

**DECISION**

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

ref USSC  
GGM  
29807

**FILE:** B-215237

**DATE:** November 20, 1984

**MATTER OF:** Agency for International Development -  
Interest Earned by Subgrantees on Advanced  
Funding

**DIGEST:**

1. Advances in excess of immediate cash needs to a subgrantee of an assistance award are not expenditures for grant purposes, and, under the terms of the agreement, interest earned on these funds prior to their expenditure for allowable costs must be paid to AID unless exempt under 31 U.S.C. § 6503(a).
2. Interest earned by subgrantees on loans made as part of authorized program efforts is program income and can be used to further program objectives.

This decision is in response to a request from a certifying officer in the Office of Financial Management of the Agency for International Development (AID). The certifying officer requests that we decide (1) whether subgrantees can retain interest earned on advances from A.T. International, a primary recipient of an assistance award from AID, and (2) whether subgrantees who earn interest on loans made as part of the assistance program may retain this interest which according to the cooperative agreement is to be added to a revolving fund for further loans or program costs.

We conclude that under the terms of the cooperative agreement with A.T. International interest earned by a subgrantee on assistance funds prior to their expenditure for allowable costs are payable to AID. The interest must be deposited in the U.S. Treasury as a miscellaneous receipt. Interest earned by subgrantees on loans made under program authority is program income.

According to the certifying officer, AID has negotiated a new cooperative agreement (a form of financial assistance) with A.T. International under 22 U.S.C. § 2395. The purpose of the cooperative agreement is to strengthen A.T. International's capacity to help develop appropriate technologies in developing countries. The program is to be carried out

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through subprojects or subgrants entered into with private organizations in cooperation with foreign countries. Among the methods A.T. International is authorized to use under the cooperative agreement is to provide capital contributions to subproject revolving accounts from which subgrantees will make interest bearing loans in furtherance of the program objectives. According to the agreement this interest will be available for subgrant costs and relending from the revolving fund.

The first question raised by the certifying officer is basically a request that we respond to a position taken by the AID Office of General Counsel concerning the legal consequences of a grantee obtaining an advance of grant funds and immediately disbursing them to a subgrantee. According to AID's Office of General Counsel, any interest earned on grant funds held by the subgrantee in advance of cash needs is not subject to the rule that interest earned on grant advances is held in trust for the United States. The argument is based on the conclusion that there has been a disbursement by the grantee. This view would apply generally to grantee-subgrantee advances, if we understand the Office of General Counsel's argument, and is not the result of any special program authority peculiar to AID. Subgrantees are not required to return interest to the United States where the grantee is a State or State instrumentality not required to account for interest on advances under the Intergovernmental Cooperation Act of 1968, 31 U.S.C. § 6503(a).

It is a longstanding rule of this Office that interest earned by a grantee on funds advanced by the United States belongs to the United States rather than to the grantee and must be returned, except as otherwise provided by law. 59 Comp. Gen. 218 (1980); 42 Comp. Gen. 289 (1962) and cases cited therein. The reason for this rule is that statutes authorizing grant programs contemplate that recipients shall not profit other than in the manner and to the extent provided by law. Funds paid out to a grantee are not to be held, but are to be applied promptly to the grant purposes. 1 Comp. Gen. 652 (1922). Where a grantee holds advanced grant funds, he holds them in trust for the United States and must pay any interest earned on them over to the United States. 42 Comp. Gen. 289.

While we have never directly decided the question raised by the AID Office of General Counsel, as suggested in an AID interoffice memorandum, our decisions exempting sub-

grantees of States under the States' exemption from returning interest contained in the Intergovernmental Cooperation Act, id., have assumed that subgrantees would otherwise be required to pay the interest earned on such advances to the United States. The AID General Counsel's argument rests on two difficulties with extending the trust theory to subgrantees. First, the disbursement to the subgrantee resembles a disbursement for grant purposes and, second, making the subgrantee responsible to the Government for interest is difficult since the Government's relationship is with the grantee not the subgrantee.

