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WASHINGTON D.C. 20548

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MAY 29, 1984

The Honorable James R. Jones
Chairman, Committee on the Budget
House of Representatives

Dear Mr. Chairman:

Subject: Lapsed Budget Authority/Fiscal Year 1981
(GAO/AFMD-84-54)

This report is in response to your request for GAO to provide certain information on lapsed budget authority for executive branch departments and agencies in fiscal year 1981. We have previously provided you with (1) selected comparisons and a tabulation of fiscal year 1981 lapsed budget authority and (2) case study analyses of 60 accounts with lapsed budget authority. This report summarizes the information already provided to you and details the reasons budget authority lapsed in fiscal year 1981 for the 60 sample accounts.

There are a number of events that result in budget authority lapsing. In the sample of accounts which we reviewed, most of the lapsed funds were caused by (1) programmatic changes including decreases in program activity resulting in unneeded budget authority, (2) policy changes, such as the 1981 federal hiring freeze, (3) legislative actions precluding the need for budget authority or making it unavailable for obligation, and (4) appreciation of the dollar and other unique reasons such as the "recapture" of budget authority. In 45 of the cases, accounting for about 95 percent of the sample funds, there was no indication that the lapsed funds should have been reported as rescissions under the Impoundment Control Act (ICA).

We did find 15 cases, accounting for 5 percent of the sample funds, that we believe should have been reported. In 13 of these 15 cases, accounting for 3 percent of the sample funds, the lapses were caused by executive actions based on policy directives of the new administration in effect only during fiscal year 1981-- primarily a hiring freeze--that precluded the obligation of budget authority and resulted in de facto rescissions. These unreported rescissions appear to have resulted from failures by agency officials to comply with instructions from the Office of Management and Budget (OMB) to report under the ICA all withholdings of funds caused by implementing the directives. The details of our study are included in the following sections.

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Background

Budget authority lapses and is returned to the Treasury when it remains unobligated at the end of its period of availability. The appropriation time frame usually corresponds to the federal fiscal year and may be for 1-year or multiple-year periods. Budget authority appropriated without fiscal year limitation or no-year appropriations may also lapse, if the purpose for which it was appropriated is accomplished.

Lapsed budget authority is to be reported by agencies in accordance with OMB Circular Nos. A-34 revised and A-11 revised. In Circular No. A-11 revised, lapsed budget authority is defined as the amount available for obligation during the year that ceased to be available during or at the end of the fiscal year, excluding amounts rescinded by law, capital transfers, and redemption of debt. Once authority is reported as lapsed, it may be restored either to adjust recorded obligations or liquidate obligations incurred prior to the appropriation's expiration.¹ Therefore, the lapsed amount may change after the close of the fiscal year.

In some cases lapsed budget authority can be considered an impoundment of funds and subject to the reporting requirements of the Impoundment Control Act. This act was passed in response to congressional concern over executive branch withholding or impoundment of funds appropriated by the Congress. The act provides the framework for reporting impoundments and requires the President to report all impoundments to the Congress as either a rescission proposal or a deferral.

By reporting a rescission proposal the President has determined that all or part of the available budget authority should not be used for a federal program or activity. His proposal to rescind authority is transmitted to the Congress in a special message, and he is authorized by the act to withhold the proposed amount for 45 days of continuous congressional session. After this withholding period, the withheld amounts are to be made available for obligation unless both Houses of the Congress have approved the proposal.

When the President decides to withhold budget authority from availability temporarily, the act requires him to submit a deferral message to the Congress. He may continue to withhold the deferred funds unless one House passes a resolution disapproving the deferral.

OBJECTIVES, SCOPE, AND METHODOLOGY

In your letter, you requested a report showing the total amount of lapsed budget authority for fiscal year 1981. Lapsed budget authority in federal departments and agencies subject to fourth-quarter spending limitations--the percentage of an appropriation that can be obligated in the last quarter of a fiscal

¹31 U.S.C. 1552(a)(2).

year--was to be shown separately. You further requested that accounts with lapsed budget authority be compared to accounts subject to a pending deferral or rescission request and to OMB's year-end status report on fiscal year 1981 impoundments. You were interested in the reasons why budget authority had lapsed and if any of those lapsing should have been reported to the Congress as a rescission.

In response to this request, we obtained OMB computer tapes containing data for the fiscal year 1983 budget appendix containing lapsed budget authority data for fiscal year 1981. We did not evaluate the accuracy of the OMB computer tapes. From this data base we extracted data for accounts subject to fourth-quarter spending limitations and highlighted this lapsed authority. Accounts with lapsed budget authority were also compared with rescission proposals and deferrals reported by OMB in its year-end report. The information and comparisons were presented in four tables delivered to the Budget Committee in March 1982.

