

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health and Human Services

SUBJECT: University of Tennessee College of Pharmacy DATE: January 29, 1981
Docket No. 77-18
Decision No. 144

DECISION

Grantee, University of Tennessee College of Pharmacy, has appealed to the Departmental Grant Appeals Board the decision of the Public Health Service Regional Grant Appeals Board to uphold the disallowances, made by the Region IV Office of the Public Health Service, of certain expenditures made by the Grantee.

An analysis of the arguments presented by the parties was set forth in an Order to Show Cause, and the parties were provided an opportunity to respond. Inasmuch as the agency's response raised no additional substantive arguments, and the Grantee has stated that it has no objection to the disposition recommended in the Order to Show Cause, the Board has adopted a decision based on the Order to Show Cause.

Background

On June 16, 1975 the Grantee was informed of the approval of its application for a Health Professions Special Project Grant upon the condition that the budget be revised so that the total requested federal award for the year July 1, 1975 - June 30, 1976 would be cut in half to \$48,710. On July 22, 1975 the Grantee submitted a revised budget to the Public Health Service, and on November 20, 1975 the revised budget was accepted.

The Health Professions Special Project Grant is authorized by Section 772 of the Public Health Service Act, (Section 42 USC 295f-2). The purpose of the Health Professions Special Project Grant is to assist health professions schools to increase enrollment and to enable schools to experiment with programs designed to increase the quality of personnel.

On January 25, 1977, the Grantee submitted its Report of Expenditures totalling \$36,991 (less than the total approved budget) for the grant period mentioned above. On May 18, 1977, the Public Health Service announced that only \$20,241 of the amount claimed would be allowed.

That figure was corrected to \$20,961 by the Public Health Service when it was found that allowed expenditures for supplies, originally stated as \$1,191, were actually \$1,911. Below is a chart showing the budget figure, actual expenditures, and the amount allowed by the agency for each budget category:

<u>Category</u>	<u>Approved Budget</u>	<u>Report of Expenditures</u>	<u>Amount Allowed</u>
Personnel	\$43,943	\$14,711	\$14,710
Equipment	1,547	2,956	1,547
Consultants	500	1,001	323
Supplies	500	13,893	1,911
Travel	1,000	4,430	1,250
Other Expenses	<u>1,220</u>	<u> </u>	<u>1,220</u>
TOTAL	\$48,710	\$36,991	\$20,961

Two items in the chart need explanation. In the personnel category, the report of expenditures showed \$14,711 in federal funds claimed. The amount allowed is shown to be \$14,710. This discrepancy is due to round off error.

Thus the disallowance should be decreased by \$1 because the \$14,710.77 claimed should have been allowed as \$14,711 by the agency instead of \$14,710.

In the "other expenses" category, the Grantee has not claimed any expenditures. The Public Health Service has nevertheless allowed \$1,220 for certain items which were budgeted as other expenses, although claimed as supplies.

On June 10, 1977, the Grantee appealed the disallowances to the Public Health Service Regional Grant Appeals Board. On August 24, 1977, that Board upheld the disallowances.

The Public Health Service maintained that the amounts disallowed were budget line overages which constitute deviations from the approved budget, that prior approval had not been sought for these deviations, and that these expenditures were disallowed because of a lack of demonstrated relationship with the objectives of the grant and because there was not adequate substantiation that the expenditures were within the scope of the approved program.

The Grantee asserted that the disallowed expenditures should be allowed on grounds that the University provided far more support than originally committed, and that the additional support caused more rapid growth of the program and required the rebudgeting of grant funds to meet University commitments. The Grantee further asserted that all expenditures were reasonable, carried out in good faith, and related to the development of the program which it considered very broad in scope.

45 CFR 74 Subpart L governs budget revision procedures for state and local governments and did so during the period in question. The Public Health Service, under the authority given to it by 45 CFR 74.4(a)(2), made Subpart L applicable to all grantees. See Public Health Service Grants Policy Statement.

Basically, grantees must seek prior approval for certain types of expenditures either at the budgeting time or at the time at which a deviation from the budget is sought. All expenditures, whether or not prior approval is sought, must be reasonable, necessary and within the scope of the approved grant program, and must be for items that are otherwise allowable. (See 45 CFR Part 74 Appendix D, Part I, C and J.)

Discussion of this case can best be facilitated by separating the disallowances into three parts - (1) Domestic Travel, (2) Consultants, and (3) Equipment, Supplies, and all Other Expenses.

