



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D C 20548

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November 24, 1981

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

On October 23, 1981, the President's third special message for fiscal year 1982 was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposes two rescissions of budget authority totaling \$88.2 million and 72 deferrals of budget authority totaling \$482.9 million as follows:

DEPARTMENT OF DEFENSE

R82-1 Aircraft Procurement, Air Force
571/33010

The proposed rescission is based on a decision by the Administration to purchase 120 instead of 180 F-16 aircraft in 1982. The conferees on the 1982 Department of Defense authorization bill have recommended funds for 120 F-16's in 1982, as well as for advance procurement of another 120 aircraft under a multi-year procurement plan beginning in fiscal year 1982. See H.R. Rep. No. 97-311, 53 (1981).

The conference report recognizes that the funds proposed for rescission are no longer needed for the original purpose for which they were authorized (advance procurement of an additional 60 aircraft in 1982), because of the Air Force's decision to adopt a new multi-year procurement program beginning in 1982. However, the conferees have recommended that the proposed rescission not be enacted and that the Air Force be authorized to use the funds to finance the restructured procurement plan in 1982. Consistent with that recommendation, the conferees recommended \$60.8 million less than the amount requested by the Administration for purchasing the 120 F-16's in 1982.

DEPARTMENT OF DEFENSE - MILITARY

R82-2 Missile Procurement, Air Force
571/33020

Based on the current legislative calendar, the 45-day period of continuous session during which the funds may be withheld pending congressional consideration of a rescission bill will end on December 16, 1981.

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EXECUTIVE OFFICE OF THE PRESIDENT

D82-86 Council of Economic Advisers
Salaries and Expenses
1121900

U.S. DEPARTMENT OF AGRICULTURE

D82-87 Agricultural Stabilization and
Conservation Service
Agricultural Conservation Program
12X3315

D82-88 Agricultural Stabilization and
Conservation Service
Dairy and beekeeper Indemnity Program
1223314

D82-89 Soil Conservation Service
Watershed and Flood Prevention
Operations
12X1072

D82-90 Animal and Plant Health Inspection
Service
12X1600

D82-91 Forest Service
Forest Research
1221104

D82-92 Forest Service
State and Private Forestry
122/31105

D82-93 Forest Service
National Forest System
1221106

D82-94 Forest Service
Construction and Land Acquisition
1982
12X1103

D82-95 Forest Service
Acquisition of Lands to Complete Land
Exchanges
12X5216

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D82-96 Forest Service
Rangeland Improvements
12X5207

DEPARTMENT OF COMMERCE

D82-97 Economic and Statistical Analysis
Salaries and Expenses
1321500

D82-98 Economic Development Administration
Economic Development Assistance Programs
1322050

Agency officials told us that part of the deferral (\$2.4 million) is being applied to the trade adjustment assistance program, which provides assistance to firms adversely affected by imports.

D82-99 Minority Business Development Agency
Minority Business Development
13X0201

D82-100 National Oceanic and Atmospheric Administration
Operations, Research and Facilities
13X1450

D82-101 National Telecommunications and Information
Administration
Salaries and Expenses
13X0550

DEPARTMENT OF ENERGY

D82-102 Energy Programs
General Science and Research, Plant
and Capital Equipment
89X0223

D82-103 Energy Programs
Energy Supply, Research and Development,
Operating Expenses
89X0224

D82-104 Energy Programs
Energy Supply Research and Development,
Plant and Capital Equipment
89X0225

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D82-105 Energy Programs
Fossil Energy Research and Development
89X0213

D82-106 Energy Programs
Energy Conservation
89X0215

D82-107 Energy Programs
Energy Information Administration
8920216

D82-108 Energy Programs
Economic Regulation
8920217
891/20217

Agency officials told us that the deferral is being accommodated by reducing funds in the following programs:

\$2,114,000	Economic Regulatory Administration
140,000	Hearings and Appeals
182,000	Environmental Protection, Safety, and Emergency Preparedness
<u>\$2,436,000</u>	

