



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

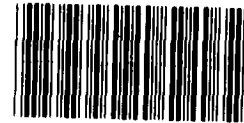
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B-201110

MARCH 16, 1981

The Honorable Carl Levin  
Ranking Minority Member  
Subcommittee on Oversight  
of Government Management  
Committee on Governmental Affairs  
United States Senate



114606

Dear Senator Levin:

Subject: Use of "M" Accounts and Related Merged Surplus Authority in the Department of Defense (AFMD-81-39)

On August 21, 1980, your office verbally requested that we provide information by early 1981 to supplement the data furnished to you on May 12, 1980, relative to the \$17.1 billion merged surplus authority balances reported by the Department of Defense at the end of fiscal 1979. The specific supplemental information requested and our responses follow.

Question 1. The amounts appear to be far in excess of needs. Can the Congress use some of the merged surplus authority to meet the Department's current budget requests and thus reduce the need for new budget authority as well as lessen the possibility of misuse of this authority? What are the legal restrictions on this type of action?

The merged surplus authority cannot be used to meet Defense's current needs unless it is authorized by the Congress.

The procedures for accounting for appropriations after they have expired are set forth in 31 U.S.C. 701-708. Once an appropriation has expired, it is no longer available for obligation. Any unobligated balance in such an appropriation is then "withdrawn" and reverts to its source, either the general fund of the Treasury or a special or trust fund (31 U.S.C. 701(a)(2)). These withdrawn balances constitute the merged surplus as opposed to the merged obligated balances which are retained in separate accounts for the purpose of liquidating obligations properly made before the appropriation's expiration--the so-called "M" accounts.

Once the unobligated balance of an expired appropriation is withdrawn, it is legally available only for restoration to the "M" account to liquidate obligations or effect adjustments properly attributable to an earlier fiscal year (31 U.S.C. 701(a)(2)). We understand that Treasury currently determines the amount of unobligated balances of expired appropriation accounts only when it is

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necessary to restore funds from these unobligated balances in order to liquidate previously made obligations. Treasury does this by adding withdrawals previously made from expired appropriation accounts and subtracting from this total all previous restorations to obligated balance "M" accounts.

To make the expired unobligated balances again available for new obligations is generally prohibited (2 U.S.C. 190f(c)). At least, it requires an act of Congress. (See, for example, the operation and maintenance appropriations for the Army, Navy, and Air Force in the Department of Defense Appropriation Act, 1976, Public Law 94-212, Feb. 9, 1976, 90 Stat. 155-156.)

If the Congress authorizes the use of the expired unobligated balances of appropriations to meet current needs, that action would be considered new budget authority. Since the accumulated withdrawals revert either to the general fund of the Treasury or the special or trust fund from which they are derived, they are no longer available for obligation. Therefore, there is no present "budget authority" within the meaning of section 3(a)(2) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 1302(a)(2)) which defines budget authority as "authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds." It follows that any act of Congress which creates legal authority to obligate expired unused obligational authority results in new budget authority for the fiscal year for which it is authorized. Further, it makes no difference whether the Congress' action to extend the period of availability of obligational authority takes place before or after its original expiration date, since in either case the action creates new budget authority for the particular fiscal year for which it is made available.

This is not only the position of our Office but that of the House and Senate Budget Committees, which have indicated that they will treat congressional action extending the period of availability of obligational authority either before or after it expires as new budget authority for the year it is made available. (See Report of the Conference Committee on the Second Concurrent Resolution on the Budget, Fiscal Year 1978 (H. Con. Res. 341) (H. Rept. 95-601, pp. 5-6)(1977) and Report of the House Budget Committee on H. Con. Res. 341 (H. Rept. 95-582, p. 14)(1977).)

Further, for the same reasons, we would consider an act by the Congress which provides legal authority to use any excess obligational authority appearing in the "M" account before it is withdrawn to result in new budget authority for the fiscal year for which it is authorized. Obligated balances in the "M" account may be used only to liquidate obligations chargeable to the expired appropriations from which the "M" account was derived (31 U.S.C. 702). If as a result of adjustments or deobligations of obligational authority in the "M" account, the amount therein exceeds the amount

necessary to liquidate actual obligations, then current obligations cannot be recorded against this excess. Instead, the law requires the withdrawal of this excess and its reversion to the general fund or any special or trust fund from which it was derived. (Therefore, the excess becomes a part of the merged surplus authority.) (31 U.S.C. 703.) Any excess balance which may be in the "M" account does not represent present "budget authority" within the meaning of 31 U.S.C. 1302(a)(2).

Thus, unless the law is amended to (1) specifically exclude from the definition of "budget authority" congressional action taken to make appropriations available for obligation beyond their expiration or (2) make available excess balances in the "M" account no longer needed to liquidate obligations but which have yet to be withdrawn, any such actions would constitute new budget authority for purposes of the budget resolutions required by the 1974 act. We would be against such an amendment because sound budgeting requires that any action providing authority to obligate funds which would otherwise not exist should be treated as a new budget authority request.

