



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

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May 6, 1982

B-205053



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

On February 5, 1982, the President's eighth special message for fiscal year 1982 was transmitted to the Congress pursuant to the Impoundment Control Act of 1974. The special message proposed 22 rescissions of budget authority totalling \$10,655 million, 14 new deferrals totalling \$2,334 million, and revisions to seven previously reported deferrals which increase the amounts deferred by \$768 million. On February 19, 1982, the President submitted his ninth special message for fiscal year 1982, reporting a \$2 million reduction in the amount proposed for rescission in rescission proposal R82-23 (Mine Safety and Health Administration). In his eleventh special message for fiscal year 1982, dated April 23, 1982, the President reduced by \$3.4 billion the amount proposed for rescission in rescission proposal R82-21 (subsidized housing programs).

The 45-day period during which the funds proposed for rescission could be withheld pending congressional consideration of a rescission bill ended on Friday, April 23, 1982, without Congress having passed any such bill. The withheld funds were released by OMB on Monday, April 26, 1982.

In our report to Congress dated March 10, 1982, we explained in detail our interpretation of section 1001(4) of the Impoundment Control Act, 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, our analysis requires examination of the statutory scheme involved for evidence of a congressional mandate to spend the funds appropriated for the particular program. In the following report, we identify the rescission proposals submitted in the eighth and ninth special messages which involve mandatory spending programs under our analysis of section 1001(4). In our view, the Impoundment Control Act does not authorize impoundments of funds for these programs.

FUNDS APPROPRIATED TO THE PRESIDENT

R82-4      International Development Assistance  
            Functional Development Assistance Program  
            Food and Nutrition  
            Education & Human Resources  
            11X1023  
            11X1025

GAO/CGC-82-11

022141

R82-5 International Development Assistance  
Sahel Development Program  
11X1012

DEPARTMENT OF AGRICULTURE

R82-6 Extension Service  
1220502

DEPARTMENT OF COMMERCE

R82-7 National Oceanic and Atmospheric Administration  
Coastal Zone Management  
13X1451

R82-8 National Oceanic and Atmospheric Administration  
Coastal Energy Impact Fund  
13X4315

DEPARTMENT OF EDUCATION

R82-9 Office of Elementary and Secondary Education  
Compensatory Education for the Disadvantaged  
91209  
912/30900

The following programs in which funds were proposed for rescission involve a mandatory spending statute under our analysis of the fourth disclaimer: education for the disadvantaged, Title I, Elementary and Secondary Education Act, 20 U.S.C. §§2802, 2832, 2841, 2843, 2851 (general provisions); §2711(a) (basic grants); §2721(a), (b) (special incentive grants); §2722(b) (grants to areas with concentration of low-income families); §2761 (migrant children); §2711 (handicapped children); §2781 (neglected and delinquent children).

Program officials informed us that fiscal year 1982 grants for programs for compensatory education for disadvantaged students for the 1982-1983 school year are scheduled to be made beginning in July 1982. They also told us that grants to colleges for education services to migrant workers were to be made beginning in April 1982.

R82-10 Office of Elementary and Secondary Education  
Special Programs and Populations  
9121000  
912/31000

The following programs in which funds were proposed for rescission involve a mandatory spending statute under our analysis of the fourth disclaimer: Career Education Incentive Act, (grants) 20 U.S.C. §§2604-2608; Education Amendments of 1978 (territorial teacher training assistance), 92 Stat. 2379.

An agency official in the Women's Educational Equity (WEE) program told us that the development and dissemination of curriculum and training materials probably would not be done by the States because of the expense involved. The official also said that the rescission would eliminate funding for higher education and community-based WEE activities; 20 new grants; 20 continuation grants; five contractor-operated demonstration projects in five school districts; and the contractor-operated WEE publication center.

With regard to the Follow Through program, an official told us that the rescission would eliminate funding for over 37,000 children, 1200 teachers, 1800 aides (primarily low-income parents of children in the program) and 105 administrators in 84 projects in 37 states. In addition, programs at 16 institutions of higher education would not be funded. A current GAO review has raised questions about the continued value of the Follow Through program. The program was established to assist graduates of Head Start and similar preschool programs to sustain the gains achieved under these programs. However, there are indications of improvements in the effectiveness of the Head Start program and Head Start graduates who need assistance are eligible to obtain it through other programs available for educationally disadvantaged children.

An official for the Career Education program told us that the proposed rescission would eliminate funding for three contracts totalling \$480,000, and for 12 positions in the Department of Education and up to 49 State coordinators.

