



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

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MAY 5 1980

The Honorable Herbert E. Harris II
Chairman, Subcommittee on Human
Resources
Committee on Post Office and
Civil Service
House of Representatives

Legislation to Limit Year-end Spending

Dear Mr. Chairman:

You asked us to review and comment on two more versions of legislation which would establish limitations on year-end spending through the apportionment process--one is a proposed amendment to section 3 of H.R. 4717 developed by your staff (enclosure I) and the House Legislative Counsel and another is a separate "Year-End Spending Control Act of 1980" developed by the staff of the Office of Management and Budget (enclosure II).

The proposed amendment to section 3 is fully consistent with the intent of the proposal we made in testimony before the Subcommittee on Legislation and National Security, House Committee on Government Operations, on March 25, 1980, and discussed in testimony before the Subcommittee on Oversight of Government Management, Senate Committee on Governmental Affairs on May 1, 1980.

The proposed "Year-End Spending Act of 1980" deviates from our proposal in several important respects. We have not had time to assess the full implications for the technical aspects of the proposal but the areas of difference include:

- A focus on a narrow portion of Federal spending, primarily salaries, travel and contractual services, rather than the broader Government management perspective we believe is needed. This is done by exempting a very sizable amount of Federal activities from the limitation.
- Shifting the analysis of and reporting on deviations from the Office of Management and Budget to the heads of the departments and agencies. In our view the management problems in budget execution, procurement, and other processes that result in unplanned year-end spending require OMB's serious attention. Unfortunately, we have seen no evidence of their willingness to



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manage budget execution voluntarily and aggressively. Therefore, we believe the limitation should be used to assure that OMB, as well as the agencies, pay more attention to budget execution and do a better job of planning and managing it.

- Limiting the period of applicability to 2 years rather than the 3 years we proposed, raises the question whether the underlying management problems can be adequately defined and the needed improvements made in the central and agency budget execution, procurement and other processes in only 2 years. We believe 3 years is more realistic.
- The reporting is after the fact--90 days after the end of each fiscal year. There is no requirement to report on specific exemptions from the 20 percent limit (made under section 4 of the OMB draft) and the reasons for them. We believe that such reports are important in order to document problems encountered with the limitations and to give Congress a chance to react to specific exemption actions during the year if they desire.

We hope this will help you in considering these various approaches to the limitation on year-end spending. Also, I am sending a copy of this letter to the Chairman of the House Committee on Government Operations.

Sincerely,



Harry S. Havens
Assistant Comptroller General
for Program Evaluation

Enclosures - 2

cc: The Honorable Jack Brooks
Chairman, House Committee
on Government Operations

bc: Mr. Anderson (OP)
Mr. Socolar (OGC)
Mr. Myers (PAD)
Mr. Stolarow (PSAD)
Mr. Krieger (FPCD)
Mr. Hunter (PAD)
Mr. Wray (OGC)
Mr. Jenney (PAD)
Ms. Dyess (PAD)
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AMENDMENT TO H.R. 4717
AS REPORTED DECEMBER 20, 1979

Page 17 strike out line 14 and all that follows down through line 21 and insert in lieu thereof the following:

1 SEC. 3. Section 3679(c) of the Revised Statutes, as
2 amended (31 U.S.C. 665), is amended by adding at the end
3 thereof the following new paragraph:

4 "(5)(A) In exercising apportionment authority under
5 this section for the fiscal year ending September 30, 1981,
6 and each of the following two fiscal years, the Director of
7 the Office of Management and Budget shall insure that no
8 more than 20 percent of the total appropriations made
9 available for each agency for any such fiscal year may be
10 obligated during the last two calendar months of such fiscal
11 year. The Director may authorize a waiver for any agency
12 from the requirements under this subparagraph--

13 "(i) if and to the extent the Director determines
14 necessary to assure that a serious disruption in the
15 execution of any of the agency's programs or operations
16 would occur in the absence of such waiver, and

17 "(ii) if the Director has submitted a written
18 report on such waiver to the Congress as early as
19 practicable and before any obligation of appropriations
20 by the agency involved which exceeds the 20-percent

1 requirement in subparagraph (A).

