does not affect the applicability of those procedures. That limiting provision clearly was superseded by section 215 of Title II of the Military Construction Act, 1987, which incorporated by reference, with small changes, the procedures put forth in subsections (s) and (t).

This letter will be available for release to the public 30 days from today, unless released earlier by you or your staff.

Sincerely yours,

*Harry R. Van Cleve*  
Harry R. Van Cleve  
General Counsel