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[Entitlement Funding and Its Appropriateness for the WIC Program]. CED-78-98; B-176994. April 13, 1978. Released April 24, 1978. 4 pp. + enclosure (1 pp.).

Report to Sen. Thomas F. Eagleton, Chairman, Senate Committee on Appropriations: Agriculture and Related Agencies Subcommittee; by Elmer E. Staats, Comptroller General.

Issue Area: Food: Domestic Feeding Programs for School Children and the Poor (1710); Health Programs (1200).

Contact: Community and Economic Development Div.

Budget Function: Income Security: Public Assistance and Other Income Supplements (604).

Organization Concerned: Department of Agriculture.

Congressional Relevance: Senate Committee on Appropriations: Agriculture and Related Agencies Subcommittee. Sen. Thomas F. Eagleton.

Authority: Child Nutrition Act, as amended (42 U.S.C. 1786).
Congressional Budget and Impoundment Control Act of 1974.
State and Local Fiscal Assistance Act of 1972. 7 U.S.C. 612c. H. Rept. 94-1165.

Entitlement legislation requires the payment of benefits to any person, State, or local government meeting requirements established by law. Once enacted, entitlement legislation automatically creates legally enforceable claims to benefits and effectively preempts the Congress' formal process of deliberating funding levels and appropriations. GAO has consistently taken the position that the public interest is best served through congressional control of programs and has advocated that programs be financed through periodic direct appropriations. According to officials of the Department of Agriculture, the Special Supplemental Food Program for Women, Infants, and Children is not considered an entitlement program because it operates within a funding ceiling. The program was created before the passage of the Budget and Impoundment Control Act of 1974 and the increased concern and awareness for budgetary control that have resulted. (RRS)

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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

RELEASED
4/24/78

B-176994

April 13, 1978

The Honorable Thomas F. Eagleton
Chairman, Subcommittee on Agriculture,
Rural Development, and Related Agencies
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

In response to your January 30, 1978, letter, we are providing our views on the authorizing and financing of entitlement-type programs and whether such funding for the Special Supplemental Food Program for Women, Infants, and Children would seem appropriate, given the intent of section 401 of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1351). Our main concern on entitlement programs centers on the weakening of congressional budgetary control inherent in these types of programs.

In general, entitlement legislation requires the payment of benefits to any person, State, or local government meeting the requirements established by law. The key characteristic of entitlement programs is that, once enacted, the authorizing legislation automatically creates legally enforceable claims to benefits and thus effectively preempts the Congress' formal process of deliberating funding levels and appropriating funds.

Entitlement programs may be financed through various mechanisms, such as general funds, trust funds, and revolving funds. Also, some may be permanent funds that are automatically replenished and require no current action by the Congress. Entitlement programs are generally open-ended; thus, the determination of outlays at any given time is a function of variables--such as the number of beneficiaries or the rate of inflation--outside the control of the Appropriations Committees. By authorizing entitlement programs, the Congress effectively relieves the Appropriations Committees of their responsibility for determining spending levels.

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Entitlement programs usually are created by the Congress because of the desire to give certain programs secure or preferred access to Federal funds. For example, the Congress has sought to provide workers assurance about future social security payments by making social security an entitlement program. In this and other instances, the absence of effective control through the appropriations process has been deemed to be outweighed by the public interest of certainty of the benefits.

We have consistently taken the position that the public interest is best served when congressional control over activities is exercised through periodic reviews, affirmative action on planned programs, and financing requirements through the appropriations process. We have, therefore, advocated (1) that programs be financed through periodic direct appropriations or (2) that legislation authorizing financing through other means provide for adequate and continuing congressional control.

Any action which permits a Federal activity or program to operate without a related requirement for regular congressional reviews on planned programs and financing needs--equivalent to that which characterizes the appropriations process--should be viewed as a lessening of congressional control. Departures from this standard should be permitted only on a clear showing that an activity or program cannot be successfully and effectively operated in the public interest within the congressional appropriations process or that the demonstrated advantages attributable to the departure clearly outweigh the disadvantages of lessened congressional control, preferably with a congressional expression to that effect.

The fundamental objective of the 1974 act was to establish a process through which the Congress could systematically consider the total Federal budget and determine priorities for the allocation of budgetary resources. It included procedures to reintegrate "backdoor" spending--financing by means other than by direct appropriations--into the formal budget process.

Section 401 of the act applies new procedures to entitlement legislation to provide a more comprehensive and consistent control over spending actions. The act makes entitlement programs fully subject to the budgetary process by providing that entitlement legislation cannot be considered in either the House or Senate if it would have an effective date before the start of the new fiscal year.

FINANCING OF THE SPECIAL SUPPLEMENTAL
FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

According to officials of the Department of Agriculture's Food and Nutrition Service, the Program is not considered an entitlement program because it operates within a funding ceiling and cannot serve all areas or health clinics that desire to administer those types of projects.

The Program was created in 1972 as an amendment to the Child Nutrition Act of 1966 (42 U.S.C. 1786). Agriculture officials told us that, because the amendment was introduced after the Department's 1973 appropriations act was passed, the Congress decided to finance the Program through "backdoor" funding made available from section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c), instead of by direct appropriations. Under section 32, 30 percent of custom receipts collected by the Treasury Department's Customs Service during the preceding calendar year plus unused balances of up to \$300 million are available to the Secretary of Agriculture for use at his discretion. Service officials explained that using these funds was probably the quickest and easiest way to get the Program started.

In fiscal year 1978 the use of section 32 funds for the Program was eliminated. Service officials explained that the section 32 provision is no longer needed because the Program is receiving direct appropriations and the present Administration seems committed to its continuation. A description of the Program's financing, from its inception through fiscal year 1978, is provided in the enclosure.

CONCLUSIONS

The Program was created before the passage of the Budget and Impoundment Control Act of 1974 and the increased concern and awareness for budgetary control that has resulted from it. We have continually favored the financing of Government programs through direct appropriations because the appropriations process provides for periodic scrutiny and affirmative congressional action. Such scrutiny is not so readily available to the Congress through entitlement, or other "backdoor" financing methods, such as the use of section 32 funds, which avoid the appropriations process. In addition, we are unaware of any study results that effectively demonstrate that the loss of budgetary control that would occur if the Program was made an entitlement program would be in the public's best interest.

A similar view on entitlement funding has been expressed by the House Committee on Appropriations, which apparently considers the practice to be undesirable and counter to the philosophy of the recent efforts of the Congress to strengthen legislative budgetary control. In a report (H. Rept. 94-1165, May 27, 1976) on a bill to extend and amend the State and Local Fiscal Assistance Act of 1972, the Committee stated:

"Entitlement provisions * * * make a mockery of the legislative budget and the appropriations process. The Congress is placed in the position of having absolutely no choice but to make an appropriation for entitlement programs even though the basic legislation technically might contain an authorization for appropriations. This results because if the Congress did not make such an appropriation then it could conceivably be subject to a judgment issued by the courts. This approach removes such entitlement programs from any effective annual fiscal control by the Congress."

We believe it is necessary for the Congress to be fully aware of, and to affirmatively sanction, the effect entitlement programs have on congressional budgetary control before authorizing them. When the Congress passes legislation authorizing entitlement programs, we must assume that, in most cases, it has decided to relinquish budgetary control of these programs via the appropriations process. It would be preferable if the Congress took this action only after explicitly considering the advantages and needs justified in each case in relation to the decreased congressional control.

As arranged with your office, we will make this report available to anyone requesting it 10 days after issuance.

Sincerely yours,



Comptroller General
of the United States

Enclosure