We would like to address one other matter not specifically raised in your office's questions, but which we feel is important. When the Congress makes an appropriation it is only authorizing an agency to incur obligations for specified purposes during a specified period. However, appropriations do not represent cash actually set aside in the Treasury for purposes specified in the appropriation. Thus, when an appropriation expires and the unobligated balances of obligational authority are withdrawn, this does not constitute a preservation of an ever increasing amount of funds set aside by the Treasury to remain idle until needed for restoration purposes. Therefore, no monetary resource of the Government is being wasted simply because the unobligated balances of expired appropriation accounts are available for restoration purposes.

The restoration authority merely authorizes an agency to adjust upward previously underrecorded obligations or to initially record obligations that should have been recorded against an expired appropriation before its expiration (but were not) without seeking an additional appropriation. Without restoration authority, a new appropriation would be necessary since the agency's current appropriation would not be available. Consequently, reduction of the amount of unobligated balances in expired appropriation accounts would merely limit the amount of obligational authority available for restoration purposes, but would not free money (which might otherwise go unused) for a new purpose.

Question 2. How would the Congress or an agency determine a reasonable amount that should remain in a merged surplus account and for how long?

Our analysis disclosed that the determination of a reasonable amount of merged surplus authority cannot be based on a mathematical

formula derived from the behavior of restorations and withdrawals. Restorations and withdrawals among and/or within appropriations did not follow any predictable pattern during the 5-year period examined. Our analysis is shown in the enclosure.

As shown in the schedule below, the merged surplus authority balances tend to increase. Therefore, it appears that a feasible approach for reducing the merged surplus authority balance is to eliminate any amount which has been in the merged surplus authority balance 3 years. This approach would leave a sufficient amount to cover restorations that may be needed by an agency. For example, the merged surplus authority would be aged and the balance prior to 1977 eliminated as shown on the following schedule.

Department of the Navy  
Military Personnel, Marine Corps  
Appropriation 1105

Merged Surplus Authority

(cumulative balance at end of each fiscal year)

	1979	\$702,424,822
	1978	658,031,851
Cutoff	1977	<u>588,893,031</u>
	1976	537,857,993
	1975	505,447,191
		\$702,424,822
Amount to be eliminated		<u>-537,857,993</u>
Balance		\$164,566,829

We believe this type of analysis could be utilized in evaluating the merged surplus authority of each Defense appropriation on a case by case basis in order to determine minimum account balance requirements. Since these balances continue into perpetuity, the amount would require periodic adjustment.

To further reduce merged surplus authority balances, the Congress should consider eliminating the entire merged surplus authority for inactive appropriations. These inactive appropriations consist of accounts for which there are no corresponding "M" account balances.

We also examined other methods of determining a reasonable amount that should remain in a merged surplus authority balance, but we believe the methods discussed above are the simplest and most practical. The experience gained with this procedure could lead to the development of further refinement of merged surplus authority balances.

Question 3. Have there been significant instances of violations or misuse of the merged surplus authority balances within the Department of Defense?

To determine possible misuses of merged surplus authority, we reviewed all relevant audit reports of the Army, Navy, Air Force, and our Office for the past 5 years plus some older reports issued by our Office and the Department of Defense which we were already familiar with. We also interviewed budget, accounting, and auditing officials of the Office of Assistant Secretary of Defense (Comptroller) to ascertain known violations or misuse of the merged surplus authority.

The audits and reviews made by the departmental audit agencies and our Office during the past 5 years disclosed no evidence of significant misuse of the "M" account or merged surplus authority balance. In those cases involving the questionable use of appropriated funds that were discovered in the agency audits, the majority of problems were between (1) the current year and the just expired year, (2) programs and/or contracts, or (3) major appropriations, particularly procurement vs. research and development. The major finding in the merged years was the questionable validity of unliquidated obligations in the "M" account, especially in the Military Personnel and Operation and Maintenance Appropriations.

Some misuses have occurred prior to 1975 as these two examples reveal.

One example of the "M" account misuse occurred when the Navy improperly used over \$40 million in "M" account appropriations to avoid disclosure of violations of the Anti-Deficiency Act for several years of its military personnel appropriations. This matter was formally reported to the House Committee on Appropriations by the Secretary of Defense in December 1972.

Another example of misuse was in our report "Substantial Understatement of Obligations for Separation Allowances for Foreign National Employees" (B-179343) of October 21, 1974. We reported that the Army and Air Force obligated and paid the major portion of foreign employee separation allowances by delaying the recording of such obligations and then restoring unobligated balances from the merged surplus authority.

In the cases we examined, we noted that the Defense components have instituted corrective actions and controls which we believe have reduced the potential for improper use of the "M" accounts.

Question 4. What proposals would GAO make for limiting and controlling use of merged surplus authority balances which will be applicable to all Federal Government departments and agencies?

