

Department of Health and Human Services
DEPARTMENTAL APPEALS BOARD
Appellate Division

Philadelphia Parent Child Center, Inc.
Docket No. A-10-70
Decision No. 2356
December 30, 2010

DECISION

Philadelphia Parent Child Center, Inc. (PPCC), a Head Start grantee in Philadelphia, Pennsylvania, appealed the revised determination by the Administration for Children and Families (ACF) disallowing a total of \$1,016,636.52 under the Head Start program for the program year November 1, 2006 through October 31, 2007 (FY 2007). For the reasons discussed below, we conclude that the total disallowance for FY 2007 is \$891,302.34.

PPCC had previously appealed two disallowance determinations by ACF for FY 2007. We issued a decision on December 31, 2009 addressing the original disallowance amount of \$1,590,081.19. *Philadelphia Parent Child Center, Inc.*, DAB No. 2297 (2009) (*PPCC I*). We sustained the entire disallowance of \$387,238 in salaries for 12 Head Start and Early Head Start positions and reversed in part and affirmed in part the disallowance relating to PPCC's non-federal share of Head Start costs for FY 2007. We directed ACF to review supplemental documentation and to determine the allowable amount of PPCC's non-federal expenditures consistent with our determinations as to the types of documentation that were acceptable. ACF issued a final revised disallowance and calculated \$1,016,636.52 as PPCC's total disallowance amount. PPCC appealed, asserting that the documentation of record supported in-kind contributions in the amount of \$850,322.24. PPCC Br. at 33.

We uphold ACF's calculations of supported in-kind contributions in the claimed categories of disability services and donation of resources, but find that additional in-kind contributions are supported by source documentation in the claimed categories of personnel, fringe benefits and classroom space.

Applicable law and regulations

The federal statute governing the Head Start program states that "[f]inancial assistance extended . . . for a Head Start program shall not exceed 80 percent of the approved costs

of the assisted program or activities" unless the Secretary of the Department of Health and Human Services approves a higher percentage applying criteria specified in the statute. 42 U.S.C. § 9835(b). The implementing regulation similarly states that "[f]ederal financial assistance granted under the act for a Head Start program shall not exceed 80 percent of the total costs of the program" unless one of the specified conditions is met. 45 C.F.R. § 1301.20(a). "Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services." 42 U.S.C. § 9835(b).

Head Start grantees are required to maintain accounting records supported by source documentation. 45 C.F.R. § 74.21(b)(7). Sections 74.23(a)(1) and 74.23(a)(4) of 45 C.F.R. establish that "all cost sharing or matching contributions, including . . . third party in-kind" contributions must, among other things, be "verifiable from the recipient's records" and "allowable under the applicable cost principles." Section 74.23(c) states that the "[v]alues for recipient contributions of services and property shall be established in accordance with the applicable cost principles."¹

Background

In the revised financial status report for FY 2007, PPCC claimed total program costs of \$7,132,702.40 and drew down \$5,761,640.25 as the federal share of program costs while claiming \$1,371,062.24 in in-kind contributions to meet its share of program costs. ACF Ex. 5. The claimed in-kind contributions were divided among 21 categories. PPCC Ex. 17(A). In *PPCC I*, we upheld the parts of ACF's disallowance attributable to the claimed in-kind contributions for 16 categories, characterized as Supplies, Equipment, Non-local Travel, Accounting/Audit, Consulting, IT Consulting, Field Trips, Insurance/Liability, Maintenance/Repairs/Building, Parent Activity, Payroll Processing, Telephone, Training, Travel/Local, Utilities, and Wrap-around Services. We sustained the disallowance attributable to fringe benefits due to a lack of underlying source documentation but noted that ACF was not precluded from allowing a reasonable amount for such fringe benefits as are fixed by law and thus readily determinable, such as Federal Insurance Contributions Act (FICA) tax. We remanded the remaining claimed categories to ACF to determine the allowable amount of PPCC's non-federal expenditures consistent with our determinations as to the types of documentation that were acceptable. PPCC was permitted to supplement underlying source documentation in certain instances. ACF was directed to recalculate the disallowance thereafter.²

¹ Part 74 is made applicable to Head Start grants by 45 C.F.R. § 1303.10(a). OMB Circular A-122, "Cost Principles for Nonprofit Organizations," is codified at 2 C.F.R. Part 230 and made applicable to HHS grants to nonprofit organizations, including Head Start grantees, by 45 C.F.R. §§ 74.27(a) and 1301.10(a).