This deferral prompted some informal inquiries from congressional staffs concerning its effect on the Innovative Rates program. Under this program, grants were made to State regulatory commissions to support projects in the area of utility ratemaking. This program has been funded from the Economic Regulation lump-sum account in prior years. However, no funds now available for this account had been planned for application to the Innovative Rates program in fiscal year 1982. Consequently, the Innovative Rates program is not affected by this deferral. Agency officials told us that some grants were made under the Innovative Rates program in fiscal year 1980, and that a total of \$4.8 million was obligated in fiscal year 1980 (\$2.95 million for new projects and \$1.79 million to continue 1979 projects) for projects ranging in duration from 9 to 27 months. Some of these projects will continue in fiscal year 1982, relying on the grants made from fiscal year 1980 appropriations.

D82-109 Energy Programs
Federal Energy Regulatory Commission
8920212
89X0212

According to one Commission official, the deferral will have a significant impact on staffing levels if the reduced funding level reflected in the special message continues for the entire fiscal year. The official estimated that there would be a reduction-in-force of 150-175 staff members during fiscal year 1982 to accomodate the reduction in funding.

D82-110 Energy Programs
Geothermal Resources Development Fund
89X0206

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

D82-111 Housing Programs
Housing for the Elderly or Handicapped
Fund
86X4115

D82-112 Community Planning and Development
Community Development Support Assistance
860/20162
861/30162
862/40162

D82-113 Community Planning and Development
Urban Development Action Grants
869/20170
860/30170
861/40170

DEPARTMENT OF THE INTERIOR

D82-114 Bureau of Land Management
Range Improvements
14X5132

D82-115 Bureau of Reclamation
Loan Program
14X0667

D82-116 Bureau of Reclamation
Construction Program
14X0684

D82-117 Bureau of Reclamation
General Investigations
14X5060

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D82-118 Bureau of Reclamation
Operation and Maintenance
14X5064

D82-119 Bureau of Reclamation
General Administrative Expenses
1425065

D82-120 Office of Water Research and Technology
Salaries and Expenses
142/30115

D82-121 United States Fish and Wildlife Service
Resource Management
1421611

D82-122 National Park Service
Operation of the National Park
System
1421036

D82-123 National Park Service
Construction
14X1039

D82-124 National Park Service
John F. Kennedy Center for the
Performing Arts
1421038

D82-125 National Park Service
Urban Park and Recreation Grants
14X0720

D82-126 National Park Service
Land and Water Conservation Fund
14X5005

D82-127 Bureau of Indian Affairs
Operation of Indian Programs
141/22100
1422100
142/32100
14X2100

D82-128 Bureau of Indian Affairs
Construction
12X2301

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- D82-129 Bureau of Indian Affairs
Road Construction
14X2364
- D82-130 Office of the Solicitor and
Office of the Secretary
Departmental Management
142/30103
- D82-131 Office of the Solicitor and
Office of the Secretary
Youth Conservation Corps
1420109

DEPARTMENT OF THE TREASURY

- D82-132 Bureau of the Mint
Expansion and Improvements
20X1618

ENVIRONMENTAL PROTECTION AGENCY

- D82-133 Research and Development
682/30107
- D82-134 Abatement, Control and Compliance
682/30108
- D82-135 Buildings and Facilities
68X0110
- D82-136 Hazardous Substance Response Trust Fund
20X8145

We discussed deferrals D82-133 through D82-136 with officials at EPA and OMB. They were unable to specify the effects of these deferrals because they still are negotiating with regard to the programs that will be affected by the reduction in funding. Neither EPA nor OMB officials would provide us with information concerning which programs were under consideration for reduced funding while the negotiations are pending. Accordingly, we are unable to elaborate on the estimated effects of the deferrals on specific programs.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- D82-137 Construction of Facilities
802/40107

VETERANS ADMINISTRATION

D82-138 Medical and Prosthetic Research
36X0161
361/20161
362/30161

The account is subject to 38 U.S.C. §5010(a)(4) (Supp. III 1979), which requires the Director of OMB to authorize employment of not less than the number of employees for which appropriations have been made to the Veterans Administration and to provide sufficient funds to achieve that staffing level. The Continuing Resolution provides funds for VA programs at the levels specified in H.R. 4034, the HUD-Independent Agencies appropriation bill for 1982, and H.R. Rep. No. 97-222 (1981), the accompanying conference report. The conference report states that 1982 appropriations will support an average of 4487 staff years in the medical and prosthetic research account.

