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

March 23, 1983

B-209328

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

On February 1, 1983, the President's fifth special message for fiscal year 1983 was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposes 19 rescissions of budget authority totalling \$1,552.0 million, 30 deferrals of budget authority totalling \$6,795.9 million and revisions to nine previously reported deferrals increasing the amount deferred by \$3,155.7 million. Our report follows.

In our report to Congress dated March 10, 1982, we explained in detail our interpretation of section 1001(4) of the Impoundment Control Act (now classified to 2 U.S.C. § 681), the so-called fourth disclaimer, which provides that the Act does not supersede any other provision of law requiring the obligation or expenditure of budget authority. Briefly stated, under our analysis of section 1001(4), the Impoundment Control Act does not supersede the requirements for obligation of mandatory spending programs. To determine whether a program falls within the fourth disclaimer requires examination of the statutory scheme for evidence of a congressional mandate to spend the budget authority made available for the particular program. In the following report, we identify the rescission proposals which involve mandatory spending.

RESCISSIONS

FUNDS APPROPRIATED TO THE PRESIDENT

R83-2 Appalachian Regional Development Programs
 11X0090

DEPARTMENT OF AGRICULTURE

R83-3 Agricultural Research Service
 Buildings and Facilities
 12X1401



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- R83-4 Soil Conservation Service
 Watershed and Flood Prevention Operations
 12X1072
- R83-5 Soil Conservation Service
 Resource Conservation and Development
 12X1010
- R83-6 Agricultural Cooperative Service
 Salaries and Expenses
 1233000
- R83-20 Rural Electrification Administration
 Rural Telephone Bank
 12X4231

EDUCATION ACTIVITIES

- R83-7 Office of Elementary and Secondary Education
 Compensatory Education for the Disadvantaged
 913/40900
 9130900
 912/30900

Under our analysis of the fourth disclaimer, Chapter 1 of the Education Consolidation and Improvement Act, 20 U.S.C. §§ 3801 et seq., from which funds are proposed for rescission, is a mandatory spending statute.

- R83-8 Office of Elementary and Secondary Education
 School Assistance in Federally Affected Areas
 9130102
 91X0102
 912/30102

The funds proposed for rescission are earmarked for payments under section 2 of Pub. L. No. 81-874, 20 U.S.C. § 237, which authorizes assistance to school districts having a partial loss of tax base due to Federal acquisition of real property. Under our analysis of the fourth disclaimer, that statute is a mandatory spending statute.

If the proposal to rescind \$5 million is approved, a total of \$10 million will remain for payments under section 2. The estimated effects of the rescission, as described in the special message, would be to reduce payments to currently

eligible school districts under section 2 from 74.5 percent of entitlement to 49 percent of entitlement. Agency officials with whom we spoke confirmed the accuracy of that calculation, if the total entitlement in fiscal year 1983 remains the same as for fiscal year 1982. However, the agency officials noted that more qualified applications for section 2 payments may be received this year than in 1982, because the United States continues to acquire real property. As a result, actual payments could be less than 49 percent of entitlement.

R83-9 Office of Elementary and Secondary Education
Special Programs and Populations
912/31000
913/41000
9131000

Under our analysis of the fourth disclaimer, one of the programs in which funds are proposed for rescission, territorial teacher training assistance, section 1525, Pub. L. No. 95-561, 93 Stat. 2379 (1978), is a mandatory spending statute.

The description of estimated effects accompanying the rescission proposal states that approximately 250 project grants will be eliminated if the rescission proposal is approved. According to agency officials, that figure should be increased by approximately 10 additional grants which would be eliminated from the Secretary's discretionary fund.

R83-10 Office of Elementary and Secondary Education
Indian Education
9130101

Under our analysis of the fourth disclaimer, Part A of the Indian Education Act (impact aid), 20 U.S.C. §§ 241aa-241ff, from which funds are proposed for rescission, is a mandatory spending statute.

R83-11 Office of Bilingual Education and Minority
Languages Affairs
Bilingual Education
9131300
912/31300
913/41300

The rescission proposal indicates that this account has total budgetary resources of \$3,317,672,000; however, the apportionment form for the account shows budgetary resources totalling \$3,729,471,660. The additional \$411.8 million shown on the apportionment form represents earned and anticipated reimbursements to the account.

R83-13 Office of Postsecondary Education
Higher and Continuing Education
9130201
91X0201
912/30201
913/50201
913/80201

Two of the programs in which funds are proposed for rescission in R83-13 involve mandatory spending statutes under our analysis of the fourth disclaimer. The programs are: veterans' cost of instruction payments, 20 U.S.C. § 1070e-1; public service fellowships, 20 U.S.C. §§ 1134d-1134g.

R83-14 Office of Educational Research and Improvement
Educational Research and Statistics
9131100

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

R83-15 Housing Programs
Payments for Operation of Low-Income Housing
Projects
8630163

DEPARTMENT OF THE INTERIOR

R83-16 National Park Service
Construction
14X1039

DEPARTMENT OF TRANSPORTATION

R83-17 Federal Highway Administration
Federal-Aid Highways (Trust Fund)
20X8102

R83-18 Coast Guard
National Recreational Boating Safety and
Facilities Improvement Fund
69X5171

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National Recreational Boating Safety and
Facilities Improvement Fund
69X5171

CORPORATION FOR PUBLIC BROADCASTING
- R83-19 Corporation for Public Broadcasting
Public Broadcasting Fund
2030151

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 April 12, 1983.