The advance as a disbursement. The advance of grant funds by a grantee to a subgrantee is not a disbursement for grant purposes as we have used that term in our decisions. While advancing grant funds to a subgrantee may be an authorized disbursement under a grant, there has been no disbursement for grant purposes in the sense that allowable grant costs have been incurred. Were the subgrantee simply to retain the funds in a bank account and never undertake the grant purposes, the grantee would have to return these funds to the Government because no allowable grant costs have been incurred. Under such circumstances it would be hard to characterize the financial transactions of either grantor or grantee as being for grant purposes.

In B-192459, July 1, 1980, we set forth four characteristics of a disbursement or expenditure for grant purposes. There we said an expenditure for grant purposes had occurred where (1) the grantee did not retain grant funds; (2) the grantee could not get the funds back on demand; (3) the organization that received the funds was independent of the grantee and not its agent, and (4) the grantee received something in exchange for the transfer of funds.

In applying these tests to the advance here in question, we think there are a number of important distinctions to be made. While the grantee in this case might not have been able to literally get the funds back from the subgrantee on demand, the subgrantee had no claim to the funds at the time interest was earned. In other words, it had no legally enforceable right to obtain the advance or keep the money until it was applied to grant purposes. The original grant does not authorize the grantee to obtain funds in advance in order to make advances to subgrantees before they are needed by the subgrantee. Also, unlike in the instant

case, the payment in B-192459, id., created legally enforceable rights that directly related to carrying out the grant purpose. Since the advance itself does not accomplish grant purposes, the grantee obtained nothing from the sub-grantee in exchange for the advance. The grant was made under Treasury's letter of credit regulations, Treasury Circular 1075. These regulations make this point clear. Circular 1075 requires recipients of grant funds to time advances to sub-grantees as closely as possible to their "actual disbursements \* \* \* for direct program costs and the proportionate share of any allowable indirect costs." (Emphasis supplied.) 31 C.F.R. § 205.4. See provision 7A of AID's standard grant provision. Accordingly, unless the program statute under which the grant was made specifically authorizes such transactions and this is incorporated in the grant agreement, we do not think the advance has become a disbursement for grant purposes.

Responsibility for Interest. The treatment of interest income of grantees has for many years been a standard grant condition. 62 Comp. Gen. 701, 706 (1983). We believe that the question raised here is expressly answered by provision 3(a) of the AID Standard Provisions attached to the award. This provision states:

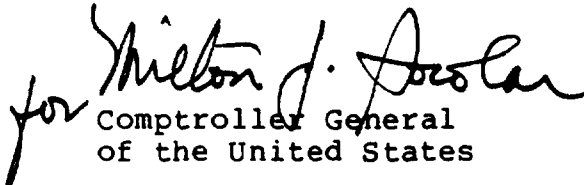
"(a) If use of the AID funds provided hereunder results in accrual of interest to the Grantee or to any other person to whom Grantee makes such funds available in carrying out the purposes of the grant, the Grantee shall refund to AID an amount equivalent to the amount of interest accrued."

Accordingly, there is no need to imply a trust relationship between the grantee or the subgrantee for AID to recover the interest earned by the subgrantee on the advanced funds. The grant agreement expressly provides that the grantee is responsible for refunding an amount equal to the amount of interest to AID.

The certifying officer says that there is a problem in AID and A.T. International recovering the interest from sub-grantees operating in currency controlled countries. The certifying officer proposes that recoveries of interest be handled by considering the interest earned in such circumstances as a drawdown of the award to A.T. International.

AID will make adjustments with A.T. International's letter of credit that will permit AID to account to the Treasury for the interest earned that must be paid into Treasury as miscellaneous receipts. We have no objection to such an arrangement for recovering these amounts since this or similar means of recovery seem to be contemplated in AID's standard grant conditions.

In the case of interest earned on loans made by subgrantees in carrying out program purposes, it seems clear from the information supplied, that this is program income. The retention and use of this interest is expressly provided for in the basic grant agreement. Section 6, paragraph c (5)(d). As program income, it can be used as an additional source of funds to carry out program purposes. See AID Handbook 13, paragraph 1J, Program Income; Office of Management and Budget Circular A-110, Attachment D.

*for*   
Comptroller General  
of the United States