

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health, Education, and Welfare

SUBJECT: Vermont State-Wide Cost Allocation Plan  
Board Docket No. 79-198  
Decision No. 84

DATE: Feb. 26, 1980

DECISION

This case involves a June 28, 1979 decision of the Director, Division of Cost Allocation, Region I, to eliminate interest expenses from the central data processing (CDP) rates in Vermont's State-Wide Cost Allocation Plan for the fiscal year ended June 30, 1978. In a letter dated July 26, 1979, the State requested that the Principal Regional Official review that decision. By letter dated August 31, 1979, the Principal Regional Official, Region I, apparently acting as successor to the Regional Director for the purposes of 45 CFR Part 75, notified the State that he affirmed the determination of the Division of Cost Allocation.

By letter dated September 28, 1979, the Commissioner of the Vermont Department of Management and Budget filed with the Board an application for review of the Principal Regional Official's decision.

In an Order dated December 17, 1979, the State was directed to show cause why the appeal in this case should not be denied on the ground that interest expenses connected with the purchase of computer equipment are unallowable under 45 CFR Part 74, Appendix C, D. 7. The State, in its January 15, 1980, letter acknowledging that the Order to Show Cause "accurately reports the facts," provided no additional information.

Statement of the Case

To achieve its stated purpose of "good management and economy," the State of Vermont chose to purchase rather than lease computer equipment to provide data processing services to all state government agencies. The State included the interest expenses for such purchase as part of its central data processing rates in its State-Wide Cost Allocation Plan. The Agency based its decision to eliminate those interest charges from the CDP rates on OASC- 10, "A Guide for State and Local Government Agencies," and Attachment B, OMB Circular 74-4, D.7. (made binding on the states by 45 CFR Part 74, Appendix C, D.7). Section D.7. provides:

Interest on borrowings...are  
unallowable except when authorized  
by Federal legislation.

The State in its appeal contends that the Agency's determination is contrary to the fundamental policy of OMB Circular 74-4 which requires Federal programs to bear their fair share of the costs of operation. The State argues that the decision to eliminate the interest costs is unfair, asserting that if the computer services were purchased from a commercial provider, or provided by a public provider on leased equipment, the total cost would be paid by Federal projects even though the cost would be much higher.

The State calculates that in a four year period, the purchase of equipment, including interest charges, represents a saving of \$1,080,228 over the cost of leasing. In addition, the State argues that it would create administrative havoc to attempt to isolate the exact source of funds for a particular computer service in order to eliminate the Federal share of costs. In support of its application for review, the State also makes reference to a proposed revision of OMB Circular 74-4.

#### Discussion

Grantee makes a persuasive argument against the policy of denying Federal financial participation for interest expenses in the purchase of computer equipment when such purchase is more economical than leasing. There is also substantial merit to the contention that the regulation should be changed to reflect the advantages of purchasing computer equipment. Cf. Board decision, University of California at San Diego, Docket No. 23, Decision No. 13, January 27, 1976, pp.3-4.

The Office of Management and Budget did not, however, elect to make such a recommendation in its proposed revision of Circular 74-4, D.7. (44 FR 3707, June 28, 1979). The proposal would allow interest costs as part of the rental charges of publicly owned buildings but pointedly makes no changes in other aspects of the interest rule. No change has been made in the relevant portions of 45 CFR Part 74 respecting the interest rule.

Given a clear violation, and in the absence of Federal legislation or prior Agency approval under 45 CFR Part 74, Appendix C, C.1., the Board will enforce the cost principle which states that interest costs are unallowable. (See Board Decisions: Oregon State-Wide Cost Allocation Plan, Docket No. 75-7, Decision No. 22, June 25, 1976; State of Wyoming, Docket No. 76-16, Decision No. 53, December 1, 1978; Oregon State-Wide Allocation Plan, Docket No. 79-57, Decision No. 75, January 31, 1980.)

The Principal Regional Official acted within his authority in affirming the decision of the Division of Cost Allocation to eliminate interest expenses from the central data processing rates in Vermont's State-wide Cost Allocation Plan. The appeal is denied.

/s/ Bernard E. Kelly

/s/ Thomas Malone

/s/ Malcolm S. Mason, Panel Chairman