² PPCC submitted various accounting records such as general ledger entries, spreadsheets and master summary sheets. We directed ACF to base the amount of allowable in-kind contributions on PPCC's source documentation, up to the amount originally claimed, rather than PPCC's accounting records. See DAB No. 2297, at 15, 17-20.

In May 2009, ACF issued a revised determination and PPCC appealed that determination. During the briefing process before us, ACF allowed additional amounts as counting towards PPCC's non-federal share and recalculated the remaining disallowance. ACF's revised disallowance calculation is based on total program costs as follows:

\$5,761,640.00 (Federal expenditures reported on Final 269 dated 5/29/08)
 +556,852.30 (Non-federal share supported)
 -387,238.00 (Disallowance upheld by the Board for 12 staff salaries)
 \$5,931,254.30 = Total Program Cost

\$1,186,250.86 = Required Non-Federal Share (Total Program Cost x 20%)

ACF Br. at 22. ACF calculated the total disallowance amount as \$1,016,636.52 by subtracting the total amount of the non-federal share ACF found was supported by PPCC's documentation (\$556,852.30) from the required non-federal share (\$1,186,250.86) and then adding the amount of staff salaries disallowed as a program cost (\$387,238.00). *Id.* PPCC asserts that its source documentation demonstrates additional, supportable amounts to count towards the non-federal share. PPCC Reply Br. at 19; *see also* PPCC Br. at 32-33. PPCC also asserts that ACF did not provide PPCC with timely notice of how it recalculated the revised disallowance amount. PPCC Reply Br. at 2-6.

Analysis

Below, we first address PPCC's notice arguments. We then review each of the claimed categories not fully sustained in *PPCC I*. Since calculation of the total disallowance includes the amounts from all categories with allowable in-kind contributions, we include a brief explanation of all remaining categories, including those categories where there is no longer a dispute as to the allowable amount.

I. ACF's revised disallowance determination contains enough information to enable PPCC to understand the issues and the agency's position.

A notice of disallowance must contain enough information to enable the grantee to understand the issues and the agency's position. 45 C.F.R. § 74.90(c)(2). PPCC alleges it did not understand the basis for the revised disallowance determination in this case. However, PPCC has been able to make arguments that additional amounts of its non-federal share are supported by source documentation. PPCC notes that ACF produced a number of exhibits³ with its response brief filed during the current appeal as a basis of its revised disallowance and asserts that the failure to produce these exhibits earlier in the

³ The exhibits in question are ACF's calculations of allowable hours for claimed personnel costs as well as allowable fringe benefits.

process demonstrated ACF's "disregard [of] the DAB's clear and repeated instruction on remand to provide PPCC with sufficient documentation to understand the positions of ACF." PPCC Reply Br. at 2. PPCC asks the Board to exclude ACF Exhibits 12 through 16 from consideration and notes that if ACF had provided more detail earlier, PPCC would not have had "to spend of lot of time and effort" to understand ACF's calculation. *Id.* at 2, 6. PPCC asserts that due to ACF's failure to provide PPCC with enough information to understand the basis for the disallowance, the Board should "uphold a fair and reasonable amount of in-kind [contributions] for PPCC based on the submissions provided by PPCC." PPCC Br. at 8. PPCC also requests that ACF be held liable for increased "litigation costs" and subtract PPCC's legal fees and copying costs from the amount of PPCC's non-federal share not met for the FY 2007 program. PPCC Reply Br. at 6, 19; PPCC Ex. 46.

