Text as published on gao.gov, https://www.gao.gov/products/b-158381, archived 2026-09-06. GAO published no original file for this decision. Rendered by Comptroller Desk.

B-158381 June 21, 1968

Number: B-158381

Date: 1968-06-21

B-158381 June 21, 1968

The Honorable William S. Gaud Administrator, Agency for International Development Department of State

Dear Mr. Guad:

In our letter to the Assistant Administrator for Administration, Agency for International Development, dated October 31, 1967, we discussed the Agency's practice of holding certain cash receipts in excess of 30 days. The subject receipts are fees received from applicants for guaranty coverage under title III of the Foreign Assistance Act of 1961, as amended, and such fees (hereafter referred to as initial fees) are neither deposited in the Treasury nor recorded in the Agency's official proprietary accounts until a guaranty contract is officially executed.

In a letter from the Assistant Administrator or Administration, dated December8, 1967, we were advised of the Agency's reasons for continuing to hold initial fees until execution of guaranty contracts. The reasons provided were based on the views of Agency representatives as summarized below:

1. Section 3621 of the Revised Statutes, 31 U.S.C. 495, refers to "public moneys" of the United States. These are moneys received for use by the United States. Initial fees do not become "public moneys" until the United States is entitled to retain them, and the United States is not entitled to retain initial fees until a guaranty contract is issued. Therefore, the Agency has no duty to deposit initial fees until a guaranty contract is issued.

2. Deposit of the initial fees prior to the execution of the contract would imply a moral obligation on the part of the United States Government to the potential investor in case of loss from a risk for which he holds no legally executed guaranty contract. Should an investor suffer loss during the period of contract processing and institutes suit against the United States Government for recovery of losses, it is axiomatic that the deposit of that investor's check would serve to increase the risk of an adverse legal decision against the United States Government.

3. The receipt of initial fees prior to the execution of the guaranty contract is not an element of the Investment Guaranty Program activity. Therefore, there is no need to record the amount of initial fees received in the Investment Guaranty Program accounts or report such amounts as a program activity unitl the guaranty contract is executed.

We agree that the initial fees received from applicants for guaranty coverage can be considered moneys other than "public funds" prior to the execution of a guaranty contract. However, included in the fund accounts of the Federal Government are "deposit and fund accounts" established for agencies' use in accounting for receipts held in suspense temporarily and later refunded or paid into some other fund of the Government Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies.

In our opinion it is immaterial whether these moneys are "moneys of the United States" within the meaning of that term as used in section 3621, Revised Statutes, 31 U.S.C. 495 and we do not believe that the mere deposit of such moneys in a deposit fund suspense account would increase the risk of an adverse legal decision. The accounting officers of the Government have long and consistently required that most all moneys should be deposited into the Treasury by an authorized disbursing or collecting officer and accounted for in their official accounts.

In December 1914 the Comptroller of the Treasury made an official decision (21 Comp. Dec. 374) concerning the use of deposit accounts by agencies of the Federal Government. In this decision the Comptroller of the Treasury stated that the special deposit account should include all moneys received which at the time of receipt can not be taken up in regular accounts because they are subject to refundment or because of other good and sufficient reasons. He then defined the purpose of a special deposit account as "to require a collecting officer to account not only for his official moneys, but also his semiofficial or trust fund moneys not otherwise provided for through the medium of a special account, so that he shall report to the Treasury, in either his regular or special deposit account, or both, all of his fiscal transactions."

Also, in two earlier decisions (19 Comp. Dec. 442; 20 id., 479), the Comptroller of the Treasury made determinations as to what moneys should be included in special deposit accounts and laid down the rule of accounting to be applied to collections deposited in such accounts.

Initial fees remitted to the Agency for International Development prior to the formal execution of a guaranty contract under authority of title III of the Foreign Assistance Act of 1961, as amended, are receipts to be held in suspense until the Agency dteremines whether the remittor is due a refund or the amount received will become part of the Foreign Investment Gurarantу Fund. Such receipts come squarely within the rule of accounting laid down by the Comptroller of the Treasury and accounting procedures set forth in sections 12.2(1)(A) and 12.2 of titles 2 and 7, respectively, of the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies. See section 113(b) of the Accounting and Auditing Act of 1950, 31 U.S.C. 66a and section 309 of the Budget and Accounting Act, 1921, 31 U.S.C. 49.

Accordingly, we again recommend that all receipts, including initial fees from potential investors, be (1) recorded in the Agency's official accounts immediately upon receipt and (2) promptly deposited in the Treasury.

We wish to acknowledge the continued cooperation and assistance by your Agency during the course of our endeavor to help improve financial management in our Government.

Sincerely yours,

R.F. KELLER Acting Comptroller General of the United States