

B-124374-O.M.

Indorsement

JAN 26 1956

Director of Audits

Returned, together with a copy of our letter of August 25, 1955, to the Director, United States Information Agency, and copy of his letter dated September 29, 1955.

The basic authority of the USIA is contained in Public Law 402, 80th Congress, 62 Stat. 6 (22 U.S.C. 1431, et seq.), as implemented by Reorganization Plan No. 8 of August 1, 1953 (22 U.S.C. 1461, note). It appears that the Agency's overseas libraries, information centers, and book distribution programs are operated under sections 202 and 203, Title II of the act, and that wide discretion may be exercised by the Agency in carrying out its functions. Under the provisions of section 801(1) of Title VIII express authority is granted "within the limitation of such appropriations as the Congress may provide, to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries." Section 801(2) provides for the furnishing, selling, renting, by contract or otherwise, of educational and informational materials and equipment for dissemination to or use by peoples of foreign countries, and section 1005 provides for the utilization to the maximum extent practicable of the services and facilities of private agencies through contractual arrangements or otherwise. 2215C 1447

Considered in the light of the legislative history and the provisions of the entire act, it appears that it was the purpose and intent of Congress to include authority to make grants in obtaining the cooperation, services and facilities of nonprofit organizations, as well as grants constituting contributions or gratuities to the grantees who are the direct recipients of the money or other benefits conferred. In the case of some transactions, the grant instruments or agreements might have all the attributes of Government procurement contracts; in others a formal contractual arrangement might be impracticable, as indicated in the Director's letter. See 38 C.J.S. 1066-1068; also Craig v. Mercy Hospital, 45 So. 2d 809, where various meanings of the term "grant" are considered. It also appears that broad discretion in the choice of methods and media may be exercised by USIA in carrying out its functions. 2215C 1437

Examination of the grant agreements submitted discloses that in June 1954 certain sums of money were granted to the grantees indicated for the purpose of obtaining their cooperation and assistance in the performance of Agency projects authorized by law. Under the agreements, provisions are made for payment of the sums granted on the basis of billings to be submitted by the grantees for the expense

B-124374-O.M.

- 4 -

UNITED STATES GOVERNMENT

OFFICE OF THE COMPTROLLER

of procuring and shipping books as required and ordered by the Agency for the projects specified. Provisions are also made for the submission by the grantees of interim status and accounting reports and for final reports upon completion of the projects or exhaustion of the funds granted, but, in any event, not later than one year from the dates of the agreements. For the reasons above indicated, there appears no basis on the present record for questioning the legality or propriety of these grants. Cf. B-101799-O.M. May 21, 1951.

In determining whether such grants constitute legal obligations of the Agency's 1954 appropriations for the full amounts stipulated in the agreements, section 1311(a)(5) of the Supplemental Appropriation Act, 1955, Public Law 663, 68 Stat. 800, 830, approved August 26, 1954, provides that no amount shall be recorded as an obligation of the Government unless it is supported by documentary evidence of "a grant or subsidy payable (1) from appropriations made for payment of or contributions toward, sums required to be paid in specific amounts fixed by law or in accord with formulae prescribed by law, or (2) pursuant to agreement authorized by, or plans approved in accord with and authorized by, law." (Underscoring supplied.)

It appears that the grants here involved are payable pursuant to agreement authorized by law within the provisions of these statutory requirements. It follows, therefore, in the absence of any indication that the granting authority is being abused or improperly utilized, that, although the projects may not be completed and the required final accounting may not be accomplished until some time during the following fiscal year, the entire amounts stipulated in the grant agreements properly are chargeable to the Agency's 1954 appropriations. Cf. B-37609, November 15, 1943.

JOSEPH CAMPBELL

Comptroller General
of the United States

Attachments