



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

September 21, 1961

Honorable Thornton Hardie
Chairman, Board of Regents
University of Texas
Austin, Texas

Opinion No. WW-1148

Re: Whether Article 2543c
of Vernon's Civil Statutes
requires the University of
Texas to deposit in the
State Treasury or in the
special depository banks
grants of foreign currency
non-convertible into
United States currency
under the facts submitted.

Dear Mr. Hardie:

Your request for an opinion on the above subject
matter reads in part as follows:

"The United States Department of
State conducts a program of educational
and cultural exchange. This program
was recently extended to permit the use
of "soft or blocked" currencies (Depart-
ments of State and Justice, the Judiciary
and Related Agencies Appropriation Act
of 1961).

"We request your opinion as to whether
The University of Texas may participate in
these programs where the soft currencies
are deposited to our credit in banks within
the foreign nation whose currency is used.
The University of Texas will be selected
as one of the educational institutions to
carry out the Government's obligation
under the Educational and Cultural Exchange
Program, for which the Department of State
will grant to the University a designated
sum of foreign currency which is non-
convertible into United States dollars.
This sum will be deposited in a bank of a
foreign country to the credit of The
University of Texas without collateral
securing the deposit. Payments will be
made through a designated representative

in a foreign country who shall have the authority to accept the payment on behalf of the University from the United States Embassy in the country wherein the program is conducted. In many instances the representative will be someone from the University, but this will vary according to the terms of the contract in a particular country.

"The primary question to be determined insofar as the participation of the University in the Educational and Cultural Exchange Program is whether the funds received from the United States Government must be deposited in special depository banks as cash receipts accruing to the University within the meaning of Article 2543c, or may they be deposited in a bank in a foreign country where the program is conducted, without the protection of pledging eligible securities as collateral. There is no definition of 'cash receipts' in the provisions of Article 2543c or any related statute.

"Also, may University authorized individuals disburse said funds in a foreign currency in the name of The University of Texas if such funds are expended in accordance with the terms of the agreement entered into between The University of Texas and an agency of the United States Government?"

Article 2543c, Vernon's Civil Statutes, reads in part as follows:

"The Governing Boards of the State Institutions of higher education of this State are directed to designate special depository banks, subject to the approval of the State Treasurer, for the purpose of receiving and keeping certain receipts of the institutions of higher education of this State separate and apart from funds now deposited in the Treasury. . . . The State Treasurer is authorized to promulgate rules and regulations to require collateral security for the protection of such funds pursuant to the provisions of Article 2529 and Article 2530 of Vernon's Texas Civil Statutes.

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For the purpose of facilitating the clearance and collection of the receipts herein enumerated, the State Treasurer is hereby authorized to deposit such receipts in any State Depository Bank and transfer funds representing such receipts enumerated herein to the respective special depository banks. Banks so designated as special depository banks are hereby authorized to pledge their securities to protect such funds.

"The Governing Boards of the State institutions of higher learning shall deposit in the State Treasury all cash receipts accruing to any college or university under its control that may be derived from all sources except auxiliary enterprises, non-instructional services, agency and restricted funds, endowment funds, student loan funds, and Constitutional College Building Amendment funds. The State Treasurer is directed to credit such receipts deposited by each such institution to a separate fund account for the institution depositing the receipts, but he shall not be required to keep separate accounts of types of funds deposited by each institution. (Emphasis added)

"The Legislature is hereby authorized to create revolving funds for the handling of funds of institutions of higher education, as enumerated herein, by making provision in each biennial appropriation bill enacted by the Legislature."

Under the facts stated in your request, the United States Government proposes to grant to the credit of The University of Texas a sum of money in foreign currency which is to be expended in the foreign country and is non-convertible into United States dollars and is never permitted to be expended outside of or transferred from such country. Allocations will be made through a designated representative in the foreign country where the program is conducted.

Under the facts submitted, it is our opinion that such allocation of grants by the United States Government does not constitute cash receipts to The University of Texas

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within the meaning of Article 2543c since such grant is non-convertible into United States currency. In our opinion "cash receipts" refers to legal tender in this State.

It is further our opinion that the program outlined in your request constitutes an "auxiliary enterprise" of The University of Texas within the meaning of Article 2543c. You are therefore advised that Article 2543c does not require The University of Texas to deposit the outlined grants in special depository banks.

It follows that your second question is answered in the affirmative.

S U M M A R Y

The University of Texas is not required to deposit in special depository banks grants of foreign currency allocated to The University of Texas by the United States Government in the Student Exchange Program.

Yours very truly,

WILL WILSON
Attorney General of Texas

JR:dhs:lgh

By *John Reeves*
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APPROVED:

OPINION COMMITTEE
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REVIEWED FOR THE ATTORNEY GENERAL
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