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JN 4-2

THE PRESIDENT HAS SEEN *dy*



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

FEB 20 1975

INFORMATION

*MR7*

MEMORANDUM FOR: THE PRESIDENT  
FROM: JAMES T. LYNN  
SUBJECT: Unacceptable Comptroller General Interpretation of the Impoundment Control Act

On January 10 the Comptroller General reported to Congress that the President had failed to submit a special message on the withholding of funds appropriated for HEW. He stated that his report was submitted pursuant to Section 1015(a) of the Impoundment Control Act, which requires him to report to the Congress when he finds that the President has failed to submit a special message pursuant to Sections 1012 or 1013 and further provides that his report has the effect of a Presidential special message. The report cited a "deferral" resulting from failure to apportion "about one-half" of the regular FY 75 HEW appropriations within the 30 days permitted by the Antideficiency Act. Later, after your January 30 special message proposing rescission of some of these funds, the Comptroller General advised the Congress that the 45-day period for Congressional consideration began to run on January 14, the first day of Congressional session following his January 10 report. Under his interpretation the 45-day period for Congressional consideration would expire today, February 28. In our view apportionment of these funds four days after the Antideficiency Act deadline may have constituted a deferral for that period, but we fail to see how a Comptroller General report of a deferral resulting from that delay could trigger the 45-day rescission period 20 days before your rescission proposal reached Congress. The Department of Justice agrees with our views.

We will continue, without public announcement, to withhold these funds. They must be released on March 17 if the Congress has not completed action on a rescission bill.