2 "(B) The Director shall keep the Congress fully
3 informed of actions taken to carryout subparagraph (A) for
4 each fiscal year involved, and shall promptly report in
5 writing any situation in which an agency's obligations
6 exceed the 20-percent requirement in subparagraph (A) other
7 than pursuant to a waiver under subparagraph (A). Not later
8 than December 31, 1982, the Director shall submit a report
9 to the Congress on the results and impacts of this paragraph
10 and actions taken under this paragraph, including the
11 effects upon procurement and ~~ap~~ apportionment processes,
12 together with the Director's recommendations concerning the
13 continuation requirements under this paragraph for any
14 provisions of such requirements. Concurrent with the
15 submittal of the report to the Congress under the preceding
16 sentence, the Director shall submit a copy of such report to
17 the Comptroller General, who shall promptly review that
18 report and submit to the Congress an analysis of the report
19 and any recommendations which the Comptroller General
20 considers appropriate.

21 "(C) Any reserves established or other actions taken in
22 connection with the apportionment process solely for the
23 purpose of satisfying the requirements of subparagraph (A)
24 shall be exempt from the last sentence of subsection (c)(2)
25 of this section and from sections 1012(a) and 1013(a) of the

1 Impoundment Control Act of 1974. Nothing in this paragraph
2 shall be construed to affect the authority of the
3 Comptroller General under section 1015 of the Impoundment
4 Control Act of 1974 to report a reserve or deferral to the
5 Congress if the Comptroller General concludes that the
6 reserve or deferral is not exempt under this subparagraph."

YEAR-END SPENDING CONTROL ACT OF 1980

Section 1. It is of concern to the Congress that Executive Branch agencies appear to obligate a disproportionate amount of their funds during the last two months of the fiscal year. Therefore, in order to ensure that appropriated funds are not expended solely to keep them from lapsing, no Executive Department or Agency shall obligate, during the last two months of fiscal years 1981 and 1982, more than 20 percent of its total budgetary resources provided in annual appropriations. This limitation will not apply to obligations:

- (1) against annual appropriations enacted after December 31 of a fiscal year;
- (2) for payments required by law;
- (3) for activities that are seasonal in nature and normally require higher rates of obligation during August and September;
- (4) for grants, subsidies, and contributions; or
- (5) for emergency expenditures affecting human safety or property.

Section 2. The head of each Executive Department and Agency shall submit a report, for the annual appropriations covered by this Act, to the President and the Congress not later than 90 days after the end of each of the fiscal years 1981 and 1982. The reports will specify the amount of budgetary resources obligated against annual appropriations (not exempted from this limitation) for the last two months of each such fiscal year and for the entire fiscal year. In the event that budgetary resources obligated against annual appropriations for the last two months of either fiscal year 1981 or 1982 exceed 20 percent of the total, the report will explain why the limitation was exceeded.

Section 3. This Act shall apply to Executive Departments and Agencies during fiscal years 1981 and 1982.

Section 4. The Director of the Office of Management and Budget may exempt for any year a specific program or appropriation from the provisions of this Act if he determines that its operation would not be in the best interests of the Government.

Section 5. Section 3679(c) of the Revised Statutes, as amended (31 U.S.C. 665), is amended by adding the following new paragraph:

"(5) (A) In exercising the apportionment authority under this section (for the fiscal years ending September 30, 1981 and September 30, 1982), the Director of the Office of Management and Budget may apportion annual appropriations and set aside reserves in such a way as to carry out the purposes of the "Year-End Spending Control Act of 1980."

“(B) Any reserves established or other actions taken in connection with the apportionment process for the purpose of satisfying the requirements of subparagraph (5)(A) of Section 3679(c) of the Revised Statutes, as amended (31 U.S.C. 665) shall be exempt from the last sentence of subsection (c)(2) of this section and from sections 1012(a) and 1013(a) of the Impoundment Control Act of 1974.”