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

November 4, 1975



B-115398

*[Deferrals Submitted to Congress Pursuant to the  
Impoundment Control Act  
of 1974]*

Speaker of the House  
President of the Senate

We were furnished copies of deferrals which the President submitted to the Congress on September 24 in his fourth special message for fiscal year 1976 pursuant to the Impoundment Control Act of 1974. The special message transmits three new deferrals. The President estimates that the impoundments will reduce fiscal year 1976 outlays by \$16.2 billion. Enclosure I summarizes, by agency, the total budget authority and FY 1976 outlay reductions involved in the message.

The Impoundment Control Act requires us to review each message and report promptly to the House and Senate as to the facts surrounding each action, including the probable effect thereof, and in the case of deferrals, to render a judgment as to whether the action is in accordance with existing legal authority. Enclosure II contains our comments on each impoundment transmitted by the President's September 24 special message.

One of the proposed deferrals, D76-55, is a deferral of budget authority that was the subject of a prior proposed rescission special message (R76-1) which was rejected by Congress therefore requiring the funds to be released. (See our letter B-115398 dated July 17, 1975.) This proposed deferral could result in at least \$10 million of the budget authority lapsing on June 30, 1976; in effect allowing the Executive Branch to rescind budget authority without the consent of the Congress as a whole.

We believe the Act does not provide authority in this particular case for the President to submit a deferral message following rejection by the Congress of a rescission proposal for the same funds, but since the deferral is offered in response to the express wishes of the Appropriations Committees of the Congress, we plan no action pending further congressional actions.

Sincerely yours,

*R. F. Kottman*  
Acting Comptroller General  
of the United States

Enclosures

**BEST DOCUMENT AVAILABLE**

ACG-76-7

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## BEST DOCUMENT AVAILABLE

BUDGET AUTHORITY AND OUTLAY REDUCTIONS CONTAINED IN NEW  
 DEFERRALS TRANSMITTED WITH THE PRESIDENT'S  
 FOURTH FY 76 SPECIAL MESSAGE  
 SEPTEMBER 24, 1975

<u>Deferrals</u>	<u>Budget Authority</u>	<u>Outlay Reduc-</u> <u>tions FY 76</u>
	(dollars in thousands)	
1 Dept. of Health, Education, and Welfare	\$ 14,910	\$ 0
2 Dept. of Transportation	90,000 <sup>a</sup>	16,200 <sup>a</sup>
3 National Commission on Productivity and Work Quality	<u>1,500</u>	<u>0</u>
	<u>\$106,410</u>	<u>\$16,200</u>

<sup>a</sup>These amounts were included in a prior message as a rescission.

COMMENTS ON THE FOURTH FY 1976 SPECIAL MESSAGE  
TRANSMITTED BY THE PRESIDENT ON SEPTEMBER 24, 1975  
PURSUANT TO THE IMPOUNDMENT CONTROL ACT OF 1974

DEPARTMENT OF TRANSPORTATION

D76-55     Federal Highway Administration  
National Scenic and Recreation Highway  
69X0544 and Trust Fund Share of Other  
Highway Programs 69X8009

This deferral involves budget authority upon which a proposed rescission (R76-1) was submitted to and rejected by the Congress. Because of its unusual nature, we have set forth the series of events leading up to this proposed deferral.

Public Law 93-87, "Federal-Aid Highway Act of 1974," required the construction of a national scenic and recreational highway, better known as the Great River Road, by the ten States bordering the Mississippi River. The law authorized a total of \$90 million for that purpose through FY 1976; \$30 million from general funds and \$60 million from the Highway Trust Fund. These amounts were subsequently appropriated.

The President, in his second FY 75 special message, proposed a deferral (D75-71) of the total \$90 million for the Great River Road until a formula for apportionment of funds to the States could be developed. The deferral remained in effect until June 30, 1975--the end of the fiscal year.

The President's first special message for fiscal year 1976, dated July 1, 1975, proposed a rescission (R76-1) for the \$90 million appropriated to build the Great River Road. The justifications for the rescission were

the estimated Federal cost of the program--\$1.17 billion--was 12 times as much as authorized, and the program would not produce benefits commensurate with its costs.

Section 1012(b) of the Impoundment Control Act states that unless both Houses of Congress complete action on a rescission bill within 45 days (of continuous session) of receipt of the message, the budget authority for which the rescission was requested must be made available for obligation. The prescribed 45-day period for the Great River Road rescission expired on September 22, 1975, without Congress completing action on a rescission bill. Therefore, under the Act, the funds were required to be released.

However, a House Appropriation Committee report (H.R. 94-491) accompanying the first FY 76 rescission bill, included a statement that recommended disapproval of the proposed Great River Road rescission, but stated that more information was needed with respect to this road and stated in the report that it would be receptive to a deferral of the funds until specific plans were developed and additional testimony received. The House debated the subject and voted out a rescission bill that did not include the Great River Road budget authority. The Senate also passed the rescission bill by unanimous consent without debate. The Senate Appropriations Committee Report (Report 94-403) accompanying the rescission bill concurred with the House as to the need for more information and the proposed deferral. The Senate Committee on the Budget, however, in the same report stated that separate statutes outside the Impoundment Control Act would have to exist to allow further impoundment where the rescission statutory period lapses.

Proposed deferral D76-55 is for the \$90 million for the Great River Road budget authority, the rescission of which has been rejected by the Congress.

We have verified that the Federal Highway Administration (FHWA), in consultation with the ten States involved, is developing plans to reduce the scope and cost of the project. FHWA officials do not anticipate the specific plans and testimony will be completed before June 30, 1976. Of the \$90 million included in the deferral, \$20 million is scheduled to lapse on June 30, 1976. FHWA officials have indicated to us that while the States may obligate a portion of the \$20 million for preliminary engineering work prior to June 30, 1976, they estimate that at least \$10 million will lapse on June 30, 1976. If this takes place, it would result in a presidential rescission of at least \$10 million of budget authority.

We believe the Act does not provide authority in this particular case for the President to submit a deferral message following rejection by the Congress of a rescission proposal for the same funds, but since the deferral is offered in response to the express wishes of the Appropriations Committees of the Congress, we plan no action pending further congressional actions.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

D76-54     Social Security Administration  
          Limitation on Construction  
          75 X 8705

NATIONAL COMMISSION ON PRODUCTIVITY AND  
WORK QUALITY

D76-56     Salaries and Expenses, National  
          Commission on Productivity and  
          Work Quality 1161459

The information provided in the above messages is essentially correct and the actions taken are reasonably clear. With respect to

D76-56, the Commission was originally extended by P.L. 94-42 for a 90-day period which expired September 30. P.L. 94-100 extends the Commission to November 30, 1975.

D76-54 and D76-56 are in accordance with the authority conferred by the Antideficiency Act (31 U.S.C. 665). The authority exists until either House of the Congress passes a resolution disapproving the action or until the end of the current fiscal year.