R82-11      Office of Elementary and Secondary Education  
              Indian Education  
              9120101

The following program in which funds were proposed for rescission involves a mandatory spending statute under our analysis of the fourth disclaimer: Indian Education Act, Part A (impact aid), 20 U.S.C. §§241aa-241ff.

R82-12      Office of Special Education and Rehabilitative  
              Services  
              Education for the Handicapped  
              9120300  
              912/30300  
              911/20300

The following program in which funds were proposed for rescission involves a mandatory spending statute under our analysis of the fourth disclaimer: Education of the Handicapped Act (section 611 grants), 20 U.S.C. §§1411(a), (g); 1413, 1416, 1420.

R82-13 Office of Special Education and Rehabilitative Services  
Rehabilitation Services and Handicapped Research  
9120301  
91X0301

The following program in which funds were proposed for rescission involves a mandatory spending statute under our analysis of the fourth disclaimer: Rehabilitation Act of 1973, section 100(b)(1) (grants), 29 U.S.C. §720(b)(1), 721, 730, 731.

R82-14 Office of Vocational and Adult Education  
Vocational and Adult Education  
912/30400  
911/20400  
91X0400

The following programs in which funds were proposed for rescission involve a mandatory spending statute under our analysis of the fourth disclaimer: Vocational Education Act (basic grants), 20 U.S.C. §§2303, 2307-2309, 2311; Adult Education Act (grants), 20 U.S.C. §§1204-1207.

An agency budget official told us that the \$11/\$1 matching ratio relied on in the estimated effects section is a generalized ratio and does not reflect funding pattern differences among the states or the three programs involved in this rescission proposal. For example, the Vocational Education Program Improvement and Supportive Services program had a 4/1 State match, while the Adult Education Grant to States had a 41%/59% ratio. The impact of the rescission thus might vary depending on the amount and type of State funding.

R82-15 Office of Postsecondary Education  
Student Financial Assistance  
912/30200  
911/20200

The following programs in which funds were proposed for rescission involve a mandatory spending statute under our analysis of the fourth disclaimer: Pell grants, 20 U.S.C. §1070a; State student incentive grants, 20 U.S.C. §1070c-1 - 1070c-3; college work-study 42 U.S.C. §§2752, 2753.

With regard to the State Student Incentive Grant program, agency officials told us that the current full funding level would support 295,000 awards, not 307,000 as stated in the special message.

Program officials also said that it is difficult to estimate the exact effect of the proposed rescission because the average award amount is subject to change and the schools may use up to 15 percent of their allocation for job location programs and administrative expenses. However, the officials said that the rescission proposed for the college work-study program probably would reduce the number of grants by more than 70,000. The officials told us that the estimated reduction of 70,000 awards apparently was calculated on the basis of an average award of \$600, without considering the fact that Federal funds account for only 80 percent of each award. If the calculation is revised to consider the non-Federal matching share, the proposed rescission of \$44 million would eliminate approximately 90,000 awards.

R82-16      Office of Postsecondary Education  
             Higher and Continuing Education  
             9120201  
             91X0201

The following programs in which funds were proposed for rescission involve a mandatory spending statute under our analysis of the fourth disclaimer: public service fellowships, 20 U.S.C. §§1134d-1134g; aid to land-grant colleges, 7 U.S.C. §§321-329.

R82-17      Office of Educational Research and Improvement  
             Libraries  
             9120104

The following program in which funds were proposed for rescission involves a mandatory spending statute under our analysis of the fourth disclaimer: Library Services and Construction Act (grants), 20 U.S.C. §§351c-351e.

According to program officials, \$12.7 million under Title I, LSCA (public library services) and \$3.2 million under Title III, LSCA (inter-library cooperation) has been expended to date from fiscal year 1982 funds. No fiscal year 1982 funds have been expended for the other two programs proposed for rescission (college library resources and research libraries).

R82-18 Departmental Management  
Educational, Research and Training Activities  
Overseas (Special foreign currency program)  
91X0802

R82-19 Office of Bilingual Education and Minority  
Languages Affairs  
Bilingual Education  
9121300  
912/31300

We were informed that, as of December 31, 1981, \$1.9 million in fiscal year 1982 funds had been obligated for programs under Title VII of the Elementary and Secondary Education Act, but no funds had been obligated under part B, subpart 3 of the Vocational Education Act.

