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

April 20, 1976

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Speaker of the House
President of the Senate

This letter reports a rescission of Department of Housing and Urban Development (HUD) budget authority which should have been, but was not, reported to the Congress pursuant to the provisions of the Impoundment Control Act of 1974.

Section 212 of the Housing and Community Development Act of 1974, P.L. 93-383, created an operating subsidy program for making payments to assist owners of section 236 projects in meeting higher operating costs resulting from increased property taxes and utility costs. The 1974 Act also provided that these payments be made from a reserve fund--Rental Housing Assistance Fund--that is comprised of excess rents paid by tenants residing in section 236 projects and interest earned by the fund. We have been informed by HUD officials that the Department does not intend to implement the operating subsidy program.

As of March 31, 1976, the balance in the fund was approximately \$44.6 million and HUD documents project that the balance will increase to approximately \$48.7 million by the end of fiscal year 1977. HUD estimates that about \$18 million from the fund will be used to compensate project owners for excess rent payments erroneously remitted to HUD prior to June 1975. This action, however, may not be implemented due to a recently initiated court suit in which the plaintiffs are seeking to enjoin HUD from making its planned remittances. In addition, HUD estimates that, for fiscal year 1976, another \$300,000 will be needed to make court ordered payments under the operating subsidy program to those section 236 projects that are successful plaintiffs in lawsuits designed to require HUD to implement the program as regards those projects.

HUD officials inform us that they have no plans to utilize any of the remaining \$26.3 million, therefore, we believe that at a minimum, \$26.3 million is being permanently withheld from obligation for operating subsidy

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payments--even if HUD ultimately prevails in its plan to pay out \$18 million--and constitutes an unreported rescission.

We wish to point out that this message is unique in that it covers moneys which are also the subject of impoundment lawsuits in a number of United States District Courts. Most of the cases have not yet been resolved.

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States or any other officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or deferral of budget authority and the President has failed to transmit a special message with respect to such reserve or deferral. This report is submitted in accordance with the requirement imposed by section 1015(a) and, consequently has the same effect as if it were a rescission message transmitted by the President. The statutory 45 calendar days of continuous congressional session that the Congress has to complete action on a rescission bill involving this budget authority will be based on the date that the Congress receives this report.

Sincerely yours,



Comptroller General
of the United States