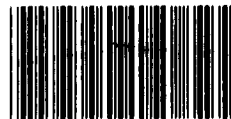




COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-200685

March 11, 1981



114637

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

On February 13, 1981, the President's fifth special message for fiscal year 1981 was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message contained 38 deferral proposals. These proposals are comprised of a conversion of the 33 rescissions proposed by the Carter Administration to deferrals, four new deferrals, and a revision to one previously transmitted deferral.

The Carter Administration proposed 33 rescissions (R81-1 through R81-33), involving \$1,142.4 million in budget authority, in the President's third special message for fiscal year 1981, dated January 15, 1981. The Reagan Administration proposes in this message to convert those rescission proposals to deferral proposals (D81-42 through D81-70, D81-73, D81-74, D81-77, and D81-78).

We find nothing in the Impoundment Control Act which precludes a President from withdrawing pending rescission proposals and converting them to deferral proposals. We are advised, and have no reason to question, that the conversion to deferrals is a temporary action for the purpose of allowing the new Administration an opportunity to review and revise the rescission proposals within the context of the new President's overall economic plan. We are further advised that the temporary conversion to deferrals will not be used to attribute to the President a new 45-day withholding period if the original proposals, or an amended version of them, are resubmitted at a later date. We agree that the temporary conversion should only toll the running of the 45-day withholding period. Therefore, since 22 days had run before this message was submitted, any resubmitted rescission proposals are expected to be subject to a 23-day withholding period.

UNITED STATES POSTAL SERVICE

D81-77 Postal Service Fund
 18X1001

One of the 33 conversions concerns a proposal involving the appropriation to the United States Postal Service for the Postal Service Fund. The Postal Reorganization Act of 1970, Pub. L.

016025

OGC-81-5

91-375, provides that "neither the Fund nor any of the funds credited to it shall be subject to apportionment * * *." 39 U.S.C. 2003(e). Consistent with this provision, President Carter stated in the third special message that no funds were being withheld pending congressional action on the rescission proposal (R81-32). Accordingly, the above discussion on the 45-day withholding period is not applicable to this proposal.

President Reagan now has converted rescission proposal R81-32 to a proposed deferral (D81-77). Deferrals typically involve a withholding of funds by OMB. While the fifth special message does not state that no withholding has taken place, we have been informed that, in fact, there has been no such withholding. A deferral is defined in section 1011 of the Impoundment Control Act, 31 U.S.C. 1401(l), to include, in addition to withholdings of funds, " * * * any other type of Executive action * * * which effectively precludes * * *" the use of budget authority. OMB has encouraged the Service to "exercise prudence" in their fiscal planning to make sure that funds are available in anticipation of a new rescission proposal at some later date. OMB officials informally advised us that they view this encouragement as an "other type of Executive action" covered by section 1011 and, therefore, they included D81-77 in this special message.

As we stated on February 18, 1981, in our impoundment report to the Congress on the third special message, we received a congressional request to determine whether funds appropriated to the Postal Service for payment to the Postal Service Fund may be rescinded pursuant to section 1012 of the Impoundment Control Act, 31 U.S.C. 1402. We solicited the views of the Service and OMB, and have completed our review of the issues raised in the congressional request. We have found nothing in the Postal Reorganization Act of 1970, amendments to the Act or legislative history that limits the authority of Congress to rescind funds previously appropriated. In a letter to our Office, dated February 26, 1981, the Postmaster General acknowledged Congress' authority to rescind funds previously appropriated and, in fact, expressed a willingness for the Postal Service to live with a reduction of \$250 million. As previously discussed, OMB has not attempted to withhold funds from the Service.

The five deferral proposals not affected by the above discussion are as follows:

DEPARTMENT OF THE INTERIOR

D81-71 Bureau of Land Management
Oregon and California Grant Lands
14X5136

DEPARTMENT OF TRANSPORTATION

D81-72 Federal Aviation Administration
Civil Supersonic Aircraft Development
Civil Supersonic Aircraft Development
Termination
Research and Development
69X1358
69X0106
69X1300

DEPARTMENT OF THE TREASURY

D81-19B Office of the Secretary
State and Local Government Fiscal
Assistance Trust Fund
20X8111

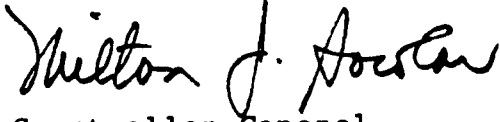
The trust fund is established in the Office of Revenue Sharing and the funds affected by this proposal were appropriated to that office, rather than to the Office of the Secretary.

INTERNATIONAL COMMUNICATION AGENCY

D81-75 Salaries and Expenses
(Special Foreign Currency Program)
67X0205

D81-76 Acquisition and Construction of Radio
Facilities
67X0204

We have reviewed the fifth 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.


Acting Comptroller General
of the United States