Much of the disagreement over the current revised disallowance centers around the number of hours ACF tallied versus the number of hours tallied by PPCC when reviewing the previously submitted source documentation. The Board has consistently held that any inadequacies in a determination letter can be cured by the agency during the appeal process if the grantee has an opportunity to respond. *Recovery Resource Center*, DAB No. 2063, at 7-8 (2007). In addition, the description of what a final agency decision must include, found at 45 C.F.R. § 74.90(c), "[is] not intended to provide sanctions for Agency noncompliance" *Vanderbilt University*, DAB No. 903, at 86 (1987). PPCC received the additional exhibits from ACF during the current appeal, and PPCC ultimately had an opportunity to respond to ACF's calculation when it filed its reply brief. In any event, PPCC's asserted inability to understand ACF's calculation of the revised disallowance amount does not negate PPCC's failure to provide contemporaneous source documentation of all claimed in-kind contributions for FY 2007. Thus, we deny the request to simply use PPCC's current calculation of supported non-federal share amounts. We also deny PPCC's request to reduce the amount of the disallowance for FY 2007 due to "litigation costs." PPCC does not cite any authority that would permit us to award such fees and costs. *See, e.g., Child Opportunity Program*, DAB No. 1700, at 2 n.1 (1999).

II. PPCC submitted source documentation that supports a credit of \$509,566.18 of the claimed personnel donations towards its non-federal share of Head Start program costs.

PPCC claimed \$651,603.48 as in-kind contributions for "personnel." These claimed in-kind contributions are for volunteer services from parents of Head Start children served by PPCC's collaborators and its delegate agency, and for volunteer services provided by their employees. The "collaborators" are child care programs with which PPCC has agreements to provide donated services to some of the children that receive Head Start services from PPCC (APM, Children's Village, Preschool Project, Project Rainbow, and The Lighthouse). PPCC Exs. 10, 13, 24 (contracts with collaborative agencies); ACF

Ex. 1, at 8. PPCC's delegate agency is the Norris Square Civic Association (Norris Square). PPCC Exs. 13, 24; ACF Ex. 1, at 20. As explained below, we find that \$509,566.18 of the claimed personnel donations are supported by source documentation and should be credited towards PPCC's non-federal share of the Head Start program costs. We uphold ACF's determination that the remaining \$142,037.34 claimed for "personnel" donations is not supported by adequate documentation.

PPCC Volunteer Services: In *PPCC I*, we concluded that PPCC adequately documented the receipt of volunteer services by the parents of children who received services directly from PPCC (as opposed to those served by delegate or collaborative programs). We noted that PPCC did not supply source documentation for other in-kind personnel services shown on its accounting records that it claimed as in-kind contributions, such as by teacher volunteers for certain months in certain classrooms. DAB No. 2297, at 15. Of the originally claimed \$347,653.17, ACF allowed a total of \$313,196.20 of supported in-kind contributions for PPCC volunteer services. PPCC Ex. 28. PPCC does not contest this part of ACF's revised determination. PPCC Br. at 9.

APM: In *PPCC I*, we concluded that the forms submitted as source documentation for claimed APM volunteer services were sufficient to document in-kind contributions towards PPCC's non-federal share where they: 1) had both the volunteer's name (in either the signature or the name space) and the signature of the supervisor, or were continuation pages where the first page bears the required information; and 2) recorded the entry of time in the "classroom participation" column or in the "Others" column bearing the annotation "security." DAB No. 2297, at 22. PPCC asserted in this appeal that the source documentation of record supported an in-kind credit of \$16,633.75 of the originally claimed \$45,018.26. PPCC Br. at 23. Thereafter, ACF agreed and allowed \$16,633.75 for volunteer services at APM. ACF Br. at 17. Accordingly, there remains no issue for Board review in this category.

Project Rainbow: In *PPCC I*, we concluded that some of the forms submitted as source documentation for volunteer services at Project Rainbow contained sufficient information to reasonably establish the receipt of in-kind contributions of volunteer services applicable towards PPCC's non-federal share. DAB No. 2297, at 23. PPCC asserted in this appeal that the source documentation of record supported an in-kind credit of \$2,338.43 of the originally claimed \$9,679.37. PPCC Br. at 25. Thereafter, ACF agreed and allowed \$2,338.43 for volunteer services at Project Rainbow. ACF Br. at 17. Accordingly, there remains no issue for Board review in this category.

