

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

SUBJECT: Tohono O'odham Nation      DATE: February 9, 1998  
Docket No. A-97-54  
Control No. A-09-96-42061  
Decision No. 1646

DECISION

The Tohono O'odham Nation (Appellant) appealed a decision by the Administration for Children and Families (ACF) to disallow a \$369 expenditure claimed under the Head Start program. The disallowance was based on a recommendation contained in an audit report issued on July 1, 1994. See ACF exhibit (Ex.) 1. The audit covered expenditures for the fiscal year (FY) ending September 30, 1992, including grant funds awarded under Grant No. 90CI0219. The report revealed that the Appellant had not corrected a prior year's finding of noncompliance for reporting expenditures under Grant No. 90CI0219/22 to ACF in excess of amounts documented in the general ledger by \$369. ACF subsequently disallowed the excess amount.

The single issue in this case is whether the Appellant has properly accounted for the \$369 by which the expenditures reported by the Appellant on its FY 91 financial status report (form 269) exceeded the amount recorded in its general ledger for FY 91. ACF did not specifically identify the expenditure or expenditures represented by the \$369 in question.<sup>1</sup> However, the fact that the Appellant's contemporaneous records showed expenditures totaling \$369 less than later reported by the Appellant raises a presumption that the Appellant over-reported its allowable Head Start expenditures by \$369. The Appellant in its appeal before the Board was unable to successfully rebut that presumption with any form of appropriate supporting documentation. Accordingly, for reasons discussed more fully below, we uphold the disallowance in full.

The Department of Health and Human Services standards for financial management systems require that recipients of Departmental grants maintain records which adequately identify the source and application of funds for grant-supported activities. Section 92.20 of 45 Code of

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<sup>1</sup> The Board convened a telephone conference call in this case on September 4, 1997. In response to a question from the Presiding Board Member, both parties agreed to review their records to try to identify the item that this disallowance amount was attributable to, but were unable to do so.

Federal Regulations (C.F.R.) (1991)<sup>2</sup> provides, in relevant part:

(b) The financial management systems ... must meet the following standards:

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(2) Accounting records. Grantees ... must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant ... awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

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(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and sub-grant award documents, etc.

In prior decisions, the Board has held, based on these financial management standards, that costs charged to federal funds must be adequately documented in order to be allowable. Tuntutuliak Traditional Council, DAB No. 1356 (1992); Lau-Fay-Ton Community Action Agency, DAB No. 1126 (1990). The Board has further held that the grantee bears the burden of providing this documentation. Rio Bravo Association, DAB No. 1161 (1990); Ohio Dept. of Human Services, DAB No. 858 (1987). All grantees have the responsibility to observe these requirements carefully when they undertake stewardship of public funds. In this case, the Appellant failed to adequately account for the \$369 in question because the Appellant did not provide supporting documentation to show that it had allowable expenditures in the amount reported on its form 269.

Moreover, none of the arguments made by the Appellant are persuasive. Although the Appellant stated that it was unable to locate the general ledger for FY 91, the Appellant nevertheless asserted that the cost was "allowable and allocable." Appellant's brief (Br.) at 2.<sup>3</sup> The Appellant

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<sup>2</sup> Part 92 of 45 C.F.R. establishes uniform administrative rules for federal grants and cooperative agreements and subawards to Indian tribal governments. See 45 C.F.R. § 92.1.

<sup>3</sup> The Appellant also maintained that FY 92 costs were, somehow, involved in the \$369 over-expenditure. The Appellant asserted that the \$369 over-expenditure resulted when the auditor combined the FY 91 expenditures of \$541,704 and the FY 92 expenditures of \$246,299 and subtracted that total (\$788,003) from \$788,372, the final total on the Appellant's form 269. See Appellant's Br. at 1 and Appellant's Ex. 2. However, this argument is without merit. The FY 92 audit report clearly identified the \$369 over-expenditure as a questioned amount from the prior year's audit. See ACF's Ex. 1. Consequently, the \$369 is noted in the FY 92 audit report only as an unresolved prior year finding; no documentation in the record establishes that FY 92

maintained that, since the \$369 was included on form 269 (although the expenditure(s) could not be specifically identified), it was necessarily supported by the documentation used to arrive at the figures on form 269. In other words, the Appellant contended that it would not have put the \$369 on the form 269 without documentation to support it. Although the Appellant maintained that form 269 (Appellant's Ex.2) provided adequate documentation by itself of the questioned expenditures, it does not. Form 269 is a multi-page print-out that simply lists payees and amounts paid for the Appellant's entire Head Start program for the period November 1, 1990 to October 31, 1991. Form 269 does not contain descriptions of the payments listed or any explanations for the payments. Without the source documentation used to compile the form 269, it is impossible to determine if the money was spent on allowable and allocable costs.

Further, the Appellant also appeared to argue that the auditor was wrong about the amount in the general ledger, and that its reported expenditures did not exceed the expenditures recorded in the ledger. However, in the absence of the ledger (which the Appellant conceded it could not produce), it is reasonable to conclude that the auditor's finding of a \$369 discrepancy was correct. Once the audit was concluded, it was the Appellant's responsibility to retain any records relating to questioned costs until the questions were resolved. 45 C.F.R. §92.20(b)(2).

Finally, the Appellant appeared to argue that, although the \$369 may not have been recorded in the FY 91 general ledger, the Appellant could show that the \$369 was allowable if it knew what expenditure(s) the \$369 represented. Presumably, with the FY 91 general ledger, the Appellant could match the expenditures in the general ledger with the expenditures on form 269 until the Appellant determined what expenditure was listed on form 269 that was not in the general ledger. ACF in fact indicated that it was willing to consider any source documentation that the Appellant could produce to supplement the costs listed in the general ledger that would support the additional \$369. See ACF Br. at 5. However, as noted previously, the responsibility for producing the general ledger or other appropriate supporting documentation lay with the Appellant. In the absence of such documentation, we must uphold the disallowance.

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expenditures are involved.

CONCLUSION

Based on the foregoing analysis, we sustain the disallowance of \$369.

/s/

M. Terry Johnson

/s/

Norval D. (John) Settle

/s/

Donald F. Garrett  
Presiding Board Member