According to VA officials, the agency needs \$15,667,000 to support 4487 staff years during the period under the Continuing Resolution. OMB apportioned a total of \$19,959,094 to this account. Therefore, the OMB apportionment is in compliance with 38 U.S.C. §5010(a)(4). However, the agency would have to earmark 78.5 percent of its total apportionment for personnel compensation in order to fund the staff years specified in the conference report. In the past, VA has used only 67.8 percent of its apportionment for personnel costs. The officials told us that they could not devote the higher proportion of funds to personnel costs without a severe impact in other essential areas such as travel, equipment, and supplies. Accordingly, the agency has chosen to accommodate the deferral by supporting a lower staff level.

Also, agency officials disagreed with the estimated effects section of the special message. They expressed the opinion that the postponed research activities are not low priority and that funds for equipment and other non-personnel costs are being used to pay salaries. The agency officials generally believe that there will be a significant negative impact on the research program if the current rate of spending proposed in the special message continues for the entire fiscal year.

D82-139 Medical Administration and
Miscellaneous Operating Expenses
3620152

The medical administration and miscellaneous operating expenses account, like the medical and prosthetic research account in deferral D82-138, is subject to the requirements of 38 U.S.C. §5010(a)(4) (Supp. III 1979). That statute requires the Director of OMB to authorize employment of not less than the number of employees for which appropriations have been made to the Veterans Administration and to provide sufficient funds to achieve that staffing level. The Continuing Resolution provides funds for VA programs at the levels specified in H.R. 4034, the HUD-Independent Agencies appropriation bill for 1982, and H.R. Rep. No. 97-222, the conference report accompanying H.R. 4034. The amount appropriated under the Continuing Resolution is sufficient to support 866 staff years in this account.

According to VA officials, the agency needs \$4,661,000 to support 866 staff years during the period under the Continuing Resolution. OMB apportioned a total of \$7,815,129 to this account. Therefore, the OMB apportionment is in compliance with 38 U.S.C. §5010(a)(4). However, the agency would have to devote 59.6 percent of its total apportionment to personnel costs in order to fund the staff years specified in the conference report. In the past, VA has used 52.4 percent of its apportionment for personnel costs in this account. The officials told us that they could not devote the higher proportion of funds to personnel costs without a severe impact on the Post-graduate and Interservice Training program and the Exchange of Medical Information program. Accordingly, the agency has chosen to accommodate the deferral by supporting a lower staff level.

D82-140 Construction, Major Projects
36X0110

Agency officials told us that a portion of the \$91.3 million deferred is for two projects, the nursing home and parking garage at the VA Medical Center in Washington, D.C. and a research and education addition to the VA Medical Center in Long Beach, California. The funds earmarked for these two projects were also included in a fiscal year 1981 deferral of funds for nine construction projects funded out of this account (D81-98, sixth special message for fiscal year 1981, dated March 10, 1981).

The HUD-Independent Agencies appropriation bill for fiscal year 1982, H.R. 4034, adopted by the Continuing Resolution,*/

*/ Section 101(e) of the Continuing Resolution, Pub. L. No. 97-51 (October 1, 1981), 95 Stat. 958, 961, makes available such amounts as may be necessary for projects or activities
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contains a provision which "disapproves" \$35,961,000 of the fiscal year 1981 deferral (D81-98), and further states:

"* * * This disapproval shall be effective upon the enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation."