To provide the information on why budget authority had lapsed, we selected a judgment sample of 60 fiscal year 1981 accounts for detailed analysis. The sampling criteria for these accounts were that the lapsed budget authority had to be at least \$2 million and represent at least 1.5 percent of total budget authority in the account. We also included all accounts with lapsed authority of \$100 million or more and all accounts where the lapsed amount was 25 percent or more of the total budget authority in the account, and if the amount lapsing was between \$0.5 and \$2 million. These accounts were included because of their actual and relative significance. We discussed our initial sample with your office. At that time two accounts were added and five accounts were dropped.

The 60 sampled accounts were from 16 major agencies, 8 other independent agencies, and from funds appropriated to the President. The total lapsed authority for these accounts was \$3.1 billion or about 73 percent of the total fiscal year 1981 lapsed budget authority.² The sample of cases and the resulting analysis in this report are not intended to be statistically representative of all accounts with lapsed budget authority nor can they be the basis of projections to other fiscal year 1981 accounts or prior year accounts.

In gathering information on why budget authority lapsed, we interviewed various agency budget and program officials in Washington, D.C., knowledgeable about the selected accounts and the lapsed amounts. Agency activity and budget documents relevant to why the amounts lapsed were gathered and analyzed. Each lapsed amount was treated as a separate case study and summarized. These summaries were provided to your office in September 1982. Each case was reviewed to determine if an unreported impoundment occurred.

²Total lapsed authority excludes lapsed budget authority for the legislative branch and the judiciary.

We also reviewed OMB circulars and bulletins relevant to recording obligations and lapsed amounts, Impoundment Control Act legislation and legislative history, various decisions by our office and OMB relating to impoundments, and testimony on proposed changes in, and operations of, the impoundment process.

In the review, we relied on the lapsed amount reported by agencies for inclusion in the 1983 OMB computer tapes and prior year budget appendixes. These lapsed amounts reported may have changed due to deobligations or unreported obligations; but for consistency in our review work, we accepted the lapsed amounts as reported. Also, as requested by your office, we did not obtain agency comments. Except for not verifying the OMB computerized data base on fiscal year 1981 lapsed funds and not obtaining agency comments we made the review in accordance with generally accepted government auditing standards.

MOST LAPSED BUDGET AUTHORITY IS USUALLY
DUE TO NORMAL OPERATIONS

Most lapsed budget authority is a normal part of government operations for annual and multi-year accounts and is not required to be reported under the Impoundment Control Act. Overall, 75 percent (or 45) of the cases accounting for about 95 percent of the lapsed funds were in this category. We noted four major reasons for the lapsed funds in fiscal year 1981, (1) programmatic changes, (2) policy changes, (3) legislative actions, and (4) appreciation of U.S. dollar and other unique program related reasons preventing obligation of the funds.

It is usually difficult and risky for federal managers to obligate 100 percent of available budget authority because total obligations do not always approximate budget estimates and the penalty for over-obligation can be severe.

The Antideficiency Act (31 U.S.C. 1341(a)(1982)), prohibits federal managers from making obligations in excess of available appropriations. Violation of this prohibition may result in penalties which range from administrative discipline, such as suspension, to fines or imprisonment in the case of conviction of a knowing and willful violation. These penalties are a deterrent against over-obligation. On the other hand, there is no specific statutory penalty for under-obligating funds, although Congress clearly intends that all appropriated funds be made available for use. Federal managers naturally strive to comply with the Antideficiency Act by avoiding over-obligation. This will commonly lead to lapsing at least a small amount of the available authority.

Many accounts have a history of lapsing a relatively small percentage of available budget authority each year. For fiscal year 1981, 361 accounts had lapsed budget authority; and for about 61 percent of those, the lapsed amount was under 1.5 percent of the accounts' total budget authority. For example, one account has lapsed 1.1 percent or less of its budget authority in each fiscal

year 1974 to 1981. Such relatively small lapsed amounts occur in a variety of account types and agencies, and the percentage appears to depend on individual account factors.

The following table shows how many of the 60 case study accounts lapsed for each reason specified.

Major reasons for lapsed budget authority	Number of accounts	Amount of lapsed budget authority (millions)	Accounts with unreported <u>de facto</u> rescissions
Programmatic	19	\$1,074	1*
Policy changes	14	96	10
Legislative actions	13	395	1*
Appreciation of U.S. dollar	2	1,069	1*
Other	12	479	2
Totals	<u>60</u>	<u>\$3,113</u>	<u>15</u>

*In these 3 categories, the majority of the lapse was due to the reason shown on the chart and did not give rise to any unreported de facto rescissions. However, in one account in each category, a small portion of the lapse was due to the policy directives and thus these portions of the lapsed amounts resulted in unreported, de facto rescissions.

