

Office of the General Counsel

B-222191

October 23, 1986

Marsha Bonham, Treasurer
County of Cochise
P.O. Box 1778
Bisbee, Arizona 85603

Dear Ms. Bonham:

This letter is in response to your inquiry about whether Federal funds awarded to states and subsequently subgranted to counties and school districts can be commingled with other funds. You express concern that there may be a borrowing of Federal funds to cover shortages in other school district operations as a result of such commingling. Also you ask whether Federal funds given to these subgrantees can be invested and earn interest for the subgrantee.

The Federal Government regulates grant funds through the grant agreement, program legislation, and agency regulations. Also, there is general legislation pertaining to grant funds. Pertinent to your question, Section 202 of the Intergovernmental Cooperation Act, 31 U.S.C. § 6503(b), provides that states are not required to deposit grant money in separate bank accounts, although they must be able to account for all Federal funds. Section 203 of that act requires the Federal departments and agencies responsible for administering the programs to schedule fund transfers so as to minimize the time elapsing between transfer of the money from the Treasury and the disbursement by a state. This provision is further explained by Treasury Circular 1075.

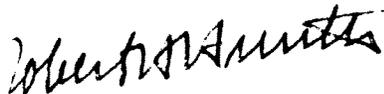
Section 203 also provides that states shall not be held accountable for interest earned on advances of funds pending their disbursement for program purposes. The general rule is that interest earned by grantees on advances of grant funds must be paid over to the United States, but this exception for states is based on the expectation that tightly scheduled fund transfers will significantly reduce the amount of funds held pending disbursement by states, thus making the amount of interest earned relatively small. We do note, since it is one of your concerns, that our Office has concluded that,

under the Act, subgrantees as well as the grantee states are not to be held accountable for interest earned on funds held pending disbursement. See 59 Comp. Gen. 218 (1980).

Grantees are only authorized to use grant funds for grant purposes. "Borrowings" of grant funds for other purposes are unauthorized since withdrawal of grant funds should be timed to coincide as closely as possible with legitimate grant expenditures at both the grantee and subgrantee level. It is the primary responsibility of each state grantee to employ whatever regulations it feels are necessary to assure proper and efficient administration of the funds advanced to subgrantees. This requires the state to impose on its subgrantees conditions or restrictions on the transfer and disbursement of grant funds similar to or more restrictive than the ones imposed on it as a grantee by the Federal department or agency.

Your questions do suggest that the state may be drawing grant funds in advance of need contrary to § 203 of the Act, 31 U.S.C. § 6503(a) and Treasury Circular 1075. We are sending a copy of this correspondence to the Department of Education because grantor agencies should closely monitor the release of grant funds to states. If it is found states are drawing advance funds excessive to their needs, agencies are required to take immediate action to recover the excess.

Sincerely yours,



Robert H. Hunter
Assistant General Counsel