



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: National Endowment for the Arts--Time
Availability of Appropriations

File: B-244241

Date: October 24, 1991

DIGEST

The National Endowment for the Arts' appropriation for matching grants is only available for obligation until September 30, 1992 as provided in the Department of the Interior and Related Agencies Appropriations Act, 1991, notwithstanding a provision in the National Foundation on the Arts and the Humanities Act of 1965 which provides that the funds are available until expended.

DECISION

This responds to a request from the General Counsel, National Endowment for the Arts (NEA) for our opinion concerning the period of availability of an appropriation for matching grants provided in the Department of the Interior and Related Agencies Appropriations Act, 1991, Pub. L. No. 101-512, 104 Stat. 1915 (1990). As discussed below, the appropriation is available for obligation until September 30, 1992.

BACKGROUND

The Department of the Interior and Related Agencies Appropriations Act, 1991, includes the following provision.

"MATCHING GRANTS"

"To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and Humanities Act of 1965, as amended, \$28,000,000 to remain available until September 30, 1992, to the National Endowment for the Arts" (Emphasis added.)

104 Stat. 1915, 1956. The General Counsel questions whether this language conflicts with a provision "of the same statute" which provides that the funds "shall remain available for obligation and expenditure until expended."

DISCUSSION

A review of the Department of the Interior and Related Agencies Appropriation Act, 1991, and NEA's authorizing legislation, the National Foundation for the Arts and Humanities Act of 1965, as amended, 20 U.S.C. § 951-969, reveals that the two provisions containing the language referred to by the General Counsel are in separate statutes. The provision providing that the funds are available until September 30, 1992, is in the NEA's appropriation act, 104 Stat. at 1956. The language providing that the appropriations are to remain available until expended is in NEA's authorizing legislation, 20 U.S.C. § 960(a)(3)(C).

Apparently, the confusion concerning the appropriation's period of availability arose because, in addition to providing appropriations, the Department of the Interior and Related Agencies Appropriations Act, 1991, amended the National Foundation on the Arts and Humanities Act of 1965 by striking subparagraph (C) of 20 U.S.C. § 960(a)(3) and redesignating subparagraph (D) of the same section as subparagraph (C). Pub. L. No. 101-512, § 110(e), 104 Stat. at 1973. The redesignated provision, now codified at 20 U.S.C. § 960(a)(3)(C), provides that funds appropriated to the National Endowment for the Arts "shall remain available for obligation and expenditure until expended."

Substantive changes to NEA's authorizing legislation made it necessary to redesignate the provision in question. The redesignation itself, however, did not incorporate the provision into the appropriation act.

Therefore, the question before us is whether the language in the appropriation act or the language in the authorizing legislation controls the period of availability of the funds in question. Previously, we have resolved similar conflicts by relying on a general provision included in most appropriations acts. See B-151087, Sept. 15, 1981. The Department of the Interior and Related Agencies Appropriations Act, 1991, includes such a provision. Section 305 of the appropriation act provides:

"No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein." (Emphasis added.)

Pub. L. No. 101-512, § 305, 104 Stat. 1915, 1958.

Unless language in the appropriation act itself expressly provides otherwise, the period of availability of any appropriation contained in the act expires at the end of

the fiscal year for which the appropriation act was provided. See B-207792, Aug. 24, 1982; 58 Comp. Gen. 321, 323 (1979). Here, of course, the appropriation act expressly provides that the funds appropriated to the NEA for matching grants are available for obligation or expenditure until September 30, 1992. 104 Stat. 1915, 1956. Thus, it is clear that the funds provided to the NEA for matching grants are only available for obligation until September 30, 1992.

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