Programmatic changes

Significant amounts of budget authority in our sample lapsed because of programmatic changes that modified the need for budget authority. The budget authority was available for use but simply was not needed for program operations during the specified appropriation time. Decreased program activity, unused contingency authority, variation from program estimates, and other programmatic changes, can all result in funds lapsing without causing unreported impoundments. In our sample, programmatic changes caused \$1.1 billion to lapse in 19 accounts. The following examples illustrate these cases:

- The Department of the Treasury account, Administering the Public Debt, lapsed \$15.8 million or 8 percent of the account's budget authority. The account provides budget authority to conduct all public debt operations and promote the sale of U.S. savings-type securities. During fiscal year 1981, decreased sales and redemption of savings-type securities significantly reduced transaction costs and the need for budget authority. As a result of this decreased program activity, the amount lapsed.
- The Agency for International Development's International Disaster Assistance account lapsed \$11.4 million or 13 percent of its budget authority. The account funds international disaster assistance after such occurrences as floods, hurricanes, and earthquakes. In fiscal year 1981, the budget authority lapsed because there were fewer disasters than projected, requiring less budget authority than provided.
- The Department of Agriculture's (USDA's) Food Stamp Program account had lapsed \$179.3 million in fiscal year 1981. The account funds the operation of the food stamp program and the lapse occurred primarily because there were fewer recipients of food stamps than estimated. Specifically, there were fewer recipients because the actual unemployment rate was lower than estimated, and a coal strike was shorter in duration than estimated.

As these examples show, programmatic factors can cause significant amounts of budget authority to lapse. The lapsed amounts do not reflect unreported rescissions because the budget authority was not withheld from obligation.

Policy directives

A second group of accounts (14 of the 60) were those in which lapsed budget authority resulted from changes in policy by the executive branch.

The major policy directive that caused lapsed budget authority and unreported rescission proposals was the strict hiring freeze ordered by the President on January 20, 1981, applicable to all executive branch agencies. The freeze was delineated in OMB Bulletin No. 81-6 which provided that savings from personnel reductions be applied to other program activities within the same appropriation. If the personnel reductions resulted in withholding of appropriations from obligation, the bulletin directed that the amounts were to be reported under the Impoundment Control Act.

Other policy directives were issued in January 1981 through OMB bulletins detailing reductions in travel, consulting and related services, and procurement of certain equipment. In April 1981, another OMB bulletin directed elimination of wasteful spending on periodicals, pamphlets, and audiovisual products. Each

of these bulletins indicated that withholding of budget authority was to be reported under the Impoundment Control Act.

Accounts where most of the lapsed amount was due to policy directives, primarily salaries and expenses in various agencies, were significantly affected by the personnel and travel freezes. Lapsed budget authority for these accounts totaled \$95.8 million or 3 percent of our total sample amount. In most of these instances a rescission should have been reported.

Legislative actions

Legislative actions also cause budget authority to lapse but do not result in unreported rescissions. These legislative actions may defer the availability of budget authority or preclude the need for existing budget authority. As a result of these actions, budget authority is not used, or its use is delayed until a period after its original period of availability.

Legislative actions resulted in lapsed amounts totaling \$394.9 million for 13 of our sampled accounts. The following examples illustrate these cases:

- For the Department of the Interior's Office of Water Research and Technology, Salaries and Expenses account, \$2.9 million was reported as lapsed in fiscal year 1981. Of this amount, \$2.7 million represents an amount deferred until the end of fiscal year 1981 by Public Law 97-12 (June 5, 1981). The deferred amount was made available by the public law from October 1, 1981, until September 30, 1983; but because the \$2.7 million was not used in fiscal year 1981, it was reported lapsed.
- USDA's Dairy and Beekeeper Indemnity Programs account lapsed \$1.7 million primarily because legislation³ was passed that allowed \$1.5 million of annual budget authority to be deferred by the executive branch until the end of the fiscal year. In accordance with that legislation, authority was subsequently withheld and the Congress was notified of the withholding in a deferral proposal. The \$1.5 million of annual budget authority remained deferred until the end of the fiscal year causing the funds to lapse. This normally would be categorized as a rescission under the Impoundment Control Act. This unique situation, however, allowed deferred funds to be, in effect, rescinded and lapse at the option of the executive branch.⁴
- The Department of Defense Retired Pay account, which provides pay for all retired active and reserve military

³Public Law 97-12.

