

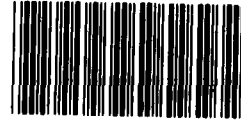


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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

May 22, 1985

B-216664



127040

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

On March 1, 1985, the President's seventh special message for fiscal year 1985 was submitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposes six new deferrals of budget authority for 1985 totalling \$58,900,000 and four revised deferrals now totalling \$110,566,481. Our report follows.

DEPARTMENT OF AGRICULTURE

D85-59 Soil Conservation Service
Watershed and flood prevention operations
Amount Deferred: \$8,365,000
12X1072

D85-4A Forest Service
Timber Salvage sales
Amount Deferred: \$13,174,627
12X5204

The Office of Management and Budget's cumulative report on impoundments dated April 9, 1985 indicates that \$5,000,000 of the amount reported as deferred has been released for obligation. Accordingly, the amount deferred is now \$8,174,627 rather than \$13,174,627.

D85-5A Forest Service
Expenses, brush disposal
Amount Deferred: \$77,912,778
12X5206

DEPARTMENT OF HEALTH AND HUMAN SERVICES

D85-9A Social Security Administration
Limitation on Administrative Expenses (Construction)
Amount Deferred: \$15,712,076
75X8704

GAO/OGC-85-10

032146

DEPARTMENT OF JUSTICE

D85-60 Office of Justice Programs
Justice Assistance
Amount Deferred: \$13,026,000
15X0401

DEPARTMENT OF LABOR

D85-61 Employment and Training Administration
Program administration
Amount Deferred: \$162,000
1650172

The Department of Labor's fiscal year 1985 Appropriations Act (Pub. L. No. 98-619) provided, for the expenses of administering employment and training programs, an appropriation from the general fund of \$67,625,000, together with not to exceed \$45,200,000 from the Employment Security Administration account in the Unemployment Trust Fund. The President, in February 1985, introduced a legislative proposal which, if enacted, would reduce the amount that may be expended from the trust fund account by \$162,000. This reduction is proposed to effect savings in congressionally specified management categories pursuant to section 2901 of the Deficit Reduction Act of 1984. On March 1, 1985, the President submitted, in his Seventh Special Message, Deferral No. D85-61. The deferral message states that the obligation of the \$162,000, is deferred pending congressional action on the proposal.

The majority of the President's submissions pursuant to section 2901 have been in the form of rescission proposals (for example, the President's Fifth Special Message for fiscal year 1985). At first glance, the legislation proposed by the President in this case has the appearance of a permanent withholding of budget authority, yet he has chosen to submit a deferral proposal rather than a rescission proposal.

We raised this issue with staff at the Office of Management and Budget (OMB). The staff advised us that in cases such as this which involve a proposed reduction in authority to expend funds from a trust fund account (as opposed to a general fund appropriation), OMB believes it is proper to propose such a reduction legislatively and submit a deferral message pending Congress' response to the proposal, rather than submitting a rescission proposal.

OMB's position is that when the Congress in Pub. L. No. 98-619 permitted the expenditure of \$45.2 million from the Unemployment Trust Fund for program administration expenses, it did not create new budget authority, but rather authorized the use of existing budgetary resources previously created and made a part of the trust fund.

OMB staff further advised us that it is the Administration's intention to preserve the trust funds' availability for the other purposes of the trust fund account and that there is no desire to remove the funds from the trust fund and return them to the general fund. The staff asserted that, were a rescission bill enacted (instead of the language actually proposed) both the program administration account and the trust fund account would lose the use of the budget authority (since the rescinded funds would then no longer be available for obligation or expenditure). To achieve the Administration's objectives regarding these funds, the President has separately submitted a legislative proposal and a deferral message.^{1/}

Under these facts, the President's proposal is not unlike a deferral pending congressional action on a transfer proposal. The ultimate result in both cases is the continued availability of the budget authority (albeit for a purpose different from that before the transfer). In contrast, the ultimate result of a rescission would be the unavailability of the trust fund budget authority for any purpose. In light of the above considerations, we do not object to the classification of this withholding as a deferral.

The authority to use the deferred trust funds for program administration expenses as provided in Pub. L. 98-619 will expire at the end of fiscal year 1985. Although the trust funds themselves will remain available as budget authority beyond that point, they will no longer be available for the original purpose assigned by Congress in Pub. L. 98-619. In view of this fact, OMB staff agree that, should the Congress

^{1/} In the President's Sixth Message there are similar instances (involving the proposed reduction of authority to expend trust funds) in which deferral proposals were submitted under the same rationale. See our comments on the Sixth Special Message for fiscal year 1985, GAO/OGC-85-7 (D85-48, D85-57, and D85-58).

not approve the Administration's legislative proposal, the funds will be made available in sufficient time to permit their obligation for the statutory purpose.

D85-34A Employment and Training Administration
 State Unemployment Insurance and Employment
 Service Operations
 Amount Deferred: \$3,767,000
 1650179

D85-62 Employment and Training Administration
 State Unemployment Insurance and Employment
 Service Operations
 Amount Deferred: \$37,000,000
 165/60179

The Department of Labor's fiscal year 1985 Appropriations Act (Pub. L. No. 98-619) provided an appropriation from the general fund of \$23.5 million together with not to exceed \$2,387,065,000, from the Employment Security Administration account in the Unemployment Trust Fund. Of this amount, \$3.767 million was to be available only for amortization payments to States which had independent retirement plans in their State Employment Service Agencies. The funds were the subject of a deferral message in November 1984 (D85-34).

