



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

February 12, 1986

B-221412

The Honorable Edward P. Boland
Chairman, Subcommittee on
HUD-Independent Agencies
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

The Administrator of Veterans Affairs is required by law to report to the Appropriations Committees and to us any approved major construction project in which obligations are not incurred within specified time limits. In his December 18, 1985 letter to you, Mr. Baine of our Human Resources Division advised that the report by the Veterans Administration (VA) of delays in the award of certain contracts was accurate and that we were in the process of reviewing, as also expressly required by law, the impoundment implications of those delays. We have now completed that review and we find that the delays in obligating funds by VA do not constitute impoundments.

The appropriation act for fiscal year 1984 provided \$345,692,000 to VA for major construction projects, to remain available until expended. Pub. L. No. 98-45, 97 Stat. 219, 233 (1983). The Act provided that the funds appropriated for each approved project be obligated (1) by the awarding of a working drawings contract by September 30, 1984, and (2) by the awarding of a construction contract by September 30, 1985. The Act directed the Administrator of Veterans Affairs to report to the Comptroller General and the Committees on Appropriations those projects for which he was unable to obligate funds within the established time limitations.

The fiscal year 1985 appropriation act appropriated \$568,194,000 to VA for major construction projects, also to remain available until expended. Pub. L. No. 98-371, 98 Stat. 1213, 1232 (1984). Similar to the 1984 Act, the 1985 Act required VA to obligate the funds for each approved project (1) by awarding the working drawings contracts by September 30, 1985, and (2) by awarding construction contracts

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by September 30, 1986. This Act also directs the Administrator to report to the Comptroller General and the Committees on Appropriations those instances in which he is unable to meet these time limitations.

Both Acts require the Comptroller General to review the Administrator's report "in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 [2 U.S.C. § 686]." Pub. L. No. 98-45, 97 Stat. at 234; Pub. L. No. 98-371, 98 Stat. at 1232. Section 1015 requires the Comptroller General to report to the Congress whenever he finds that any officer or employee of the United States has ordered, permitted, or approved the establishment of a reserve or a deferral of budget authority, and the President has failed to transmit a special message with respect to such reserve or deferral.

By letter of October 22, 1985, the Administrator reported that seven construction contracts were not awarded by September 30, 1985, as required by the fiscal year 1984 appropriation act, and one working drawing contract was not awarded by that same date, as required by the fiscal year 1985 appropriation act. We have reviewed the Administrator's report and his explanation regarding the failure to award the eight contracts by September 30, 1985. We find that, although the Administrator has not awarded the contracts within the time limitations imposed by the appropriation acts, his actions do not constitute an impoundment of budget authority under the Impoundment Control Act.

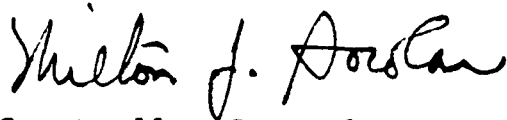
The Administrator's explanation indicates that various programmatic considerations led to the contracting delays. The explanations show no intention to refrain from using the funds, or to obligate less than was appropriated by the Congress. VA officials have indicated to us informally that the agency intends to award most of these contracts in the near future.

In order to assure ourselves that no impoundment was occurring, we held additional discussions with agency officials on four of the contracts discussed in our earlier letter--the contracts for a parking garage at the San Francisco nursing home, for the nursing home in West Los Angeles, for the Livermore, California project, and for the laboratories in East Orange, New Jersey. Enclosed is a copy of VA's explanation of the delays for all eight projects, revised to include the updated information on these four contracts that we obtained through additional discussion with agency officials.

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Accordingly, in fulfillment of our responsibility under the Department of Housing and Urban Development Appropriation Acts for fiscal years 1984 and 1985, we are apprising you that the Administrator's failure to award contracts by September 30, 1985, as reported in his letter of October 22, 1985, does not constitute an impoundment that should be reported under the Impoundment Control Act.

