

14869  
GGM



**DECISION**

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

*[Foreign Assistance Loan Funds Appropriated by Continuing Resolution]*

FILE: B-199966

DATE: September 10, 1980

MATTER OF: Period of Availability of Foreign Assistance Loan Funds Appropriated by Fiscal Year 1980 Continuing Resolution

- DIGEST:
1. Funds appropriated for development assistance loans by fiscal year 1980 continuing resolution remain available for obligation through September 30, 1981. Specific designation in House bill, incorporated by reference in continuing resolution, of two year period of availability of loan funds is exception to general provision in resolution that all funds appropriated thereby are available for only one year.
  2. Funds appropriated for foreign assistance for fiscal year 1980 by continuing resolution are subject to limitation that no more than 15 percent of amount of appropriation may be obligated or reserved during the last month of availability.

The General Counsel of the Agency for International Development has requested our opinion on two questions arising under the "Joint Resolution Making further continuing appropriations for the fiscal year 1980, and for other purposes," Public Law 96-123, 93 Stat. 923 (continuing resolution). First he asks whether funds appropriated for foreign economic assistance loans are available beyond the end of fiscal year 1980. Second, he asks whether the limitation on the percentage of an appropriation which can be obligated in the final month of availability, contained in the fiscal year 1979 appropriation act for foreign assistance (as well as in the House-passed foreign assistance appropriations act for fiscal year 1980), applies to funds appropriated by the current continuing resolution.

For the reasons indicated below, we conclude (1) that foreign assistance loan funds appropriated by the continuing resolution are available until September 30, 1981; and (2) that the limit on final month obligations applies to foreign assistance funds appropriated for fiscal year 1980 by the continuing resolution.

Question 1

Section 101(a) of the continuing resolution appropriates:

"(1) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution)

~~02009~~ - 113283

which were conducted in the fiscal year 1979 and for which appropriations, funds or other authority would be available in the following appropriation Acts:

"Foreign Assistance and Related Programs Appropriations Act, 1980 \*\*\*."

This appropriation is further defined as follows:

"(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act \*\*\*.

\* \* \* \* \*

"(4) Whenever an Act listed in this subsection has been passed by only one House as of October 1, 1979, or where an item is included in only one version of an Act as passed by both Houses as of October 1, 1979, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979 \*\*\*."

The Foreign Assistance and Related Programs Appropriation Act, 1980, H.R. 4473, 96th Congress, was passed by the House of Representatives on September 6, 1979. It was not passed by the Senate prior to October 1, 1979.

Title II of H.R. 4473, as it passed the House, contained appropriations of funds for development assistance under sections 103, 104(b), 104(c), 105, and 106 of the Foreign Assistance Act of 1961, as amended. Each of the appropriations contained the following proviso:

"Provided, That the amounts provided for loans to carry out the purposes of this paragraph shall remain available for obligation until September 30, 1981."

Thus, under H.R. 4473, funds appropriated for development assistance loans were to be available for two years--fiscal years 1980 and 1981.

The two-year period of availability of development assistance loan funds was incorporated into the continuing resolution either under paragraph 101(a)(2) ("to the extent and in the manner which would be provided by the pertinent appropriation act"), or under paragraph 101(a)(4) ("the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the action of the one House").

On the other hand, section 102 of the continuing resolution provides:

"Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from November 20, 1979, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) September 30, 1980, whichever first occurs."

There is thus a contradiction, concerning the period of availability of these funds, between the provisions incorporated by section 101(a) and section 102 of the continuing resolution. Under section 101(a), funds appropriated for development assistance loans are to be available until September 30, 1981. Under section 102, however, all funds appropriated by the continuing resolution are to be available only until September 30, 1980.

We have long followed the principle of statutory construction that, when there is a seeming conflict between a general statutory provision and a specific statutory provision, and the general provision is broad enough to include the subject matter to which the specific provision relates, the specific provision will be considered an exception to the general provision. See, e.g., B-194063, May 4, 1979; B-163375, September 2, 1971. In this way, we can give effect to both provisions.

In the present situation, section 102 of the continuing resolution applies to all the appropriations, funds, and authority made available or granted by it. The provision of H.R. 4473, incorporated into the resolution by section 101(a), applies only to funds appropriated for development assistance loans. Thus, section 102 is the general provision, and the provision under section 101(a) is the specific provision. Under the rule of statutory constructions set forth above, it follows that funds appropriated by the continuing resolution are generally available only until September 30, 1980, except for funds appropriated by title II of H.R. 4473 for development assistance loans which are specifically made available until September 30, 1981.

Question 2

Section 502 of H.R. 4473, as it passed the House of Representatives, provides:

"Except for the appropriations entitled 'International disaster assistance' and 'United States emergency refugee and migration assistance fund', not more than 15 per centum of any appropriation item made available by this Act for fiscal year 1980 shall be obligated or reserved during the last month of availability."

A similar provision, applying to funds appropriated for fiscal year 1979 was contained in section 102 of the Foreign Assistance and Related Programs Appropriation Act, 1979, Pub. L. No. 95-481, 92 Stat. 1595.

The General Counsel specifically asks whether the limitation contained in the fiscal year 1979 appropriations act applies to funds appropriated by the fiscal year 1980 continuing resolution. His question arises because of the portion of section 101(a)(4) of the resolution which provides that projects in an appropriations act which has passed only one House of the Congress shall be continued "\*\*\* under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1979."

We do not consider it necessary to answer the General Counsel's question as phrased, because it is our opinion that the 15 percent last-month spending limitation contained in H.R. 4473 applies to foreign assistance funds appropriated for fiscal year 1980 by the continuing resolution.

Paragraph (4) of section 101(a) of the continuing resolution contains two instructions for determining the appropriation for projects contained in an act which has passed only one House of the Congress. First, it states that these projects shall be continued

"under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower\*\*\*."

Second, as quoted above, it provides that the project shall be continued under the authority and conditions contained in the act appropriating funds for the same program for fiscal year 1979.

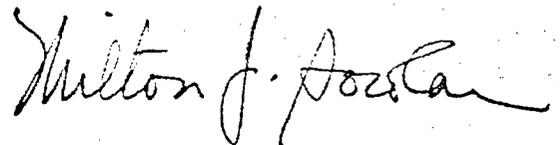
We interpret these two instructions as applying to two different types of provisions, which may be contained in appropriations acts. The first applies to fiscal provisions; that is, provisions relating to the amount of the appropriation and its period of availability. The second applies to program provisions; that is, provisions controlling the purposes for which the appropriation is, or is not, available.

Under our interpretation, we look at the fiscal year 1980 appropriations act as it passed the one House to determine the fiscal provisions of the appropriation. We look to the corresponding fiscal year 1979 appropriations act to determine the program provisions applicable to the appropriation.

A limitation on the percentage of an appropriation that may be obligated or reserved during any particular time period is a limitation on the period of availability of the appropriation, and therefore a fiscal provision.

Under our interpretation of section 101(a)(4) of the continuing resolution, fiscal provisions contained in H.R. 4473 are incorporated into the resolution. Thus the 15 percent last-month obligation limitation contained in H.R. 4473 applies to funds appropriated by the resolution.

We conclude that, with the exceptions contained in section 502 of H.R. 4473, not more than 15 percent of the foreign assistance and related programs funds appropriated by the continuing resolution can be obligated or reserved during the last month of availability. For funds appropriated for a period of one-year, the last month of availability is September 1980. For 2-year funds, like the development assistance loans funds, the last month of availability is September 1981.



For the Comptroller General  
of the United States