



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON D.C. 20548

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B-221498.46

July 24, 1986

The Honorable William Proxmire
Committee on Appropriations
United States Senate

Dear Senator Proxmire:

This responds to your July 14, 1986, request for our views regarding the treatment of the federal contribution to the Corporation for Public Broadcasting under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177). You specifically ask whether the federal contribution to the Corporation will be subject to sequestration in future fiscal years. You point out that in our fiscal year 1986 report to the President, we did not include any amount of the 1986 contribution for sequester, because the appropriation had been completely obligated and disbursed. Section 256(1) of the Act provides that obligated balances are not to be reduced under an order of the President making reductions required by the Act.

While we are pleased to provide our views, we note as a preliminary matter that this Office is no longer directly involved in the automatic sequestration process, in light of Bowsher v. Synar, 54 U.S.L.W. 5064 (U.S. 1986). Consequently, you may wish to seek the views of the Office of Management and Budget and the Congressional Budget Office, which are jointly responsible for preparing a sequestration report to the Congress for fiscal year 1987.

The appropriation for the federal payment to the Corporation for Public Broadcasting is enacted two years in advance of the fiscal year for which funds are provided. The appropriation for fiscal year 1986, for example, was included in the Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1984, Pub. L. No. 98-139, 97 Stat. 871 (1983). The appropriation for fiscal year 1987 was enacted in fiscal year 1985. See Pub. L. No. 98-619, 98 Stat. 3305 (1984). At the beginning of each fiscal year,

funds appropriated two years previously are available for disbursement to the Corporation by the Secretary of the Treasury in accordance with the statutory authorization. See, e.g., 47 U.S.C. § 396(k). As long as certain statutory requirements are met, the Secretary must provide such funds to the Corporation, once they become available. Id.

The advance funding mechanism for the Corporation for Public Broadcasting, although somewhat unusual, was not the basis for our conclusion that the fiscal year 1986 appropriation was not subject to reduction. Instead, no amount of the federal contribution to the Corporation was included for sequester in 1986 because of the unique timetable for that year. By the time of our January 21, 1986, report, the funds for the Corporation had been obligated and disbursed by the Secretary.

For future fiscal years, however, the Act requires the President to issue his order on September 1, and it becomes effective on October 1. Regardless of when enacted, funds for the federal payment to the Corporation are not available for obligation until the beginning of the fiscal year. Therefore, we are of the opinion that funds for the Corporation in future fiscal years will be subject to sequestration.

We hope that the foregoing is of assistance to you. Unless you request otherwise, this letter will be made publicly available after 5 days.

Sincerely yours,

/s/ Milton J. Socolar

for Comptroller General
of the United States