⁴"Comments on Proposed Impoundments of \$668.1 Million of FY 1981 Budget Authority" (OGC-81-15, Aug. 17, 1981).

personnel, lapsed \$115.6 million for fiscal year 1981. This lapsed amount was primarily caused by implementation of the Omnibus Budget Reconciliation Act of 1981, which provided for the elimination of one of the semi-annual cost-of-living adjustments. The appropriation for this account originally provided for semi-annual cost-of-living adjustments.

These examples show that legislative actions may cause budget authority to lapse by deferring the availability of budget authority or precluding the need for budget authority. Amounts which lapse as a result of these actions are not unreported rescissions.

Appreciation of the U.S. dollar and other unique reasons

Appreciation of the U.S. dollar, and other diverse reasons, including recapture of budget authority, caused \$1.5 billion in budget authority to lapse in 14 of our sampled accounts. Most of these accounts had amounts lapse because of unique situations and were not unreported rescissions. Following are two examples:

--The International Monetary Fund (IMF) account had a reported lapse of about \$1.1 billion because the required U.S. contribution to the fund was decreased due to appreciation of the dollar. The U.S. and other IMF members pay quotas denominated in Special Drawing Rights (SDRs). Appreciation of the dollar against the SDR resulted in fewer dollars required for the U.S. contribution. This one item represents 25 percent of the lapsed budget authority for fiscal year 1981.

--The recapture of budget authority that cannot be reobligated caused the majority of \$331.6 million reported as lapsed in the Department of Housing and Urban Development (HUD), Subsidized Housing Programs account. The majority of the lapsed amount represents budget authority recaptured under the section 235 housing program, but not available by statute for reobligation. The recapture of authority occurred when participants withdrew from the program, became ineligible, or when properties were acquired by HUD.

In two cases, however, funds lapsed because budget authority was either withheld or not allocated for use. The first involved \$17 million in the Economic Development Administration's industrial development direct loan activity. The second was \$5.7 million in a Department of Defense claims account. In these two instances, the withholdings should have been reported as a rescission under the Impoundment Control Act.

LAPSED BUDGET AUTHORITY CAN SOMETIMES BE UNREPORTED RESCISSIONS

Lapsed budget authority can indicate the executive branch withheld or impounded funds that should have been reported to the Congress under the Impoundment Control Act. In our sample of 60

fiscal year 1981 accounts with lapsed budget authority, 15 accounts, accounting for 5 percent of the total funds, had unreported rescissions. Most (13) of these unreported rescissions, accounting for 3 percent of total funds, directly related to the new administration's policy directives, which were in effect only during fiscal year 1981. Those directives froze employment, reduced travel, or curtailed procurement of equipment or services.

Based on our examination of the 60 cases, 13 of the 15 accounts that should have been the subject of rescission messages were the direct result of the two policy directives issued in January 1981.

The policy directives provided that withholdings of funds resulting from implementation of the directives should be reported under the ICA. After the directives were announced by the executive branch, some rescission proposals were reported that reflected budget authority not needed because of the directives. Of the 133 rescission proposals reported from January 29, 1981, until the end of the fiscal year, 12 (9 percent) were justified by policy directives. We believe the unreported rescissions disclosed in our sample were not reported because the focus of the policy directives was on reducing the levels of certain administrative activities, such as travel for personnel, rather than requiring that a specific amount of budget authority be withheld from obligation.

An example of a lapse due to policy directives and not reported in a rescission proposal is the Salaries and Expenses account for the Department of Labor's Labor-Management Services Administration. About \$4.0 million in budget authority lapsed in fiscal year 1981, which represented 7 percent of the account's budget authority. Over half of the lapsed amount was due to the hiring freeze which reduced budget authority needed for personnel compensation and travel. Full-time personnel in fiscal year 1981 declined from a high of 1,179 in December 1980 to 1,117 in September 1981. In 12 other similar situations, we determined an impoundment occurred because of executive branch policy directives.

CONCLUSION

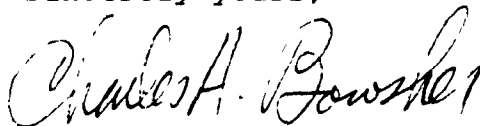
Based on our analysis of the 60 selected accounts with lapsed budget authority in fiscal year 1981, we are of the opinion that there are many diverse factors which cause lapses of budget authority in any given year. Therefore, the fact that funds lapse is not an indication, by itself, of an unreported impoundment. However, some lapses did result from policy directives in effect during fiscal year 1981 and should have been reported under the Impoundment Control Act.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report

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until 5 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Charles A. Bowsher".

Comptroller General of
the United States