DEFERRALS

FUNDS APPROPRIATED TO THE PRESIDENT

- D83-40 Appalachian Regional Development Programs
11X0090
- D83-21A International Security Assistance
Foreign Military Sales Credit
1131082
- D83-22A International Security Assistance
Economic Support Fund
1131037
- D83-29A International Security Assistance
Military Assistance
113/41080

DEPARTMENT OF AGRICULTURE

- D83-41 Soil Conservation Service
Watershed and Flood Prevention Operations
12X1072
- D83-34A Animal and Plant Health Inspection Service
Salaries and Expenses
1231600
- D83-42 Forest Service
National Forest System
123/41106

D83-2A Forest Service
Forest Service Permanent Appropriations
Timber Salvage Sales
12X5204

DEPARTMENT OF COMMERCE

D83-43 Economic Development Administration
Economic Development Assistance Programs
1332050

This deferral was disapproved by the House of Representatives on March 10, 1983.

D83-44 International Trade Administration
Operations and Administration
13X1250

This deferral was disapproved by the House of Representatives on March 10, 1983.

D83-45 National Oceanic and Atmospheric Administration
Construction
13X1452

DEPARTMENT OF DEFENSE - MILITARY

D83-46 Shipbuilding and Conversion, Navy
Procurement
173/71611

DEPARTMENT OF DEFENSE - CIVIL

D83-47 Corps of Engineers - Civil
Construction, General
96X3122

ENERGY ACTIVITIES

D83-48 Energy Programs
Energy Supply Research and Development
Activities
Plant and Capital Equipment
89X0225

- D83-8A Energy Programs
Fossil Energy Research and Development
89X0213
- D83-49 Energy Programs
Fossil Energy Construction
89X0214
- D83-50 Energy Programs
Strategic Petroleum Reserve
89X0218

This deferral was disapproved by the House of Representatives on March 10, 1983.

- D83-51 Departmental Administration
Operating Expenses
89X0228
- D83-52 Departmental Administration
Plant and Capital Equipment
89X0229

DEPARTMENT OF HEALTH AND HUMAN SERVICES

- D83-53 Social Security Administration
Limitation on Administrative Expenses
75X8704

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- D83-54 Housing Programs
Subsidized Housing Programs
86X0139

DEPARTMENT OF THE INTERIOR

- D83-11A National Park Service
Land Acquisition and State Assistance
14X5035

This deferral covers \$30 million in contract authority made available each year in advance of appropriations by 16 U.S.C. § 4601-10a. The deferral message shows it to be a deferral for the entire year, but OMB officials have advised us that the contract authority would be made available if needed, although it is considered unlikely that such a need will arise. Based on this information, we believe that the withholding should be classified as a part of year, rather than entire year, deferral.

D83-55 Office of Territorial Affairs
Administration of Territories
14X0412

DEPARTMENT OF JUSTICE

D83-56 Interagency Law Enforcement
Organized Crime Drug Enforcement
15X0323

DEPARTMENT OF STATE

D83-57 International Organizations and Conferences
Contributions to International Organizations
1931126

D83-58 United States Bilateral Science and
Technology Agreements
19X1151

DEPARTMENT OF TRANSPORTATION

D83-59 Urban Mass Transportation Administration
Mass Transportation Capital Fund
69X8013

D83-60 Federal Aviation Administration
Construction, Metropolitan Washington
Airports
692/41333
691/31333
693/51333

D83-14A Federal Aviation Administration
Facilities and Equipment (Airport and
Airway Trust Fund), FAA
69X8107
699/38107
690/48107
691/58107
692/68107
693/78107

D83-61 Coast Guard
National Recreational Boating Safety
and Facilities Improvement Fund
69X5171

RAILROAD RETIREMENT BOARD

D83-20A Milwaukee Railroad Restructuring Administration
60X0108

SMALL BUSINESS ADMINISTRATION

D83-62 Business Loan & Investment Fund
73X4154

This deferral was disapproved by the House of Representatives on March 10, 1983.

D83-63 Surety Bond Guarantees Revolving Fund
73X4156

This deferral was disapproved by the House of Representatives on March 10, 1983.

D83-64 Pollution Control Equipment Contract
Guarantees Revolving Fund
73X4147

This deferral was disapproved by the House of Representatives on March 10, 1983.

MOTOR CARRIER RATEMAKING STUDY COMMISSION

D83-65 Salaries and Expenses
48X2700

TENNESSEE VALLEY AUTHORITY

D83-66 Tennessee Valley Authority Fund
64X4110

UNITED STATES INFORMATION AGENCY

D83-67 Salaries and Expenses
Special Foreign Currency Program
67X0205

D83-68 Acquisition and Construction of Radio
Facilities
67X0204

This deferral is consistent with a recent GAO report recommending that USIA delay construction projects for Voice of America until a comprehensive long-range modernization plan can be developed. An agency official said that such a plan is expected to be completed in December 1983.

