



Not on ~~db 9915~~ BF 1005
UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

116776

OFFICE OF GENERAL COUNSEL

B-200685

September 24, 1981



116776

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

The purpose of this letter is to report on the status of budget authority that was proposed, but rejected, for rescission. In the President's eleventh special message for fiscal year 1981, dated June 19, 1981, the President proposed six rescissions totalling \$321.0 million in budget authority. The funds had been appropriated to the Department of Agriculture for Construction and Land Acquisition (R81-160), to the Department of Education for Student Financial Assistance (R81-161), to the Department of Health and Human Services for Grants to States for Social and Child Welfare Services (R81-162), to the Department of Housing and Urban Development for Urban Development Action Grants (R81-163) and Community Development Grants (R81-164), and to the Environmental Protection Agency for Salaries and Expenses (R81-165).

Section 1012(b) of the Impoundment Control Act requires that funds proposed for rescission be made available for obligation, unless the Congress completes action on a rescission bill within the 45-day period of continuous congressional session following the day such a proposal is received by the Congress. For rescission proposals R81-160, R81-161, R81-162, R81-163, R81-164 and R81-165, the 45-day period ended on September 19, 1981, without the Congress having passed such a bill.

In our July 30, 1981, report on the President's eleventh special message we stated that withholding the funds proposed for rescission in R81-161 and R81-162 for the 45-day period was not authorized by the Impoundment Control Act. We concluded that in the case of R81-161, Title IV, Part E of the Higher Education Act, 20 U.S.C. §§1087aa et seq., and in the case of R81-162, title XX of the Social Security Act, 42 U.S.C. §1397a, were statutes which mandated that the funds be available and which vested no discretion in the Executive to withhold funds. Consequently, withholding funds was not authorized by the Impoundment Control Act because section 1001(4) of the Act, 31 U.S.C. §1400(4), provides that nothing in the Act shall be construed as "superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder."

B-200685

Our review of OMB apportionment forms shows that the funds withheld under R81-162 were released on August 12, 1981; however, the funds withheld under rescission proposal R81-161 were not released until the expiration of the 45-day withholding period.

We have confirmed that as of September 21, 1981, the subject budget authority was apportioned by the Office of Management and Budget to the Department of Agriculture, Department of Education, Department of Health and Human Services, Department of Housing and Urban Development and the Environmental Protection Agency.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel