



### Pertinent Regulations and Policy

There is no dispute that the requirements of 45 CFR Part 74, Appendix F, and of the OHDS Grants Administration Manual are applicable to this grant. 45 CFR Part 74, Appendix F, Section G.35 provides that costs incurred for the rearrangement and alteration of facilities are allowable when written approval has been given in advance by the awarding agency. The OHDS Grants Administration Manual, Chapter 1, H.2, allows reimbursement of expenditures in continuation years, "provided that the items concerned are incorporated in the approved budget of the continuation grant, and, when required, prior approval was obtained." Where a budget revision is necessary because the expenditures were not incorporated in the approved budget, Section L.2, Prior Approval Requirements, applies. This Section provides that, for all discretionary project grants, grantees must request prior written approval for budget revisions to cover the cost of alterations and renovations of facilities to accommodate grant-supported activities [L.2.e(2)].

### Discussion

The Grantee does not deny that it did not request or receive approval to spend the \$14,557 on renovations. The Grantee bases its appeal on the grounds that expenditures were "necessary, conservative and ... required by state and local codes and regulations," (Application for Review, p.1, September 10, 1980), and that the renovations were "prudent, inexpensively done, and useful to the betterment of the ... program." (Application for Review, p. 2.) Furthermore, the Grantee asserts that the costs increased as a result of unforeseen renovation requirements and cost inflation during delays in completion of the renovations. The Grantee alleges that a request for prior approval was not made because the Head Start Director was hospitalized for six months and the Acting Director believed that a request had already been made and approved.

The requirements for prior approval are clear and the Grantee obviously was aware of their existence. Failure to meet the applicable requirements would provide a basis for sustaining the disallowance, but the Grantee's arguments, first made to the Board, concerning the reasonableness of the costs raised the issue whether the Agency should have retroactively waived the requirement. The record shows that even if the Grantee had made a timely request for prior approval, the Agency may not have granted the request since the Grantee failed to produce any evidence that the costs were reasonable. While the Agency has discretion to waive the prior approval requirement [see 45 CFR 74.176(c)], it does not have discretion to waive the applicable cost principles, including those mandating reasonableness and application of generally

accepted accounting principles and practices. Although the Grantee has been given an opportunity to do so, the Grantee has provided no evidence to the Agency or the Board concerning Grantee's allegations that the renovation costs were necessary, prudent and reasonable. Indeed, the Grantee spent a total of \$43,340.13 after originally estimating the cost to be \$12,000. In view of the foregoing, we cannot say that the Agency acted unreasonably in refusing to waive prior approval. The Grantee's failure to demonstrate the reasonableness of the renovation costs makes it unnecessary to consider whether the Agency should waive the prior approval requirement because of the Grantee's administrative oversight in not requesting prior approval.

At an earlier stage in this case, the record was not clear on two points which might have provided a basis for reduction of the amount of the disallowance: (1) the possibility that Grantee may have had excess non-Federal cash which could be applied to some of the disallowed renovation costs; and (2) the possibility that \$2400 budgeted for equipment could have been applied to some of the disallowed costs. The Agency has now clarified these points (December 19, 1980 Agency Response to specific questions posed by the Board, p. 2 of letter from Designated Attorneys; February 9, 1981 Agency response to Order to Show Cause of January 12, 1981), and Grantee has not disputed them. There was no excess non-Federal cash and the \$2400 had already been applied to other equipment costs.

#### Conclusion

We find that the Grantee failed to comply with the prior approval requirements of 45 CFR Part 74 and the OHDS Grants Administration Manual. Furthermore, there does not appear to be any reason for the Agency to waive the prior approval requirement in view of the fact that the Grantee has not met its burden regarding the reasonableness of the costs.

/s/ Cecilia Sparks Ford

/s/ Donald F. Garrett

/s/ Alexander G. Teitz, Panel Chair