

DEPARTMENTAL GRANT APPEALS BOARD

The Department of Health, Education, and Welfare

SUBJECT: Sencland Community Action, Inc. DATE: June 25, 1976
Docket No. 24
Audit Control No. 04-46419
Head Start Program H-2510
Decision No. 21

DECISION

The grantee conducted a Head Start Program initially under a grant from OEO, later under a grant from HEW which employed OEO guidelines except where specifically altered by HEW under the terms of the delegation from OEO to HEW. In Program Year F, the Office of the Regional Comptroller questioned \$40,737.26 of costs. The Regional Audit Appeal Board accepted part of these questioned costs, but disallowed \$14,151.00 of costs related to renovations on the following grounds:

1. Grantee did not secure bids as required nor did it produce evidence of attempt to do so in accordance with the provisions of CAP Management Guide 6801-1, Page 34, Paragraph 4.
2. Grantee violated the provisions of CAP Memo 64, Section B-2 when it used program funds to defray the costs of renovation at a cost greater than \$2,000 per classroom.
3. Grantee violated the provisions of Sections B-4 and B-6 of CAP Memo 64 when it failed to secure a lease of sufficient length to amortize the expenditure.
4. The specific expenditure for renovation was not requested with the grant application nor subsequently approved by the Regional Office.

In its letter to the Audit Appeal Board, dated January 29, 1974, to which it refers in its appeal dated August 9, 1974, grantee attempts to justify the amounts disallowed on the grounds that they were within the limits of budget flexibility which permits transfer within the non-personnel costs category if certain conditions are met

including a limitation on the amount transferred to 25% of the non-personnel amount of a program account between \$100,000 and \$500,000. The program account in question is stated to include approximately \$91,000 of non-personnel costs.

The Board does not find it necessary to reach the question whether budget flexibility rules have been complied with, since the grantee has violated explicit requirements of CAP Memo 64, which governs independently. CAP Memo 64 requires advance approval for renovations exceeding \$2000 a room, leases of sufficient length to amortize the expenditure, and the securing of competitive bids. In failing to secure competitive bids, grantee did not violate CAP Management Guide 6801-1, as suggested by the Audit Appeal Board, since its provisions are not mandatory, but rather the parallel provision in CAP Memo 64.

Grantee argues that construction subcontractors declined to furnish estimates because the buildings were old and actual costs might exceed the estimates. This is not a satisfactory response because grantee has furnished no evidence of attempts to obtain bids and because bids could have been furnished in terms that allowed for additional costs if additional work proved necessary.

Grantee has offered no defense to the specific charges of violation of the rules governing renovation which require leases of adequate length and advance approval for renovations at a cost greater than \$2,000 per classroom.

An Order to Show Cause issued by the Board stated that in the absence of a factual challenge to these contentions, the disallowance appeared justified. It directed grantee to identify the respects, if any, in which its summary of the facts, substantially the same as appears herein, was materially incomplete or inaccurate, and the reasons, if any, why the appeal should not be rejected for violation of the unambiguous terms of CAP Memo 64. Grantee's response offers no reason why the appeal should not be rejected.

Grantee asks, however, whether the disallowed amount may be supplied in In-kind/Volunteer Services during the current program year operation. This is a question which it may appropriately address to the Regional Office. Assuming

that assurances of genuine services properly evaluated are present, Section 243(c) of the Economic Opportunity Act of 1964, as amended (Community Services Act of 1974, as amended) shows that under appropriate circumstances such contributions may be regarded as a form of recovery of disallowed amounts. It must be recognized however that a Head Start program is directly governed by the statutory standards of Title V rather than by Title II and by its own regulations. The authorization requested is in any event a discretionary one for the Regional Office to make.

CONCLUSION

Grantee has violated the requirements of CAP Memo 64 of advance approval for renovations exceeding \$2000 a room, for leases of sufficient length to amortize the expenditure and for obtaining competitive bids. The appeal is denied.

/s/ Francis D. DeGeorge

/s/ Thomas Malone

/s/ Malcolm S. Mason, Panel Chairman