



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

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B-205053

December 23, 1981

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

On November 6, 1981, the President's fifth special message for fiscal year 1982 was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposes one rescission of budget authority totalling \$20.4 million and nine deferrals of budget authority totalling \$132.0 million as follows:

CORPORATION FOR PUBLIC BROADCASTING

R82-3 Public Broadcasting Fund
 2030151

This account was the subject of a rescission proposal by the President in his seventh special message for fiscal year 1981, dated March 17, 1981. The President proposed a rescission of \$52 million from advance appropriations for fiscal year 1983 (R81-105). In the Supplemental Appropriations and Rescission Act, 1981, Congress rescinded \$35 million in fiscal year 1983 advance appropriations, thereby reducing the level of appropriations to the current amount of \$137 million. The President now proposes rescission of an additional \$20.5 million in advance appropriations for fiscal year 1983.

We discussed the President's authority to withhold funds appropriated to the Corporation for Public Broadcasting in our letter to Representative Timothy E. Wirth, dated March 25, 1981, B-202472. We expressed the view that the President could not rely on the Impoundment Control Act to withhold the funds if he proposes to rescind funds already available to the Corporation. However, we concluded that there was no actual withholding of funds in R81-105, because the proposed rescission applied only to advance appropriations that were not yet available to the Corporation. Similarly, the funds proposed for rescission in R82-3 are not currently being withheld, because the funds are fiscal year 1983 advance appropriations not yet available to the Corporation.

In addition, when only part of a proposed rescission is approved, section 1012(b) of the Impoundment Control Act, 31 U.S.C. §1402(b), requires that any remaining funds withheld must be made available. If the President later seeks

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rescission of the remaining funds, those funds generally may not be withheld from obligation before the rescission is approved. However, there is no violation of section 1012(b) in this case because no funds were withheld from obligation under either the 1981 or the current rescission proposal.

DEPARTMENT OF AGRICULTURE

- D82-209 Food and Nutrition Service
Food Program Administration
1223508
- D82-210 Food and Nutrition Service
Child Nutrition Programs
122/33539
- D82-211 Food and Nutrition Service
Special Supplemental Food
Programs (WIC)
122/33510

The conference report on the Continuing Resolution states that the amount appropriated for the WIC program is intended to maintain "current levels of participation," and that any reduction in allocations to States would be contrary to the Continuing Resolution, H.R. Rep. No. 97-260, 10 (1981). Agency officials agreed with the statement in the special message that the amount apportioned will maintain current participation levels. They told us that the funds made available to the WIC program under the Continuing Resolution (\$88.7 million), plus unobligated funds carried over from fiscal year 1981 (\$44.4 million), are sufficient to maintain participation in the WIC program at the September 30, 1981, level of 2.04 million participants. The carry-over funds were not listed as budget authority in the special message because the amount of the unobligated balances from fiscal year 1981 was not known at the time the message was prepared.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

- D82-212 Health Service Administration
Indian Health Services
7520390
- D82-213 Centers for Disease Control
Preventive Health Services
7520943

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- D82-214 Office of Assistant Secretary
of Health
Health Services Management
7521101
- D82-215 Health Care Financing Administration
Program Management
7520511
- D82-216 Human Development Services
Work Incentives
7521639

DEPARTMENT OF TRANSPORTATION

- D82-217 Federal Railroad Administration
Grants to National Railroad
Passenger Corporation
69X0704

We have reviewed the fifth special message. Except as noted above, we have identified no additional information that would be useful to the Congress in its consideration of the President's proposals and we believe that the proposed deferrals are in accordance with existing authority.

Larry R. Van Cleave
For the Comptroller General
of the United States