

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health, Education, and Welfare

SUBJECT: Harrison County Community Action Agency, Inc.
Gulfport, Mississippi
Docket No. 77-10
Decision No. 51

DATE:
NOV. 22, 1978

DECISION

Harrison County Community Action Agency, Inc., appealed the March 8, 1977 disallowance by the Assistant Regional Director, Office of Human Development (OHD; this office later became Office of Human Development Services). The disallowance of \$29,624 in costs under Head Start Grant H3034 for the program year ended July 31, 1975 was based upon the results of Audit Number 04-66563. \$20,052 was disallowed as being in excess of authorized costs in the Full-Day Program account and \$9,572 was disallowed as a shortage in the required non-Federal share of costs under the grant.

In an April 8, 1977 letter addressed to the Executive Secretary of the Board, Grantee requested that the Board consider additional documentation provided in response to the Agency's disallowance action. No copy of the disallowance letter was included with Grantee's submission. In a letter dated April 14, 1977, the Executive Secretary responded that Grantee must comply with the requirements of 45 CFR 16 in filing its appeal. Grantee was provided with an extension of time until April 22 to file properly and did so within the extended time limit allowed.

Thereafter, the Board received a response from OHDS and issued an Order to Show Cause to focus the issues in the case, to invite discussion of particular concerns of the Panel and to give notice that the Board would decide the case on the written submissions.

Issue of Non-Federal Share Shortage

In its revised appeal letter dated April 20, 1977, Grantee argued that the non-Federal share shortage resulted from its use of a formula method of determining the in-kind value of space rather than appraised value. Grantee has presented a licensed appraiser's opinion of the fair rental value of the Head Start buildings in question which discloses that use of appraisal values would more than satisfy the non-Federal share requirement. In its response to Grantee's appeal on October 19, 1977, OHD agreed that appraisal value may be used to determine the fair rental value of in-kind contributions of space as provided by 45 CFR 74.53(b)(3). OHD further stated, however, that if Grantee can submit a statement from its CPA attesting to the validity of the appraisals and the value thus assigned, the Region will accept such documentation as being in fulfillment of the non-Federal share requirement.

It was not clear to the Panel why OHD insisted upon a supporting statement from Grantee's CPA. 45 CFR 74.53(b)(3) provides that the granting agency may require that the value of real property be established by an independent appraiser and certified by a responsible official of the grantee as a pre-condition to allowability for cost sharing purposes. However, as noted above, Grantee has already provided the statement of a licensed appraiser (appeal letter, attachment H). In view of the basic difference in function between CPAs and real estate appraisers, it did not seem as if any valid purpose would be served in requesting a CPA to certify the validity of a professional appraisal. Accordingly, in an Order to Show Cause dated June 30, 1978, the Panel directed OHD to give the basis upon which it required certification by Grantee's accountants of the appraisal values supplied by the professional appraiser and to indicate what purpose would be served by such certification.

OHD's response on this issue, dated August 14, 1978, was not responsive to the Panel's question and in fact did not appear consistent with the position stated in OHD's October 19, 1977 submission above described. The OHD response to the Order to Show Cause stated:

"Based on the evidence submitted by the grantee's accounting firm, venticating the previous undocumented non-Federal share, the Regional Office has accepted such documents defining \$44,488 of the \$54,060 originally disallowed. However, there remains a shortage of \$9,572. If the grantee has infact secured a licensed appraisel's opinion of the fair rental value of the Head Start cite in question, which would more than satisfy the Non-Federal Share requirements, OHDS would accept such documents."

Grantee did in fact provide a licensed appraiser's opinion of the fair rental value of the Head Start buildings which satisfies the non-Federal share requirement. OHD acknowledged this in its October 19, 1977 submission. OHD although invited to do so, failed to provide justification for its going beyond the requirements of the regulation, and demanding that Grantee's CPA certify the validity of the appraisals. In an addendum dated 9-8-78 to its response to the Chairman's June 30, 1978 Show Cause Order, OHD informed the Board that it was removing its disallowance on this item.

Issue of Expenditures in Excess of Authorized Costs

The remaining issues deal with the \$20,072 expenditure in the Full-Day program account. The Region apparently based its disallowance on a report of an audit conducted by the Public Accounting firm of Moore and Powell which questioned \$20,072 as being in excess of authorized costs within that program account. However, the auditor's figures were based upon an assumption that a budget revision dated July 31, 1975 reprogramming funds from the Full-Day program account into the Part-Day Program account had been or would be approved, as required by Section V of DHEW Publication Instructions for Completing an Application for Head Start Grants (5-8-77 letter from Moore and Powell to Grantee). That budget revision never received

approval by the Regional Office. Therefore, based upon the last approved budget submitted by Grantee, funds in the Full-Day program account were sufficient to cover the expenditures in that account and in fact resulted in an unobligated program account balance of over \$3000. OHD's response to Grantee's appeal seemed to reveal a basic misunderstanding of the situation by the Agency. The memorandum stated, in part:

"It would appear that an appeal based on the fact that a 608-T requesting permission to amend the budget, ... would not be sufficient basis to reverse the decision disallowing this overexpenditure of \$20,072 ... Put another way, approval by the Regional Office could not affect actual costs, since all costs relating to the grant would have already been incurred or obligated prior to July 31, 1975... Lack of approval notwithstanding, the grantee exceeded his budget... The evidence suggests that the Grantee had already taken actions which resulted in costs over the budget..." (October 19, 1977 memorandum from the Acting Regional Administrator for Human Development Services to the Executive Secretary of the Board, emphasis added).

In its Order To Show Cause the Panel directed OHD to brief the issue of whether or not the Full-Day program account was in fact overexpended in light of the fact that the July 31, 1975 budget revision was never approved. In its August 14, 1978 submission, OHD conceded that it has now determined that the Full-Day program account was not overexpended. Thus, no dispute remains on this issue.

Conclusion

Since no dispute remains on either issue in this appeal, the appeal is granted in full.

/s/ Bernice L. Bernstein

/s/ Thomas E. Malone

/s/ Malcolm S. Mason, Panel Chairman