Domestic Travel

In the revised budget accepted by the Public Health Service, the Grantee budgeted \$1,000 in grant funds for travel. The Public Health Service found that besides the \$4,430 claimed for travel, \$447, claimed as supplies for the use of a University motor vehicle, should have been claimed as travel. The agency disallowed \$1,586 as bearing a doubtful relationship with the purposes of the grant. The remaining amount was over the budgeted amount of \$1,000 and, pursuant to 45 CFR 74, only 125% of the amount originally budgeted (\$1,250) was allowed.

45 CFR 74 Appendix D Part I J.44 f. states that "[e]xpenditures for domestic travel may not exceed \$500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval." Applying this regulation the maximum allowable expenditure for domestic travel, in this case, would be \$1,250.

The regulation appears clear with respect to expenditures for domestic travel. The Public Health Service Grants Policy Statement on pages 57-58 provides for a system of institutional prior approval for expenditures in domestic travel over 125% of budget. This system requires that the

Grantee have in operation a system of institutional prior approval which conforms to the conditions set forth in the Policy Statement. Further, a formal request for the transfer of funds has to be made and granted. The Grantee maintained that a request was submitted within its organization for reallocation of \$3,200 in personnel funds to cover travel. Nevertheless, the Grantee has provided no documentation to establish that the institutional prior approval system was functioning and that a formal request was made and granted. Accordingly, the Board concludes that the agency was acting within its authority in disallowing claims for domestic travel over \$1,250.

Consultants

The approved budget allowed for \$500 to be expended for consultants, and Grantee claimed \$1,001. The Public Health Service allowed \$323 as being for bona fide consultant expenses and disallowed the remaining \$678 (stated as \$677 in the agency's response to the appeal) as being expenditures for student activities rather than consultant fees because the services extended were performed by medical and pharmacy students. The Grantee asserted that the full \$1,001 claimed should be allowed because the students provided service to the project. The Grantee later modified its position by stating that \$678 originally claimed as expenditures for consultant services were actually spent for clerical services provided by graduate students at the University and should have been claimed as personnel.

The agency has stated that grant funds are not available for payments to students. The agency has not provided any justification for this position and the statute and regulations do not indicate such a prohibition on payments to students. A document identified by the agency as program guidelines indicates that grant funds may not be used for financial assistance to students. The payments to the students were not financial assistance, but payments for work performed. Moreover, these were not payments to students in their status as students, but payments to clerical workers who happened also to be students at the time. Accordingly, the University is entitled to an additional \$678 for personnel expenses.

Thus the disallowance should be decreased by \$678 for personnel.

Equipment, Supplies and All Other Expenses

The reason these items are grouped together is because Grantee moved items from one category to another when moving from the budget to the claim for expenditures. This is a summary of Grantee's actions:

- (1) Video tapes and video tape mailing cases were originally budgeted for \$1547 as equipment. Video tapes were claimed as an expenditure for supplies. The total for the tapes was \$7,651.
- (2) Office equipment, which had not been budgeted at all, was claimed in the amount of \$825 as equipment.
- (3) Printing and office supplies budgeted at \$500 as supplies were claimed in the amount of \$1,846 as supplies.
- (4) Graphics (\$150), telephone postage and mailing (\$100), computer and photocopying (\$500) and library and drug information (\$470) were budgeted as all other expenses totaling \$1,220. These items were claimed as expenditures for supplies and totalled \$3,221.
- (5) Small equipment supplies (\$65), rentals (\$160), use of a university motor vehicle (\$447) maintenance (\$100) and books, subscriptions; and audio tapes (\$402) were not mentioned in the budget but were claimed in the above-mentioned amounts as supplies.
- (6) A video replay monitor mentioned in the budget as being available from sources other than grant funds was claimed as an expenditure for equipment in the amount of \$830.
- (7) Audiovisual player equipment listed as recorder playback unit and video monitor, not mentioned in the budget, was claimed as equipment in the amount of \$1027. The budget does, however, include a video cassette player and indicates that it was available from other sources.
- (8) A pager, not mentioned in the budget, was claimed as an expenditure for equipment in the amount of \$274.

45 CFR 74 Appendix D Part I J.13 contains the definition of permanent equipment and the approval mechanism necessary for the acquisition of equipment with grant funds by educational institutions with respect to grants funded by the Department of Health, Education, and Welfare. General purpose equipment is defined as "an item of property which has an acquisition cost of \$200 or more and has an expected service life of one year or more," which is "... usable for activities of the institution other than research...." All the equipment claimed by the Grantee is general purpose equipment. 45 CFR 74 Appendix D Part I J.13a provides that "approval must be obtained to acquire with Government funds any general purpose...equipment...."

