DEPARTMENTAL GRANT APPEALS BOARD

THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBJECT: University of Missouri DATE: June 21, 1976
Docket No. 75-11
Decision No. 19

DECISION

This is an appeal by the University of Missouri pursuant to 45 CFR Part 16 from the June 3, 1975 decision of the Regional Director, Region VII, regarding the applicable provisional indirect cost rates for the period beginning in fiscal year 1975.

Following indirect cost rate negotiations, HEW prepared a negotiation agreement which, in relevant part, showed separate provisional rates for each of the University's four campuses. The grantee objected to this departure from the past practice of using a consolidated rate for the entire University.

The Regional Comptroller, and then the Regional Director, found the proposed use of separate campus rates to be proper. The Regional Director indicated that his decision was based on the following factors: (1) The University's accounting system adquately identifies cost to the campus on which the cost is incurred, (2) There is a significantly different level of cost generated between campuses, and (3) The amount of research to which the rate applies is material. The latter two criteria are derived from Federal Management Circular 73-8 (formerly OMB Circular A-21) Paragraph G.1.b., which states that separate indirect cost rates are called for where significantly different levels of cost are generated by identifiable segments of research and where the amount of research affected by the rates to be fixed is material.

Grantee in its letter of appeal acknowledges that the two criteria stated in FMC 73-8 are met. However, it asserts that a consolidated rate would actually produce for the University smaller recoveries of indirect costs than the separate campus rates, specifically, that it would result in an undercharge to the Government as a whole and an overcharge only to HEW in an amount estimated at $40,000 which it contends is not material as measured by total HEW grants of the order of $15,000,000 annually. It contends that since the impact of the two different rate approaches on the costs actually generated is substantially the same, its preference for a consolidated rate should be honored.

The relevant provision of FMC 73-8 helps to effectuate the Federal statute requiring sums appropriated to be applied solely to the objects for which they are appropriated, 31 U.S.C. 3628. As shown by the University, an estimated $40,000 charged to HEW programs would be used to support other Federal programs were a consolidated rate to be used contrary to the requirements of FMC 73-8. Moreover, the Audit Agency reported that only five of the twenty major Government agencies and departments which sponsor research or instruction at the University have programs on all four campuses, and that five of these twenty agencies have programs at only one of the four campuses. In view of the range of overhead rates among the campuses, from 48.8 percent for the Columbia campus to 83.9 percent for the Rolla campus, it is clear that the distribution of costs both among Federal agencies and among programs within a Federal agency would be distorted by use of a consolidated rate.

Even if the statutory violation using the current audited base be considered immaterial in amount, reasonable projections further support the use of multiple rates. A critical fact is that the amount of research performed within the University system fluctuates from year to year, the 200 percent increase in the research base at the Kansas City campus in a 3-year period cited by the Regional Director being a case in point. This might result in an increase of the excess of indirect cost recoveries from each of one or more agencies over actual indirect costs to the point where an undeniably substantial amount of grant funds awarded for one program is used for another.

The Board is not persuaded by grantee's argument that a multiple indirect rate structure would be contrary to the one-University concept which it seeks to promote. At issue here is an accounting technique which more accurately relates indirect cost payments to the actual indirect costs of individual programs.

The use of multiple rates for research grants is not inconsistent with the treatment accorded instructional grants, as contended by the University. The separate rules governing each type of grant have been properly applied.

There appears to be no basis in fact for the University's fear that the HEW Regional Office will continue to demand more localized indirect cost rates to the point where the University is required to develop and negotiate rates on a departmental basis.

The University stated that it has several multi-campus projects sponsored by Federal grants and contracts, and campus rates would complicate the award and reporting procedures for both the Federal government and the University. However, it has not directly challenged the Regional Director's previously noted assertion that the University's accounting system adequately identifies cost to the campus on which the cost is incurred, nor has it expressly noted the magnitude of the problem, and it seems fair to conclude that the problem alleged is not by itself sufficiently serious to preclude the use of multiple rates if otherwise justified.

Decision

There is a significantly different level of cost generated between campuses and the amount of research to which the rate applies is material. The criteria of FMC 73-8, Paragraph G.1.b, are thus met, and its application serves the purposes of good grants management by preventing inequities in the distribution of indirect costs. The University has shown no compelling reason for the use of a consolidated rate. The appeal is denied.

/s/ Francis D. DeGeorge

/s/ Thomas Malone

/s/ Malcolm S. Mason, Panel Chair