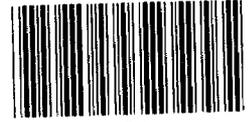


131718



Comptroller General
of the United States

Washington, D.C. 20548



131718

B-224882

November 13, 1986

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

On September 26, 1986, the President's first special message for fiscal year 1987 was submitted to the Congress pursuant to the Impoundment Control Act of 1974. Enclosure I provides all information we identified which we believe will be useful to the Congress in its examination of the message. Enclosure II is a copy of the President's listing of all impoundments reported in the first message.

We have reviewed the impoundments reported in the message, and found them to be in accordance with existing authority. In this connection, the United States District Court for the District of Columbia has held unconstitutional the President's authority under section 1013 of the Impoundment Control Act to defer budget authority. New Haven v. United States, No. 86-0455 (D.D.C. May 16, 1986). The district court ordered that section 1013 be set aside in its entirety but excepted from this decision the deferral authority stemming from the Anti-Deficiency Act (as amended by the Impoundment Control Act). The court stayed its decision pending appeal. Oral arguments on appeal were heard on November 12.

Pursuant to the stay, we are treating the deferral authority in section 1013 as fully lawful. In any event, the basis for all the impoundments in this first message of fiscal year 1987 is the Anti-Deficiency Act which, as noted above, is not called into question by the New Haven decision.

for Milton J. Fowler
Comptroller General
of the United States

Enclosures

GAO/OGC-87-1

037519

COMMENTS ON THE FIRST SPECIAL MESSAGEDEPARTMENT OF DEFENSE - MILITARY

D87-6 Military Construction
 Military construction,
 Defense Agencies
 Amount deferred: \$2,350,000
 974/80500

Although the President's message reports that this deferral resulted from administrative delays, an agency official indicated to us that this budget authority is deferred to establish a reserve for contingencies. Either reason, however, is a lawful justification for deferring this budget authority.

D87-7 Family Housing, Defense
 Family housing, Air Force
 Amount deferred: \$76,943,000
 576/00704 575/90704

The latest apportionment schedules for this account, dated October 10, 1986, show that \$65,143,000 of the deferred amount has been released for obligation; \$11,800,000 remains deferred.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

D87-11 Office of Assistant Secretary
 for Health
 Scientific Activities Overseas
 (special foreign currency program)
 Amount deferred: \$2,900,000
 75X1102

The message for this deferral includes a typographical error. The \$2.9 million deferred is expected to be excess in 1987, not 1986, as the second sentence of the justification reports.

ENCLOSURE I

ENCLOSURE I

COMMISSION ON THE UKRAINE FAMINE

D87-18 Salaries and Expenses
 Amount deferred: \$100,000
 48X0050

According to an OMB official, the message is in error, and should show total budgetary resources of \$300,000, instead of \$100,000.

CONTENTS OF SPECIAL MESSAGE
as reported by the President
(in thousands of dollars)

<u>DEFERRAL NO.</u>	<u>ITEM</u>	<u>BUDGET AUTHORITY</u>
	Funds Appropriated to the President:	
	International Security Assistance:	
087-1	Economic support fund.....	95,000
	Department of Agriculture:	
	Forest Service:	
087-2	Expenses, brush disposal.....	111,202
087-3	Timber salvage sales.....	29,731
087-4	Cooperative work.....	526,938
087-5	Gifts, donations and bequests for forest and rangeland research.....	200
	Department of Defense - Military:	
	Military Construction:	
087-6	Military construction, Defense.....	2,350
	Family Housing:	
087-7	Family housing, Defense.....	76,943
	Department of Defense - Civil:	
	Wildlife Conservation, Military Reservations:	
087-8	Wildlife conservation, Defense.....	1,065
	Department of Energy:	
	Power Marketing Administration:	
087-9	Alaska Power Administration, Operation and maintenance.....	165
087-10	Southwestern Power Administration, Operation and maintenance.....	7,554
	Department of Health and Human Services:	
	Office of Assistant Secretary for Health:	
087-11	Scientific activities overseas (special foreign currency program).....	2,900
	Social Security Administration:	
087-12	Limitation on administrative expenses (construction).....	7,073
	Department of Justice:	
	Office of Justice Programs:	
087-13	Crime victims fund.....	70,000
	Department of State:	
	Bureau for Refugee Programs:	
087-14	United States emergency refugee and migration assistance fund.....	6,100

	Other:	
087-15	Assistance for implementation of a Contadora agreement.....	2,000
	Department of Transportation:	
	Federal Aviation Administration:	
087-16	Facilities and equipment (Airport and airway trust fund).....	803,877
	Department of the Treasury:	
	Office of Revenue Sharing:	
087-17	Local government fiscal assistance trust fund.....	74,149
087-21	Local government fiscal assistance trust fund.....	5,981
	Other Independent Agencies:	
	Commission on the Ukraine Famine:	
087-18	Salaries and expenses.....	100
	Federal Inspector for the Alaska Gas Pipeline:	
087-19	Permitting and enforcement.....	411
	Pennsylvania Avenue Development Corporation:	
087-20	Land acquisition and development fund.....	11,873
	Total; deferrals.....	1,835,613