45 CFR 74 Appendix D Part I J.13 also provides, "Total expenditures for...equipment may not exceed 125 percent of the amount allotted for the...equipment category by the sponsoring agency...except with approval."

The Public Health Service allowed as a claim for equipment the portion of the claim for videotapes originally budgeted as equipment (\$1,547). The other expenditures claimed as equipment were disallowed because, according to the agency, the items were specifically identified by the Grantee as being available from other sources or not contributing to the purpose of the grant. Under supplies, the Public Health Service allowed amounts expended for office supplies, printing and small equipment supplies, totalling \$1,911, despite the fact that only \$500 was originally budgeted for the category. The remainder of the amount claimed for supplies was either dealt with in another category by the Public Health Service (e.g. video tapes under equipment; and photocopy under other expenses) or disallowed under supplies. The approved budget for "other expenses" amounted to \$1,220. For the items originally budgeted in this category, claims were made for a total of \$3,221. The agency allowed a total of \$1,220, disallowing \$454 in long distance phone expenses because it was not related to the purposes of the grant. The remaining costs disallowed in this category, while project related, were disallowed because they were not reasonable and necessary.

The Grantee claimed that the added expenditures over the amount budgeted in these budget categories were the result of extra university support and a desire to accelerate the growth of the program and that the expenditures furthered the purposes of the program. The Grantee has provided explanations of how these items were reasonable and necessary to the purposes of the grant.

Grantee claimed \$7,651 for video tapes as supplies. An examination of the regulations shows that the video tapes should have been budgeted as supplies, and that prior approval is not required under the circumstances present here (i.e. included in original budget and total budget not exceeded) to transfer funds to supplies. Accordingly, in addition to the \$1,547 already allowed for video tapes as equipment, \$6,104 (\$7,651-\$1,547) should be allowed for video tapes as supplies.

Thus the disallowance should be decreased by \$6,104 for supplies.

With respect to the items claimed as equipment (Items (2), (6), (7) and (8)), the regulations provide that approval must be obtained. As with domestic travel, unless the Grantee had an institutional system of prior approval in effect and such mechanism was utilized for approval

of equipment acquisition, the agency was within its authority when it made the disallowance for the rest of the expenditures claimed as equipment. Since the Grantee has made no showing of approval for the equipment, the agency's disallowance of these items was within its authority.

The use of a University vehicle cannot be claimed as supplies. Nor can this expenditure be allowed as equipment, its proper category, unless it was included in the original budget or approval was granted. The vehicle was claimed as supplies and was not included in the original budget and there was no approval. Therefore, the agency was within its authority in disallowing the claim for this expenditure.

The remaining expenditures were claimed as supplies. The expenditures exceed the amount budgeted for supplies. Under the regulations, expenditures for supplies and other expenses are allowable if they are reasonable, necessary and within the scope of the approved grant program, and are otherwise allowable. Prior approval is not required unless the expenditures necessitate additional federal funding. The expenditures for items claimed seem to be of a nature such that they could be considered as reasonable, necessary and within the scope of the approved grant program. The Grantee has provided an explanation of how each item fits this description.

The agency has provided the Board with only conclusory characterizations of the items as either not related to the purposes of the grant or as unreasonable and unnecessary. Therefore, the Board must find the claims for these expenditures to be allowable.

Thus, the disallowance should be decreased as follows:

\$2,001 (\$3,221 - \$1,220) for other expenses.

Printing and office supplies	\$1,846
Small equipment supplies	65
Rentals	160
Maintenance	100
Books subscriptions and audiotapes	402
	<u>2,573</u>
Less previously allowed by agency	<u>1,911</u>
	\$ <u>662</u> for supplies

DECISION

The adjustments to the disallowance can be summarized as follows:

\$	1	round off error
	678	personnel
	6,104	supplies
	2,001	other expenses
+	662	supplies
	<u>\$9,446</u>	

The sum of \$9,446 is the amount by which the disallowance of \$16,030 (\$36,991 - \$20,961) should be decreased. The disallowance is therefore upheld in the amount of \$6,584 (\$16,030 - \$9,446), i.e. the amount disallowed by the agency less the amount the Board decreased the disallowance.

/s/ Donald F. Garrett

/s/ Alexander G. Teitz

/s/ Norval D. (John) Settle, Panel Chair