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

FILE: B-196794 DATE: February 24, 1981

MATTER OF: Interest earned by State Subgrantees

DIGEST: Interpretation of ~~§ 203~~ the Intergovernmental Cooperation Act of 1968, 42 U.S.C. § 4213 (1976) that subgrantees of grants to States need not account for interest earned on subgrant advance reconsidered at request of Director of OMB. Interpretation contained in 59 Comp. Gen. 218 (1980) and B-171019, October 16, 1973, reaffirmed. Ruling the other way would require the States to account for the interest earned by its grantees, a result which appears to be contrary to this provision.

This is in response to the request of the Director of the Office of Management and Budget (OMB) that we reconsider our interpretation of the Intergovernmental Cooperation Act of 1968 contained in our decisions, 59 Comp. Gen. 218 (1980) and B-171019, October 16, 1973. In these cases we interpreted § 203 of the Intergovernmental Cooperation Act of 1968, 42 U.S.C. § 4213 (1976) (§ 203) as permitting subgrantees of Federal grants to States to keep interest earned on State advances to the subgrantee. We have reviewed both of these decisions and, as explained below, we find no basis for revising our interpretation of § 203.

Given the language of § 203 which says that States will not be held "accountable" for interest earned on advances of grant-in-aid funds, it is difficult to see how this Office could rule other than we have in the two questioned decisions. As more fully explained in these decisions, in order to obtain the interest earned by subgrantees it would be necessary to require the State, rather than the secondary recipients of the grant funds, to account for the interest. This would be contrary to the statute, since in such grants it is the States with which the Government has a relationship and to which it must look for relief. Accordingly, despite the fact that § 203 and its legislative history do not address the question of interest as it pertains to subgrantees, the conclusion that interest earned by subgrantees of States need

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not be returned to the Federal Government is clear in our view. In the absence of any explanation in the OMB Director's letter of how we might reach another conclusion based on an interpretation of § 203, we feel compelled to reaffirm our decisions.

We are, however, sympathetic with OMB's concerns. We are currently reviewing a number of areas in which we have identified problems with grantee and subgrantee retention of interest. Also, as noted by OMB, administrative changes that have taken place since passage of § 203 provide a basis for reassessing the policies that § 203 embodies.

Section 203, which exempts States from the general rule that requires the return of interest earned by grantees on grant funds, is largely based on the assumption that the Government can effectively control the release of grant funds so that States will not be in a position to earn excessive interest on any advances they might receive. Implicit in the § 203 approach is the view that where States do earn interest, such amounts are too small for the Government to concern itself with. However, there is some evidence that the amounts now being earned on advances to the States are substantial. We have not yet recommended a change to § 203. Whether we will recommend a legislative change will depend upon the outcome of audit work now in progress.

We recognize that the Senate Report on H.R. 7542, the Supplemental Appropriations and Rescission Bill, 1980, directs agencies to improve their cash management and particularly to comply with Treasury Circular 1075. As long as section 203 remains in effect, thereby giving an incentive to states and their subgrantees to draw on the funds before they are needed, we see no basis for changing our ruling even if this is an obstacle to better cash managment. However, we should point out that our decision does not preclude agencies from complying with the three steps mentioned by the Senate Committee on Appropriations, including "[i]nitiating immediate recovery action whenever recipients are found to have drawn excess cash, in violation of Treasury Circular 1075." S. Rep. No. 96-829, 96th Cong., 2d Sess. 14 (1980). Thus, the agencies should monitor their grantees draw of cash and recover any excess.

Milton J. Socolar

For the Comptroller General
of the United States