



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



109520

May 30, 1979

IN REPLY REFER TO: B-115398

[Impoundment Considerations in President's 9th Special Message]

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

addressed to Carey

Nineth

This letter reports the release of budget authority required to be made available for obligation pursuant to section 1012(b) of the Impoundment Control Act of 1974 and provides the Congress with our comments on the President's 9th special message that was sent to the Congress on April 26, 1979.

Release of Funds

The fifth special message for fiscal year 1979 submitted by the President transmitted 10 rescission proposals (R79-2 through R79-11). Except as discussed below, we have confirmed that all of the funds involved in these 10 rescissions have either been rescinded (See Pub. L. 96-7, enacted April 9, 1979) or made available for obligation as required by law (31 U.S.C. 1402(b)).

AGC 00912

Rescission proposal R79-2, Department of Energy, Energy Programs, Fossil Energy Construction, was not accepted by the Congress. The 45-day period of continuous session during which the funds may be withheld pending congressional consideration expired on March 27, 1979. The \$50,000,000 in budget authority sought for rescission in R79-2 was, instead, made a proposed deferral (D79-55) and included in the President's 9th special message, April 26, 1979. Thus, these funds have not been made available for obligation.

AGC 00486

For rescission proposal R79-10, Foreign Claims Settlement Commission, Payment of Vietnam Prisoner of War Claims, the Congress rescinded \$8 million of the \$9 million proposed. The remaining \$1 million has not been made available for obligation but, instead, was included in deferral D79-29A, another of the items transmitted in the 9th special message.



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Letter Report
OGC-79-12

contact office Rept. #

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Ninth Special Message

On April 26, 1979, we received copies of the President's 9th special message for fiscal year 1979 that was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. Our comments on this message follow:

DEPARTMENT OF ENERGY

D79-55 Energy Programs
 Fossil Energy Construction
 89X0214

FOREIGN CLAIMS SETTLEMENT COMMISSION

D79-29A Payment of Vietnam Prisoner of War
 Claims 79X0104

As noted, deferrals D79-55 and D79-29A were the subject of proposed rescissions in the President's fifth special message (R79-2 and R79-10, respectively).

In its consideration of R79-2, the House Committee on Appropriations stated--

"* * * the Committee recommends that the Executive submit a deferral action on those funds not needed to complete design and marketing studies, until such time as more definitive information is available upon which to base a construction decision."
H. R. Rep. No. 96-25, 11 (1979); see also
S. Rep. No. 96-33, 17 (1979), to the same effect.

Similarly, in connection with R79-10, the Senate Committee on Appropriations pointed out that \$1 million of the Foreign Claims Settlement Commission's appropriation for Vietnam prisoner of war claims had been transferred to its salaries and expenses account during 1979, and the committee recommended--

"* * * the deletion of \$1,000,000 from the proposed rescission in order to take

similar action with respect to the Commission's 1980 budget." S. Rep. No. 96-33, supra. at 12.

The special message states that the deferral is being submitted pending congressional action on the transfer recommended by the committee.

In our opinion, submitting deferrals of budget authority in the cases of D79-55 and D79-29A after rescission requests have been rejected for the same budget authority is technically inconsistent with section 1012(b) of the Impoundment Control Act, which provides:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.-- Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved."

However, since these deferrals were offered in response to the express wishes of the Senate and House Committees on Appropriations and apparently adopted by the Congress as a whole during its review of the bill that was enacted as Pub. L. 96-7, we plan no action pending further congressional actions.

With regard to the "other budgetary resources" noted in deferral message D79-55, we point out that on March 20, 1979, an \$850,000 accounting adjustment was made resulting in total other budgetary resources of \$142,832,898, rather than \$143,682,898, as stated in the message. This adjustment reflects an obligation incurred during the prior year which had not been charged to this balance because it had not been properly identified.

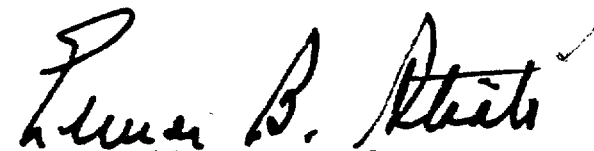
DEPARTMENT OF ENERGY

D79-56 Energy Programs
 Fossil Energy Construction
 89X0214

B-115398

D79-57 Energy Programs
 Strategic Petroleum Reserve
 899/10218

With the exceptions noted above, we conclude the information provided in the 9th special message is correct and that the actions being proposed have been clearly and accurately stated.


Comptroller General
of the United States