



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

109120

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IN REPLY REFER TO: B-115398

April 17, 1979

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

CWO 00401

On April 4, 1979, we received copies of the President's eighth special message for fiscal year 1979 that was transmitted to the Congress pursuant to the Impoundment Control Act of 1974.

Deferrals Proposed in

The special message proposed two new deferrals as follows.

DEPARTMENT OF DEFENSE

Abc 00005

D79-53 Research, Development, Test and Evaluation,
Navy
179/01319

This is the same deferral that was reported to the Congress by our Office on March 14, 1979, B-115398 (OGC-79-8). A copy of our report is enclosed.

DEPARTMENT OF THE INTERIOR

Abc 00033

D79-54 Geological Survey
Exploration of National Petroleum
Reserve in Alaska
14X0805

We conclude the information provided in the eighth special message is correct and that the actions being proposed have been clearly and accurately stated.

James B. Steute
Comptroller General
of the United States

Enclosure

Letter Report
004987

OGC-79-11



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

March 14, 1979

B-115398

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

This letter reports a deferral of Department of the Navy budget authority that has not been reported to the Congress pursuant to the provisions of the Impoundment Control Act of 1974.

Section 1015(a) of the Impoundment Control Act requires the Comptroller General to report to the Congress whenever he finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or deferral of budget authority and the President has failed to transmit a special message with respect to such reserve or deferral. This report is submitted in accordance with the requirement imposed by section 1015(a) and, consequently, has the same effect as if it were a deferral message transmitted by the President.

In the Department of Defense Appropriation Act, 1979, Public Law 95-457, approved October 13, 1978, Congress appropriated to the Department of the Navy \$4.5 billion for research, development, test, and evaluation activities (RDT&E). See 92 Stat. 1231 at 1241-2. In determining the amount to be provided for Navy RDT&E program components, consideration was given to funding the AV-8B Advanced Harrier Aircraft Program, a Marine Corps V/STOL fighter. Ultimately, of the \$4.5 billion appropriated, \$123 million was earmarked for the initiation of engineering development for this aircraft. See, for example, H. Rep. 95-1398, 95th Cong. 2d Sess. 338 (1978) (\$122.964 million for AV-8B); and S. Rep. 95-1264, 95th Cong. 2d Sess. 8, 180 (1978) (\$122.964 million for AV-8B).

In reviewing certain program and budget documents regarding the Navy's fiscal year 1979 plans for use of the current RDT&E appropriation, we have determined that \$107.964 million of the \$123 million intended for use for the AV-8B are not currently available for use.

OGC-79-8

In discussing the matter with Department officials we learned that, by memorandum dated January 16, 1979, the Comptroller of the Navy formally informed the Assistant Secretary of the Navy (Research, Engineering and Systems) of a reduction in previously available resources to the AV-8B program in the amount of \$107.694 million. Official departmental documentation states the funds were:

"Placed in DON [Department of the Navy] Reserve pending a budget review to determine the most efficient use of these funds. (NAVCOMPT Deferral)."

The effective date of this budgetary action was specified as January 31, 1979.

Subsequently, by memorandum dated January 26, 1979, the Under Secretary of Defense (Research and Engineering) advised the Assistant Secretary of the Navy (Research, Engineering, and Systems) that only \$15 million of the \$123 million congressionally earmarked for AV-8B engineering development could be allocated to the program and that:

"No effort should be undertaken by the Navy to initiate engineering development, including ordering of any long leadtime hardware for additional developmental aircraft or subsystems."

We understand that, sometime in the May-June 1979 timeframe, a decision is expected regarding the uses to which the \$108 million will be put. Until that time, the funds are to be withheld from all Department of the Navy RDT&E programs. One departmental official opined that the funds will probably remain "on hold" until the House and Senate Committees on Armed Services complete their action on the fiscal year 1980 Department of Defense Authorization bill; action that is expected to take place during the May-July 1979 timeframe.

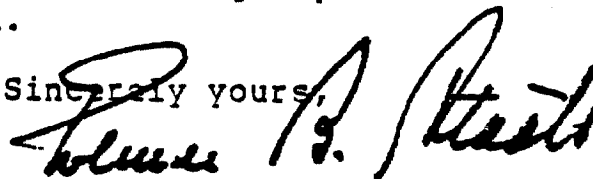
In discussing the matter with one Department of Defense official, we were reminded that the subject funds were provided on a lump-sum basis for all Navy RDT&E activities and not just for the AV-8B program. We, of course, agree and note in this regard that there is no statutory impediment to

applying the \$108 million to any one or all of the authorized Department of the Navy RDT&E activities during fiscal year 1979. In this connection we have determined that the action of the Navy Comptroller has effectively precluded utilization of the \$108 million in any of the Navy RDT&E programs at the present time.

Finally, one Department of Defense official expressed concern that treating the instant situation as an impoundment of budget authority could conceivably create a procedural morass with respect to the literally hundreds of routine administrative determinations that are made regarding the allocation and reprogramming of lump sum appropriations. We disagree. In our view the subject funds are not simply being withheld for a brief period to allow for the development and approval of a reprogramming proposal. As noted above, the \$108 million has been formally reserved while the Congress considers the fiscal year 1980 AV-8B program--a process that is likely to take through July of this year.

In the light of the above, we conclude that the present situation is a deferral of budget authority within the scope of section 1013 of the Impoundment Control Act of 1974, 31 U.S.C. 1403. As such, the matter is being reported to the Congress for its consideration.

Sincerely yours,



Comptroller General
of the United States