



Comptroller General  
of the United States

Washington, D.C. 20548



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April 13, 1987

To the President of the Senate and the  
Speaker of the House of Representatives

On March 4, 1987, the President submitted to the Congress his fifth special impoundment message for fiscal year 1987. This message reports one new deferral and three revised deferrals.

We have reviewed these deferrals; we found that the deferral of \$18 million of Social Security Administration budget authority, reported as part of Deferral No. D87-57, is unauthorized. Enclosed is a copy of the President's listing of the deferrals reported in the fifth message.

As you know, the United States Court of Appeals for the District of Columbia has invalidated section 1013 of the Impoundment Control Act (2 U.S.C. § 684), the section authorizing policy deferrals, because of an unconstitutional legislative veto provision in that section. New Haven v. United States, No. 86-5319 (D.C. Cir. 1987), aff'g 634 F. Supp. 1449 (D.D.C. 1986). Of the amount reported as deferred in Deferral No. D87-57, \$18 million is deferred for policy reasons. The message notes that this \$18 million is deferred pending congressional action on proposed legislation to transfer that amount to finance federal employee pay raises. Because of the court's action, the Impoundment Control Act provides no authority for this deferral.

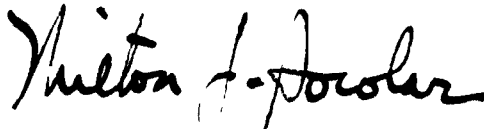
The President cites as authority for this deferral the Department of Labor, Health and Human Services Appropriation Act for fiscal year 1987, Pub. L. Nos. 99-500, 99-591, and section 201(g)(1) of the Social Security Act, 42 U.S.C. § 401(g)(1). For the reasons discussed in our report on the President's fourth special message, these laws do not authorize the deferral. See GAO/OGC-87-7, April 1, 1987. Consequently, we conclude that the \$18 million is being withheld improperly.

The court in New Haven v. United States upheld the President's authority under the Anti-Deficiency Act, as amended by the Impoundment Control Act, to defer budget

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authority to achieve savings or greater efficiency, or to provide for contingencies. 31 U.S.C. § 1512(c). The three revised deferrals reported in this message (Nos. D87-2A, -4A, -8B) and the remaining \$116,437,367 of Deferral No. D87-57 are programmatic in nature (either to achieve more efficient administration of the program, or to provide for contingencies); they are, thus, authorized under the Anti-Deficiency Act.

We have reviewed the fifth special message. Except as noted above, we identified no additional information which we believe would be useful to the Congress in its review of this message.

*for*   
Comptroller General  
of the United States

Enclosure