DEPARTMENT OF ENERGY

R82-20 Energy Programs  
Energy Conservation  
89X0215

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

R82-21 Housing Programs  
Subsidized Housing Programs  
86X0139

According to agency officials, HUD intended to cancel subsidy commitments on an estimated 39,000 units of Section 8 housing in 1982, primarily because of a lack of available financing. Together with cancellation of an estimated 20,000 units of public housing, these cancellations would support the proposed rescission of approximately \$9.4 billion in budget authority for the fiscal year 1982 annual contribution.

In his eleventh special message for fiscal year 1982, the President reduced the amount proposed for rescission in this account by \$3.4 billion (R82-21A). The special message states that the reduction reflects the decision to increase financing for 70,000 Section 8 housing units.

R82-22 Solar Energy and Energy Conservation Bank  
Assistance for Solar and Conservation  
Improvements  
862/30179

This account was the subject of a deferral (D82-184) submitted in the President's fourth special message for fiscal year 1982, dated October 29, 1981. In our report on the fourth special message, we stated our view that the withholding was unauthorized under section 1001(4) of the Impoundment Control Act. Our conclusion applies with equal force to the recent withholding of funds.

The Solar Energy and Energy Conservation Bank was established under Title V of the Energy Security Act, Pub. L. No. 96-294, 94 Stat. 734 (1980), 12 U.S.C. §§3601 et seq. It is our position that the Impoundment Control Act is not available as authority to withhold the percentage of the amounts appropriated for the Bank which is required to be allotted under 12 U.S.C. §§3614 and 3615.

DEPARTMENT OF LABOR

R82-23      Mine Safety and Health Administration  
&23A        Salaries and Expenses  
             1621200

As noted in the special message, Pub. L. No. 97-92 prohibits the use of appropriated funds for certain activities by the Mine Safety and Health Administration. The amount originally proposed for rescission (\$4.095 million) represents the agency's estimate of its budget resources applicable to the prohibited activities. In his special message dated February 19, 1982, the President reduced the amount proposed for rescission to \$2.095 million (R82-23A). The President stated that the additional \$2 million will be used to strengthen the agency's coal mine inspection efforts. The President also announced that he will increase his fiscal year 1983 budget request for MSHA by \$15 million.

A current GAO survey of MSHA's coal mine inspection activities has shown that during fiscal year 1981, MSHA did not perform all the coal mine inspections required by the 1977 Federal Mine Safety and Health Act. In addition, the President's current fiscal year 1983 budget request estimates that 12 percent fewer coal mine inspections will be performed in fiscal year 1982 than in the previous year.

DEPARTMENT OF TRANSPORTATION

R82-24      Federal Highway Administration  
             Highway-Related Safety Grants  
             69X8019

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

R82-25 Institute of Museum Services  
Program Operations

FUNDS APPROPRIATED TO THE PRESIDENT

D82-1B Appalachian Regional Development Programs  
11X0090

D82-222 International Security Assistance  
Foreign Military Sales Credit  
1121082

We were advised that the amount deferred is comprised of proposed loans to Egypt and Israel.

D82-223 International Security Assistance  
Military Assistance  
1121080

DEPARTMENT OF AGRICULTURE

D82-224 Farmers Home Administration  
Rural Housing for Domestic Farm Labor  
12X2004

DEPARTMENT OF COMMERCE

D82-225 Bureau of the Census  
Periodic censuses and programs  
13X0450

We were advised that, of the three activities discussed in the estimated effects section, only the special area sample actually will be affected in fiscal year 1982. Specifically, the deferral represents a reduction of \$1 million for the special area sample and \$15,000 for publicity. The other two activities, follow-up surveys and data collection for the outlying areas, are not scheduled to be funded until fiscal year 1983.

Although the deferral does not currently affect data collection for the outlying areas, the President's fiscal year 1983 budget request indicates that the 1983 agricultural census for the outlying areas will not be conducted. Under 13 U.S.C. §191, however, all censuses must include the outlying areas (Guam, Virgin Islands, Puerto Rico, Northern Mariana Islands).

In addition, under 13 U.S.C. §142, an agricultural census must be conducted every 5 years, based on data collected from the previous year. The next scheduled year for the agricultural census is 1983. Thus we question whether there is authority to forego the agricultural census for the outlying areas.

D82-226     Minority Business Development Agency  
            Minority business development  
            13X0201

DEPARTMENT OF DEFENSE

D82-6B     Military Construction  
            212/62050

D82-227     Shipbuilding and Conversion, Navy  
            172/61611

DEPARTMENT OF ENERGY

D82-228     Energy Programs  
            Energy supply research and development  
            activities, Operating expenses  
            89X0224

D82-10A     Energy Programs  
            Strategic Petroleum Reserve  
            89X0218

Part of the deferral (\$8 million) represents a reserve to cover any unanticipated costs associated with the development of Phase II SPR facilities. These funds previously had been deferred in fiscal year 1981 (deferral D81-83). According to an agency official, DOE plans to submit a plan to OMB to use the funds for Phase II site development costs.