Sincerely yours,

for 
Comptroller General
of the United States

Enclosure

REASONS PROVIDED BY THE VETERANS ADMINISTRATION
FOR NOT MEETING THE
SEPTEMBER 30, 1985, DEADLINE
FOR AWARDING CONSTRUCTION AND DESIGN CONTRACTS

**Fort Logan National Cemetery, Denver, Colorado
Administration Building, Entrance Gate and Drive**

The architect/engineer completed the working drawing design in late 1981. However, due to other priorities within the Department of Memorial Affairs, VA did not include the project in its budget until fiscal year 1984. Near the end of calendar year 1984, the Department decided to scrap the architect/engineer's design, make some major changes, and have in-house staff produce the new design. Due to heavy in-house workloads and additional requested changes by the Department in April 1985, the in-house staff did not complete the revised working drawings until June 1985. This did not allow VA enough time to award a Small Business Administration 8(a) construction contract by the end of fiscal year 1985. VA expects to award the contract on February 3, 1986.

**San Francisco, California
Nursing Home Care Unit and Parking Structure**

The conference report for the fiscal year 1984 appropriation act directed VA to report to the Appropriations Committees alternatives to the originally proposed multistory parking garage. H. Rep. No. 264, 98th Cong., 1st Sess. 18 (1983). The Conference Committee also directed VA not to proceed without the prior approval of the Appropriations Committees. As agreed with these committees, VA is currently negotiating with the Department of the Interior to use part of the adjacent Golden Gate National Recreation Area for surface parking.

Livermore, California
Fire and Safety Improvements, Service Elevator,
Expand Ambulatory Care

As the architect/engineer was completing the working drawing design, the Department of Medicine and Surgery (DM&S) requested that the project include heating, ventilation, and air conditioning, an effort that had been planned for fiscal year 1988. DM&S, however, suggested that doing all of the work at one time would be less disruptive. VA's Office of Construction established requirements, negotiated the architect/engineer's fee, began processing the contract modification memorandum, and prepared a request to reprogram funds to meet the additional costs. VA's Office of General Counsel took some time to review the change in project scope and to consider the impact the reprogramming request would have on other planned projects. The Office of General Counsel cleared the changes in December. VA expects to award the contract in three to five months.

Waco, Texas
New Dietetic Building

VA transmitted the drawings and specifications to the construction contractor on May 21, 1985. Had the contractor submitted a proposal in a timely manner and in an acceptable form, the Office of Construction would have awarded the contract by September 1985. As of December 10, 1985, VA had not received a proposal that would satisfy the Defense Contract Audit Agency's auditor and VA's technical reviewers. If VA receives a technically acceptable proposal by January 2, 1986, it expects to award the contract on about May 1, 1986.

West Los Angeles, California
120 Bed Nursing Home Care Conversion (Building No. 213)

VA did not award the contract due to changes in the project's scope as well as additional asbestos work. VA has added a dialysis center and a satellite pharmacy to the project as well as asbestos removal for the ground floor of the building. In addition, since renovation of the ground floor as a minor project would be prohibited by Public Law 98-45 for 1 year after completion of the original project, VA has now expanded the scope of the original project to include these renovations. These changes required additional funding, which VA obtained through a reprogramming of \$1.5 million. VA expects to award the contract in July 1986.

**East Orange, New Jersey
Relocate and Consolidate Research and Expand
Clinical Laboratories**

The need to add an emergency generator to the design of this project delayed the awarding of this construction contract. VA originally planned to rely on the medical center's boiler plant generator for emergency power. Late in the working drawing design process, however, the Congress passed VA's appropriation act, which prohibited the agency from using funds of other accounts toward the construction of new projects. VA believed this forced it to change its plans. VA expects to award the contract in May 1986.

**Castle Point, New York
Building Addition**

This project was bid as a small business set-aside. VA considered the bids received as unreasonably high. VA will redesign the project incorporating some minor design changes and readvertise the project as unrestricted. VA expects to award the contract by April 1986.

**Lyons, New Jersey
Renovate Building No. 4**

The first-ranked architect/engineer declined to provide working drawings within the 6-percent fee limitation. VA sent the architect/engineer package to the second-ranked architect/engineer. VA expects to award the contract in March 1986.