The conference report accompanying H.R. 4034 states that the deferred projects disapproved by the bill are the two projects noted above, in Washington, D.C., and Long Beach, California. H.R. Rep. No. 97-222, 11-12 (1981).

Under section 1013(a) of the Impoundment Control Act, deferral D81-98 expired on October 1, 1981, the beginning of the new fiscal year and the effective date of the Continuing Resolution adopting H.R. 4034. Since the deferral itself had lapsed by operation of the Impoundment Control Act, the provision of H.R. 4034 disapproving D81-98 would be ineffective, in our view, to trigger the requirement in section 1013(b) of the Act that funds be made available if either House of Congress passes an impoundment resolution.

However, the provision in H.R. 4034 disapproving the deferral did not take the form of an impoundment resolution or other action under the Impoundment Control Act. Rather, the bill language constitutes a legal mandate, independent of the Impoundment Control Act, to make the funds available. The bill both "disapproves" a portion of deferral D81-98 and provides that "the amount of the proposed deferral disapproved herein shall be made available for obligation." While the first part of the provision disapproving the deferral may be without effect standing alone, in our opinion the language in the provision requiring that the funds be made available for obligation is legally effective.

In view of the foregoing, \$35,961,000 of the amount proposed for deferral in D82-140 cannot now be deferred by virtue of what we regard as the legislative direction in H.R. 4034

* / CONTINUATION

provided for in the conference version of H.R. 4034, "at a rate of operations and to the extent and in the manner provided for in the conference report and joint explanatory statement * * *, as if such Act [H.R. 4034] had been enacted into law."

to make those funds available. To resolve any doubt as to the effect of the provision we recommend that Congress disapprove deferral D82-140, if OMB fails to release the \$35,961,000.)

D82-141 Construction, Major Projects
36X0110

D82-142 Construction, Minor Projects
36X0111

ADMINISTRATIVE CONFERENCE OF THE U.S.

D82-143 Salaries and Expenses
9521700

ADVISORY COMMITTEE ON FEDERAL PAY

D82-144 Salaries and Expenses
9521800

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

D82-145 Salary and Expenses
4520100

Agency officials told us that they began deferring the funds at the beginning of the fiscal year after OMB notified them in late September 1981 of the President's new budget request. A deferral report should have been submitted when the funds were first withheld from obligation by the agency, which was several weeks before October 23, 1981, the date of this special message.

The agency officials also told us that none of the funds available for payments to State and local agencies (\$10 million) has yet been obligated, because the contracts that normally would have been signed with the State and local agencies now must be renegotiated to accomodate the reduced funding levels.

INTERSTATE COMMERCE COMMISSION

D82-146 Salaries and Expenses
3020100

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

D82-147 National Endowment for the Arts
Salaries and Expenses
Matching Grants
5920100
592/30100

According to the cumulative report submitted by the Office of Management and Budget on November 10, 1981, \$1.478 million of the amount deferred (\$11.208 million) has been released.

D82-148 National Endowment for the Humanities
Matching Grants
592/30200

According to the cumulative report submitted by the Office of Management and Budget on November 10, 1981, \$252,000 of the amount deferred (\$2.628 million) has been released.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

D82-149 Salaries and Expenses
4220100

D82-150 Public Development
42X0102

D82-151 Land Acquisition and Development Fund
42X4084

SMALL BUSINESS ADMINISTRATION

D82-152 Salaries and Expenses
7320100

D82-153 Lease Guarantees Revolving Fund
73X4157

D82-154 Surety Bond Guarantees Revolving Fund
73X4156

SMITHSONIAN INSTITUTIONS

D82-155 Museum Programs and Related Research
(Special Foreign Currency Program)
33X0102

D82-156 Restoration and Renovation of Buildings
33X0132

TENNESSEE VALLEY AUTHORITY

D82-157 Tennessee Valley Authority Fund
64X4110

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We have reviewed the third special message. Except as noted above, we have identified no additional information that would be useful to the Congress in its consideration of the President's proposals and we believe that the proposed deferrals are in accordance with existing authority.



Comptroller General
of the United States