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DECISION



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

FILE: B-200519

DATE November 28, 1980

MATTER OF: Agency for International Development -
Availability of Deobligated No-Year Funds

AGC 00097

DIGEST: No-year funds appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1974, for relief assistance to drought-stricken nations of Africa remain available until expended and, after being deobligated, may be reobligated for purposes within the scope of the appropriation so long as disbursements have been made from the appropriation during the last two fiscal years. No specific statutory authority is required and the congressional decision not to continue to provide the Agency for International Development with deobligation-reobligation authority only affects funds appropriated with fiscal year time restrictions.

The General Counsel of the Agency for International Development (AID) has asked our opinion on whether certain no-year funds appropriated in 1974 for relief assistance to drought-stricken nations of Africa may be reobligated despite the absence of deobligation-reobligation authority for fiscal year 1980 foreign assistance funds.

Title IV of the Foreign Assistance and Related Appropriations Act, 1974 (Pub. L. No. 93-240, 87 Stat. 1049) appropriated funds for disaster relief assistance for the Sahel region in Africa. The Second Supplemental Appropriations Act, 1974 (Pub. L. No. 93-305, 88 Stat. 195) amended Title IV by broadening the coverage to include all "drought-stricken nations" of Africa rather than only those in the Sahel region, and by adding the words "to remain available until expended," thus making these funds no-year funds.

AID deobligated \$705,000 of this appropriation from two projects in Chad which could not be continued because of the civil war in that country. AID now wishes to reobligate these funds for disaster-related activities in the Sahel.

AID's question arises because prior to 1979, it also received fiscal year (one year) appropriations with specific authority to reobligate, rather than return to the Treasury, obligated funds which were subsequently deobligated in the new fiscal year. Beginning with fiscal year 1979, the Congress decided not to include this "deob-reob" authority in AID's appropriation acts. AID asks whether this omission has any effect on its authority to reobligate its no-year funds.

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The elimination of deobligation-reobligation authority in 1979 (made applicable to fiscal year 1980 by the Continuing Appropriations Act, 1980, Pub. L. 95-481) affects only appropriations made to AID on a fiscal year basis. It is not necessary to have deobligation-reobligation authority in order to reobligate no-year funds. At 40 Comp. Gen. 694, 696 (1961), we held that:

"When the Congress expressly provides in an appropriation * * * that it shall 'remain available until expended' all statutory time limits as to when the funds may be obligated and expended are removed."

We also stated that:

"* * * amounts recovered as a result of cost reductions and other adjustments in obligations incurred thereunder, regardless of the time of recovery, are to be treated as unobligated balances available for expenditure in the same manner and for the same purposes as other funds in said appropriation * * *." 40 Comp. Gen. 694, 697. (1961). See also 43 Comp. Gen. 657 (1964).

Deobligated funds are covered by this rule. Thus, the deobligated sum at issue is available for obligation on the same basis as if it were an unobligated balance of a no-year appropriation.

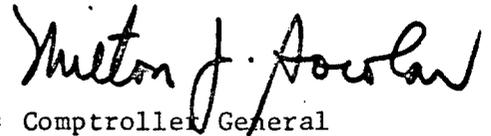
The only potential barrier to reobligating these funds that we are aware of is 31 U.S.C. § 706 (1976), which reads, in pertinent part:

"The unobligated balances of appropriations which are not limited to a definite period of time shall be withdrawn in the manner provided in section 701(a)(2) of this title whenever the head of the agency concerned shall determine that the purposes for which the appropriation was made has been fulfilled; or in any event, whenever disbursements have not been made against the appropriation for two full consecutive fiscal years * * *."

However, we are informed by AID officials that disbursements from the appropriation at issue have been made in the last two years, and thus the above section presents no problem.

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In summary, funds appropriated by the Foreign Assistance and Related Programs Appropriations Act, 1974, for relief assistance to drought-stricken nations of Africa remain available until expended and may be reobligated for purposes within the scope of the appropriation.

A handwritten signature in cursive script, reading "Milton J. Fowler".

For the Comptroller General
of the United States