

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health, Education, and Welfare

SUBJECT: Del Paso Heights School District
Sacramento, California
Docket No. 77-22
Decision No. 62

DATE: July 3, 1979

DECISION

On December 2, 1977, the Contracting Officer, DHEW Regional Office IX, communicated to the Del Paso Heights School District, Sacramento, California (grantee), a determination of disallowance of costs in the amount of \$7,640 in affirmance of a recommendation in the audit report for the 1974-5 grant year, and a demand for refund. Grantee appeals.

Grantee school district consists of five schools with an enrollment of approximately 1,100 pupils, 90 percent black. It was awarded a grant for the period commencing July 1, 1974, through June 30, 1975, for a pilot project under Title VII of the Emergency School Aid Act (P.L. 92-318), 20 U.S.C. 1601, et seq. The amount disallowed represents costs incurred by grantee for a field trip from Sacramento to New York City in April 1975 for 15-16 of its pupils from grades 4, 5, and 6, accompanied by 5-8 parents and school staff. Component IV of the 1974-5 budget which grantee considered as authorizing the orientation trip to New York, permitted the expenditure of \$5000.00 for "multi-cultural/multi-racial inservice workshops for staff, group trips to community resources."

In support of the determination of disallowance, the regional office urges that the trip to New York was outside the scope of the grant activities for the reason that the grant authorized trips only to the grantee's immediate community. It contends, further, that even if we should disagree with this position, the cost item of \$7,640 must be disallowed as neither necessary nor reasonable within the meaning of the implementing regulations.

Grantee bases its appeal on the contention that the activity which generated the expenditure in controversy was fully in harmony with the stated purposes and policy of the statute which furnished the authority for the grant, and that the cost was neither unnecessary nor unreasonable.

A consideration of this appeal on its merits would require discussion of several issues relating to the necessity and reasonableness of the cost incurred - 45 CFR Part 100, Appendix B (C)(1)(a) - and to the scope of activities fairly within the framework of the grant. These issues would, in turn, require an analysis of the relative weight to be accorded to the exercise of discretion in grant management as between a grantee and the Agency concerned in order to give effect to the principle of coordination between federal selection of ultimate goal and local initiative or autonomy as to means. See Malcolm S. Mason, Current Developments in Grant Law, Vol. 14, No. 2, Jan. 1979, Public Contract Newsletter, A.B.A., pp. 15, 18.

Special considerations affecting this appeal preclude us, however, from resolving it entirely on its merits.

While we cannot say that the cost disallowed in the amount of \$7,640 was unnecessary or unreasonable as a matter of law, enough appears to render the New York trip questionable in light of these criteria so as to deny applicability thereto of the budget flexibility provisions in 45 CFR 100a.29.

Insofar as the amount of \$5000 budgeted for travel under Component IV is concerned, we have requested the grantee in our Order to Develop Record (February 21, 1979) to inform us what costs, if any, other than those claimed for the New York trip, were charged to Component IV of the grant during the relevant period. After the lapse of the 30 day period allowed for response we have, at grantee's request, allowed an additional ten days for reply. Due to non-compliance by the grantee with the explicit mailing directions furnished to it pursuant to 45 CFR 16.53(a), its response did not reach us in a timely manner. Moreover, the response of the grantee, while giving detailed information indicating that it had undertaken no fewer than 108 trips to various localities for groups of pupils under its jurisdiction and that the number of students participating in such trips was considerably in excess of 5,000, failed to inform us what costs, if any, were charged to the grant for the relevant period, in connection with those trips.

It is no more than a truism to state that in appealing to us to set aside a determination of disallowance, grantee assumed a burden of persuasion at least to the extent of supplying this Board - at its specific request - with facts peculiarly within its knowledge, and pertinent to decision. The rules of this Board, 45 CFR 16.61, contemplate such consequence. In the circumstances shown, assuming that the travel cost per pupil for each of the trips was no more than one dollar, it would follow that the total cost must have been equal to, or in excess of, the amount of \$5000 budgeted for travel under Component IV of the grant.

In view of grantee's failure and refusal to comply with the lawful Order of this Board requiring it to state the total costs incurred for travel pursuant to Component IV and it appearing that grantee has exhausted the amount of \$5000 for trips other than the trip to New York City, the instant appeal is hereby ordered dismissed.

/s/ David V. Dukes

/s/ Bernard E. Kelly

/s/ Irving Wilner, Panel Chairman