In February 1985, the President introduced a legislative proposal, which if enacted, would delete from the 1985 appropriation provision the \$3.767 million in trust funds that would have been available for amortization payments. The same proposal would also reduce by \$37 million the authority provided in the 1985 appropriation provision to expend trust funds for the Employment Service Grant program for program year 1985.

The President's Seventh Special Message contains an amended deferral of the \$3.767 million (D85-34A) and a new deferral in the amount of \$37 million (D85-62). These two deferrals are explicitly in effect pending congressional action on the legislative proposal to delete the funds.

As was the case in D85-61 above, the legislative proposals and deferral messages were submitted instead of rescission proposals based upon the Administration's desire to preserve the availability of the trust funds for the other purposes of the trust fund account. OMB staff advised us of

their position that, when the Congress in Pub. L. No. 98-619 permitted the expenditure of the trust funds for the specified purposes, it did not create new budget authority, but rather authorized the use of existing budgetary resources previously created and made a part of the trust fund. We concur with this. OMB further stated that if rescissions had been proposed and enacted, the funds rescinded would no longer be available for obligation or expenditure and would be lost, not only to those transfer accounts, but also to the trust fund itself. Since it is not the Administration's intention to permanently deprive the trust fund of these amounts, OMB believes that the submission of the deferral messages and a separately proposed legislative provision reducing the authority of these accounts to expend amounts out of the trust fund is the appropriate course of action. The proposed reduction of this authority is fully disclosed by the deferral message. In light of the above considerations, we do not object to the Administration's classification of these withholdings as deferrals.

The authority to use the deferred trust funds for amortization payments to the States as provided in Pub. L. 98-619 will expire at the end of fiscal year 1985. Although the trust funds themselves will remain available as budget authority beyond that point, they will no longer be available for the original purpose assigned by Congress in Pub. L. 98-619. In view of this fact, OMB staff agree that, should the Congress not approve the Administration's legislative proposal, the funds will be made available in sufficient time to permit their obligation for the statutory purpose.

D85-63 Employment and Training Administration
 Unemployment Trust Fund (Veterans employment
 and training)
 Amount Deferred: \$119,000
 1658042

The Department of Labor's fiscal year 1985 Appropriations Act (Pub. L. No. 98-619) provided that not to exceed \$122,172,000 may be expended from the Employment Security Administration account in the Unemployment Trust Fund for veterans' employment and training programs and administrative expenses. In February 1985, the President introduced a legislative supplemental proposal which, if enacted, would reduce the amount that may be expended from the trust fund account by \$119,000. This reduction is proposed pursuant to

section 2901 of the Deficit Reduction Act of 1984 to effect savings in congressionally specified management categories. In his Seventh Special Message, the President submitted Deferral No. D85-63 which states that the obligation of these funds is deferred pending congressional action on the proposed supplemental.

As discussed in our comments on D85-61 above, the majority of the President's submissions pursuant to section 2901 of the Deficit Reduction Act have been in the form of rescission proposals. However, OMB staff advise that, in cases such as this which involve a proposed reduction in authority to expend funds from a trust fund account, OMB believes it is proper to propose such a reduction legislatively and submit a deferral message pending Congress' response to the proposal, rather than submitting a rescission proposal. For the same reasons discussed in connection with D85-61, we do not object to the classification of this withholding as a deferral.

The authority to use the deferred trust funds for veterans' employment and training programs and administrative expenses as provided in Pub. L. 98-619 will expire at the end of fiscal year 1985. Although the trust funds themselves will remain available as budget authority beyond that point, they will no longer be available for the original purpose assigned by Congress in Pub. L. 98-619. In view of this fact, OMB staff agree that, should the Congress not approve the Administration's legislative proposal, the funds will be made available in sufficient time to permit their obligation for the statutory purpose.

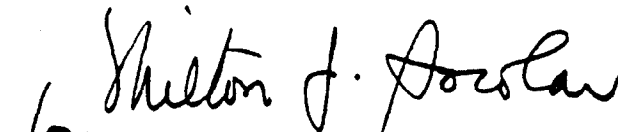
D85-64 Pension Benefit Guaranty Corporation
 Pension Benefit Guaranty Corporation
 Amount Deferred: \$228,000
 16X4204

The Department of Labor's fiscal year 1985 Appropriations Act (Pub. L. No. 98-619) provided for a limitation of \$33,057,000 on expenditures to be made from the Pension Benefit Guaranty Corporation Fund for the Corporation's administrative expenses. In February 1985, the President submitted a supplemental proposal to reduce the limitation by \$228,000 to effect savings in congressionally specified management categories pursuant to section 2901 of the Deficit

Reduction Act of 1984. The President submitted Deferral No. 85-64 pending congressional action on the legislative proposal.

As discussed above, in cases involving a proposed reduction in authority to expend funds from a trust fund (such as the Pension Benefit Guarantee Corporation Fund) OMB believes it is proper to propose such a reduction legislatively and submit a deferral message pending Congress' response to the proposal. We do not object to the classification of this withholding as a deferral.

We have reviewed the seventh special message. Except as noted above, we identified no additional information that would be useful to the Congress, and we believe that the proposed deferrals and revised deferrals are in accordance with existing statutes.

for 
Comptroller General
of the United States