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STATEMENT OF
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BEFORE THE
TASK FORCE ON ENFORCEMENT, CREDIT
AND MULTIYEAR BUDGETING
COMMITTEE ON THE BUDGET
UNITED STATES HOUSE OF REPRESENTATIVES
ON
THE IMPOUNDMENT CONTROL PROCESS

Mr. Chairman and Members of the Committee:

We are pleased to have the opportunity to testify on GAO's role in the impoundment control process. Since passage of the Impoundment Control Act in 1974, GAO has been heavily involved in the operation of the Act as the agency statutorily responsible for reviewing and reporting Presidential impoundments to the Congress. Specifically, GAO receives from the President copies of special messages, containing one or more proposed impoundments, which he has transmitted to the Congress. As promptly as practicable, we issue impoundment reports under



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section 1014 of the Act, 31 U.S.C. 1404, which inform Congress of the facts surrounding the proposed impoundments, including their probable effects. We also report on the legal sufficiency of those proposals. Section 1015, 31 U.S.C. 1405, authorizes the Comptroller General to report to the Congress any impoundments which the President has failed to report. We also regard section 1015 as authorizing the Comptroller General to report to Congress when an impoundment report by the President has been misclassified. Section 1016 of the Act, 31 U.S.C. 1406, authorizes the Comptroller General to sue the Executive to compel the release of impounded funds when such release is required by the Act. As part of this responsibility and in our role of serving the Congress, GAO also responds to congressional inquiries concerning the proper operation of the Act.

Recently we have experienced unprecedented activity and congressional interest in the impoundment area, as the executive branch makes increasing use of its authority under the Act as a budgetary tool. We have attempted to expedite our reports, including those on the President's special messages, by informal discussions between members of our legal and audit staff, and agency and OMB officials.

In addition to our reports on special messages, we issue legal opinions on issues of general application in the impoundment area. We recently issued two such reports on significant issues under the Act. On December 21, 1981, we submitted to Congress our position on the proper characterization of an

impoundment of funds pending congressional consideration of a proposal to transfer the funds, an issue which arose in the context of a deferral of funds for the SRC I synthetic fuels project. On March 10, 1982, we issued our analysis of section 1001(4) of the Act, the so-called fourth disclaimer. The issue arose in the context of a proposed rescission of funds for library services. The Office of Management and Budget has expressed its disagreement with our conclusions on both of these issues, and asked us to reconsider. We have concluded our reconsideration of the fourth disclaimer issue, and our position remains unchanged. We have not yet concluded our reconsideration of the proper classification of impoundments pending transfer requests.

We believe that the basic framework of the Act is sound, given the legal and practical climate which produced the Impoundment Control Act. However, in the interest of clarifying the Act and simplifying its operation, we have made suggestions for amending the Act. In our 1977 report to Congress reviewing the Act's first 2 years of operation, we proposed several amendments to improve procedures under the Act while maintaining its present form. More recently we have suggested consideration of an alternative proposal which would alter the basic procedures under the Act while retaining the balanced relationship between the executive and legislative branches.

Under the alternative, provisions in the Impoundment Control Act concerning rescissions would be repealed, and all

withholding of funds would be proposed as deferrals, with the President indicating which of the deferred budget authorities he wished to have rescinded. Our alternative would also amend the current law (1) to require for each deferral of fiscal year funds that the President specify a date beyond which it would be impractical to obligate the funds involved and (2) to require that the funds be made available for obligation on the specified date if there has been no final legislative action on a request to have budget authority rescinded.

Our alternative retains two basic elements of the present Act: (1) rescission would result only with the concurrence of both Houses of Congress and (2) withholdings of budget authority may be defeated by either House.

Our approach recognizes that Congress might oppose a proposal to rescind, but support a delay in the use of the funds. Present law does not provide the Congress with this option. Administration of the act would be simplified by eliminating the need to distinguish between deferrals and rescissions, and by eliminating the need for Congress to respond within a fixed time.

Mr. Chairman, this concludes my statement. We would be pleased to answer any questions.