The remainder of the deferral (\$52,860,000) represents funds for land acquisition and long-lead procurement for the Phase III site at Big Hill, Texas. Deferring these funds will delay site construction for the project, originally scheduled for fiscal year 1983, until fiscal year 1984.

The Big Hill site is scheduled to store 140 million barrels of the 750 million barrels currently planned for the SPR. By deferring development of the Big Hill site, the schedule for filling the SPR will be delayed from 1989 to 1990. According to the President's fiscal year 1983 budget request, the deferral will reduce the average daily fill rate for 1988 from 162,000 to 68,000 barrels. Under section 801(a) of the Energy

Security Act, Pub. L. No. 96-294, 94 Stat. 775, the President is required to undertake to assure an average daily fill rate of 100,000 barrels for the SPR. The current deferral, by reducing the daily fill rate to 68,000 barrels in 1988, will result in failure to comply with the statutory requirements, unless alternate storage capacity is provided to accommodate the required fill rate of 100,000 barrels.

The following chart shows the reduction in the fill schedule by comparing the agency's July 1981 expansion schedule with the fiscal year 1983 budget request:

|                               | <u>1986</u> | <u>1987</u> | <u>1988</u> | <u>1989</u> | <u>1990</u> |
|-------------------------------|-------------|-------------|-------------|-------------|-------------|
| July 1981 Schedule<br>(MMBBL) | 538         | 611         | 670         | 750         | --          |
| Daily Fill Rate (MBBL)        | 225         | 200         | 162         | 219         | --          |
| FY 1983 Budget (MMBBL)        | 538         | 598         | 623         | 670         | 750         |
| Daily Fill Rate (MBBL)        | 225         | 164         | 68          | 129         | 219         |

#### DEPARTMENT OF THE INTERIOR

D82-14A Heritage Conservation and Recreation Service  
Land and Water Conservation Fund  
14X5005

D82-16A Bureau of Mines  
Drainage of Anthracite Mines  
14X0956

Deferral D82-16, which was reported in the President's first special message for fiscal year 1982, proposed to defer for the entire fiscal year the unobligated balance of a no-year appropriation for matching grants to the Commonwealth of Pennsylvania relating to drainage of anthracite mines. This deferral was based on the expectation that Pennsylvania would not provide further funds for matching during fiscal year 1982. The supplementary report D82-16A states that most of the deferral amount is now being proposed for transfer to the Bureau of Mines' "mines and minerals" account in order to help offset supplemental requirements in that account.

In a later report to Congress, we will discuss the proper classification of withholdings of funds pending congressional consideration of requests to transfer the funds to other accounts, an issue raised in this deferral and in deferral D82-229.

DEPARTMENT OF JUSTICE

D82-17A Federal Prison System  
Buildings and Facilities  
15X1003

DEPARTMENT OF LABOR

D82-229 Employment and Training Administration  
Employment and training assistance  
161/20174  
1620174

The justification section states that some of the funds covered by the deferral are proposed for transfer to other accounts. According to agency budget officials, the following disposition is proposed for the deferred funds:

|  |                     |
|--|---------------------|
| Transfer to other DOL agencies to meet operational needs | \$19,781,000        |
| Defray cost of October 1981 pay increases                | \$21,681,000        |
| Under review as to disposition                           | <u>\$47,081,309</u> |
|  | \$88,543,309        |

The Budget Appendix for fiscal year 1983, pp. III-28 through 30, confirms that \$19,781,000 is proposed for transfer to other Department of Labor accounts.

DEPARTMENT OF STATE

D82-230 United States bilateral science and technology agreements  
19X1151

DEPARTMENT OF TRANSPORTATION

D82-231 Maritime Administration  
Ship Construction  
69X1708

DISTRICT OF COLUMBIA

D82-232 Loans to the District of Columbia for Capital Outlay  
20X0137

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

D82-25A Land Acquisition and Development Fund  
42X4084

SMALL BUSINESS ADMINISTRATION

D82-233 Business Loan and Investment Fund  
73X4154

D82-234 Surety Bond Guarantees Revolving Fund  
73X4156

UNITED STATES RAILWAY ASSOCIATION

D82-235 Payments for purchase of Conrail Securities  
98X0111



Acting Comptroller General  
of the United States