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June 27, 1986

The Honorable Malcolm Wallop
United States Senate

Dear Senator Wallop:

This responds to your letter of April 24, 1986, requesting our response to two questions relating to the sequestration of permanent indefinite appropriations from special funds under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177). First, you ask that we respond to the view of the Office of Management and Budget (OMB) that funds sequestered from permanent indefinite appropriations are not permanently cancelled, but are held in their respective accounts to be released the following fiscal year. Second, you ask for our views as to the effect that such a release of funds would have on the deficit in the following fiscal year, and whether such a release of funds furthers the deficit reduction goals of Public Law 99-177.

Section 256(a)(2) of Public Law 99-177 provides that amounts sequestered pursuant to an order issued under the Act are--

"* * * permanently cancelled, with the exception of amounts sequestered in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act."

In our view, this language requires that amounts sequestered in special and trust funds are to remain in such funds during the fiscal year covered by the sequestration order. Whether sequestered amounts may then be paid out after the end of that fiscal year depends on the statutory authority applicable to such funds.

For trust and special funds appropriated on an annual basis, no expenditures may be made without appropriation action by the Congress. We consider that requirement to apply as well to funds remaining in such accounts due to the sequestration process of Public Law 99-177.

In those cases in which trust and special funds are appropriated under permanent indefinite appropriations, it is our view that the Congress intended, through the use of such appropriations, to permit the annual payment of receipts and

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benefits without further congressional action. We do not consider Public Law 99-177 to have changed that basic principle, and therefore consider the relevant permanent appropriations language to be sufficient to cover all funds in the special or trust account, even those funds carried over from prior fiscal years due to the sequestration process of Public Law 99-177. Thus, "release" of sequestered amounts in the subsequent fiscal year is, in our view, authorized by the permanent appropriations authority applicable to the account in the subsequent fiscal year. Release of sequestered amounts should be made as part of the ordinary expenditures from such funds in the subsequent year.

Thus, with respect to special fund receipt accounts such as the account entitled "Forest Service Permanent Appropriations," discussed in detail in our letter to you of May 5, 1986, we agree with OMB that amounts sequestered in one year may be paid out in the subsequent fiscal year. Unlike OMB, however, we do not view sequestered funds as automatically available as of October 1 of the subsequent year. The authority to make payments of sequestered funds is the same as the authority generally applicable to funds in the account in the subsequent fiscal year. As indicated in our earlier letter, most of the permanent appropriations involved require that payments be made at the close of the applicable fiscal year.

Your second question is what effect the release of funds sequestered in trust and special fund accounts at the beginning of the subsequent fiscal year has on the budget deficit for that fiscal year, and how such a release of funds contributes to the deficit-reduction goals of Public Law 99-177. As indicated above, it is our view that the authority for such a release of funds is not derived from a resurgence of prior year authority (which was reduced under Public Law 99-177), but instead from the new or existing authority applicable to the subsequent fiscal year (either from new annual appropriations or existing permanent indefinite appropriations). Consequently, we consider such amounts to be new budgetary resources subject to sequester in the subsequent fiscal year.


The Office of Management and Budget has described the sequestration in trust and special fund accounts such as the Forest Service account described above as constituting, in effect, a delay of payment. We recognize that, where amounts sequestered may be expended in the following fiscal year (less any amount sequestered during that subsequent year), the application of Public Law 99-177 may have only a minor effect

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on the reduction of the deficit. This is the case, however, with a wide variety of accounts afforded special treatment under the terms of the statute, pursuant to the various exemptions, exceptions, limitations, and special rules of the Act. In each of these cases, the Congress determined that, for reasons of equity or policy, the accounts should be protected, in one manner or another, from the full effects of sequestration under Public Law 99-177.

We hope that the above information is of assistance.

Sincerely yours,

for 
Comptroller General
of the United States