As discussed with your office, the development of proposals for limiting and controlling the use of merged surplus authority

on a Government-wide basis will remain a long term objective. As of this time we have determined that, to insure proper use of "M" account and merged surplus authority balances, each agency needs to

- make periodic internal audits of appropriation accounting systems to ensure that such systems provide full disclosure of "M" account and merged surplus authority transactions and that accurate balances are reflected and
- review and approve in writing charges above \$25,000 and adjustments to "M" accounts.

We plan to work with agencies to make these basic controls part of their operating procedures.

Question 5. Are there any laws requiring the Treasury to maintain Department records on the merged surplus authority balances by appropriation?

We are not aware of any law requiring the Treasury to maintain records for the merged surplus authority balances. Further, the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, title 7, Fiscal Procedures, chapter 4, section 20.5, states:

"Processing restoration requests during the year to prevent negative balances from appearing in the appropriation or appropriation successor accounts or to maintain agreement in amounts of unexpended balances and unpaid obligations results in needless paper work in the agency and the Treasury Department. The restoration will normally be made by the Treasury Department on a fiscal-year basis from the year-end reports submitted by the agencies under Treasury Department Regulations."

While the expired surplus authority is constructively withdrawn by Treasury, the agencies still maintain the formal accounting records on unobligated balances for the expired appropriations.

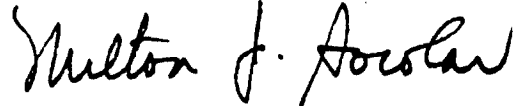
The Treasury Department relies on the Year End Closing Statement (TFS Form 2108) submitted by each agency. These reports are the basis for the Combined Statements of Receipts, Expenditures and Balances of the United States Government that are prepared by the Treasury. The Treasury either uses this report or prepares a manual worksheet to determine if an adequate amount of merged surplus authority is available to cover the restoration requests from the agencies.

In responding to the above questions, we reviewed the applicable laws and regulations relating to the use of "M" accounts and merged surplus authority. We also interviewed responsible Treasury and Defense officials and reviewed relevant audit reports issued by Defense and our Office.

As arranged with your office, we did not obtain agency comments on the matters discussed in this report and will not make further distribution, unless you publicly announce its contents, until 30 days from the date of the report.

If you have any questions about this material, please contact us. We will keep your office informed of our progress in developing further proposals for limiting and controlling the use of merged surplus authority.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General  
of the United States

Enclosure

SCHEDULE OF "M" ACCOUNT NET RESTORATIONS AND NET WITHDRAWALS,  
AND THE RELATED MERGED SURPLUS AUTHORITY BALANCES  
FOR THREE DEPARTMENT OF DEFENSE  
APPROPRIATIONS FOR A FIVE YEAR PERIOD

DEPARTMENT OF THE ARMY RESEARCH,  
DEVELOPMENT, TEST, AND EVALUATION  
APPROPRIATION # 2040

DEPARTMENT OF THE AIR FORCE OPERATION  
AND MAINTENANCE, AIR NATIONAL GUARD  
APPROPRIATION # 3840

DEPARTMENT OF THE NAVY MILITARY  
PERSONNEL MARINE CORPS  
APPROPRIATION # 1105

FISCAL YEAR	NET RESTORATIONS	NET WITHDRAWALS	MERGED SURPLUS AUTHORITY	NET RESTORATIONS	NET WITHDRAWALS	MERGED SURPLUS AUTHORITY	NET RESTORATIONS	NET WITHDRAWALS	MERGED SURPLUS AUTHORITY
1979	- 0 -	\$1,474,800 <sup>1/</sup>	\$89,610,211	\$ 13,300	- 0 -	\$160,850,093	- 0 -	\$5,887,200	\$702,424,822
1978	- 0 -	4,116,900	80,465,969	615,700	- 0 -	159,735,446	\$21,000	- 0 -	658,031,851
1977	- 0 -	1,869,100	74,133,700	- 0 -	\$524,100	154,310,694	21,400	- 0 -	588,893,031
1976	- 0 -	974,500	65,872,344 <sup>2/</sup>	67,100	- 0 -	145,005,131 <sup>2/</sup>	- 0 -	1,216,900	537,857,993 <sup>2/</sup>
1975	- 0 -	2,498,200	64,364,819	177,600	- 0 -	135,850,006	782,000	- 0 -	505,447,191

<sup>1/</sup> The amounts shown on this schedule for restorations and withdrawals are composed of many transactions throughout the year, but are only reported net at the end of the year. For example, total withdrawals of \$2,474,800 and total restorations of \$1,000,000 are reported as a net withdrawal of \$1,474,800 (2,474,800 - 1,000,000 = 1,474,800).

Also, the merged surplus authority balances between fiscal years cannot be derived by adding or subtracting the net withdrawal or restoration figures shown, because the expired appropriation balances are also a part of the merged surplus authority and are not shown on this schedule.

<sup>2/</sup> As of the transition quarter.