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DEFERRALS OF BUDGET AUTHORITY

COMMUNICATION

FROM

THE COMPTROLLER GENERAL, THE GENERAL ACCOUNTING OFFICE

TRANSMITTING

A REPORT OF DEFERRALS OF BUDGET AUTHORITY, PURSUANT TO 2 U.S.C. 685

SEPTEMBER 24, 2002.—Referred to the Committee on Appropriations and ordered to be printed

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COMPTROLLER GENERAL OF THE UNITED STATES,
GENERAL ACCOUNTING OFFICE,
Washington, DC, September 4, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On May 3, 2002, the President submitted to the Congress his first special impoundment message for fiscal year 2002. The message reports two deferrals of budget authority. On May 31, 2002, the Office of Management and Budget reappointed the budget authority withheld under these two deferrals and withdrew the deferrals after concluding that the funds do not meet the definition for deferrals contained in the Impoundment Control Act, 2 U.S.C. §§ 681–688, as amended. Therefore, as of June 1, 2002, no funds are being deferred.

Under 2 U.S.C. § 685(b), the General Accounting Office is required to review each special impoundment message and inform the Congress of the facts surrounding each proposed deferral of budget authority and whether or not such proposed deferrals are in accordance with existing statutory authority. After reviewing the relevant documents, our Office has no objection to the withdrawal of the deferrals.

Under the Impoundment Control Act deferrals are permissible only (1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law. 2 U.S.C. § 684(b). No officer or employee of the United States may defer any budget authority for any other purpose. Id. However, our decisions distinguish between programmatic withholdings outside of the reach of the Impoundment Control Act and withholdings of budget authority that qualify as impoundments subject to the Act's requirements. Programmatic delays typically occur when an agency is taking necessary steps to implement a program even if funds temporarily go unobligated. See B–171630, May 10, 1976 (delay of grant awards pending issuance of implementing regulations is a programmatic delay). Thus, the Act does not apply to a delay in obligating funds due to program-related factors. B–290659, July 24, 2002; B–207374, July 20, 1982; B–205053, May 17, 1982.

The budget authority for the first submitted deferral of United States Emergency Refugee and Migration Assistance funds was being withheld pending a determination of the President to provide emergency assistance and designating the refugees to be assisted by the fund. The budget authority for the second submitted deferral for International Assistance Programs was being withheld pending the development of country-specific plans that assure that aid is provided in an efficient manner. The delays associated with obligating these funds are more akin to programmatic delays than

to impoundments, and OMB need not have reported the funds as deferred. Thus, we do not object to the withdrawal of the two previously reported deferrals.

We also want to point out that OMB is required to send the Congress a supplementary message if anything contained in any special message is subsequently revised. 2 U.S.C. § 685. As mentioned above, OMB used its cumulative report to the Congress to advise that it had reapportioned the two previously reported fiscal year 2002 deferrals and removed the deferral designations. OMB explained that based on a recent analysis, the funds did not meet the definition for deferrals contained in the Impoundment Control Act. Although the cumulative report may serve as an effective vehicle to report subsequent revisions to previously submitted impoundments, we believe the narrative in the cumulative report could have been improved by additional detail explaining why the deferrals were withdrawn. Since the President has been routinely reporting the deferrals in these accounts since the 1970's, a more detailed explanation would have been helpful to the Congress to understand why the long-reported deferrals no longer met the definition for deferrals contained in the Impoundment Control Act. See Emergency Refugee and Migration Assistance Fund deferral number D80–18 (October 1, 1979) and International Assistance Programs deferral number D80–1 (October 1, 1979).

In sum, our Office has no objection to the withdrawal of the deferrals. However, a more detailed explanation would have been helpful to understand OMB's rationale for withdrawing the previously submitted deferrals.

Sincerely yours,

DAVID M. WALKER.

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