Children's Village, Preschool Project, and The Lighthouse: In *PPCC I*, we sustained the disallowance attributable to the in-kind personnel contributions claimed for Children's Village, Preschool Project, and The Lighthouse because PPCC did not submit contemporaneous source documentation of volunteer services it reported having received from these three collaborators. DAB No. 2297, at 24. As PPCC had only submitted invoices and a spreadsheet from these collaborators, PPCC was not permitted to

subsequently supplement the record with documentation. Accordingly, none of these claimed volunteer services are counted towards PPCC's allowable in-kind contributions.

Norris Square: In *PPCC I*, we found that certain documentation, such as attendance forms for a job candidate and a university student and meeting forms for a Christmas show, an annual meeting and Hispanic Heritage events, was clearly inadequate to support in-kind personnel contributions. DAB No. 2297, at 20-21. We found, however, that additional source documentation could support the allowability of the claimed personnel in-kind contributions at Norris Square in certain instances. *Id.* at 15-20. In *PPCC I*, we grouped the additional source documentation into subject categories, which the parties in the current appeal also used, i.e., parent volunteer forms (Raising a Reader Program), Project Ayuda, additional parent volunteer time sheets, classroom meetings minutes, resource time sheets, and field trips. *See* DAB No. 2297, at 15-21.

As explained below, we uphold in part and reverse in part ACF's revised determination of allowable in-kind personnel donations at Norris Square. Specifically, we uphold the amounts ACF credited to PPCC for classroom meeting minutes and field trips and conclude that source documentation supports additional hours of volunteer services in the categories of parent volunteer forms (Raising a Reader Program), Project Ayuda, additional parent volunteer time sheets and resource time sheets. PPCC claimed \$186,605.77 for volunteer services at Norris Square, of which \$177,397.80 is supported by adequate source documentation.

Before discussing the specific volunteer services donated at Norris Square, we note that PPCC submitted source documentation of in-kind resource donations from Head Start parents with the volunteer forms. ACF allowed \$970.43 for in-kind donation of resources at Norris Square. PPCC Ex. 28. PPCC does not contest this determination. PPCC Br. at 21. Accordingly, \$970.43 in donated resources should be credited towards PPCC's non-federal share of the Head Start program costs.

Raising a Reader Program

In *PPCC I*, we concluded that the Norris Square parent volunteer forms for the "Raising a Reader" program sufficiently established the receipt of volunteer services that are acceptable in-kind contributions. We indicated that ACF should determine the amount of the non-federal share supported by the documentation. DAB No. 2297, at 17. ACF allowed \$59,223.24 of supported in-kind contributions for Norris Square volunteer services. PPCC Ex. 28. PPCC asserts that the source documentation of record supports in-kind expenditures of \$110,962.32. PPCC Br. at 12. ACF indicates that is credited only up to the amount of hours found on the summary time sheets for each month rather than the number of hours shown on the individual time sheets for each month. ACF Br. at 11-12. PPCC argues that the allowable amount of hours should be based on the individual time sheets, not on the summary time sheets. PPCC Reply Br. at 15. In short, the only issue in controversy is whether the allowable hours for parents who documented

their participation in the Raising a Reader program should be based on the totals from the individual time sheets or limited to the number of hours found on the summary time sheets for each month.

In *PPCC I*, we specifically noted that ACF “should allow only those services that are supported in the source documentation,” and that ACF was not required to allow any excess of the amount shown in the accounting records. DAB No. 2297, at 17. As previously noted, the accounting records show PPCC claimed a total of \$651,603.48 for in-kind personnel services, with \$186,605.77 of this amount claimed for volunteer services at Norris Square. PPCC Exs. 17(A) and 13. The total number of hours for volunteer services, for all Norris Square personnel categories, is limited to the total amount claimed (\$186,605.77) in the personnel accounting records. In other words, PPCC’s total of \$110,962.32 for these parent volunteer hours does not exceed the total amount claimed for Norris Square personnel in-kind contributions. ACF does not deny that the source documentation supports this amount, nor does ACF provide any persuasive reason for limiting the amount allowed to the summary time sheet totals. Accordingly, we conclude that \$110,962.32 in in-kind expenditures for the “Raising a Reader” program is allowable.

Project Ayuda

In *PPCC I*, we afforded PPCC an additional opportunity to submit evidence, such as affidavits by appropriate persons (e.g., the volunteers or those who supervised them and have personal knowledge of the project and the activities performed), demonstrating that the volunteers for Project Ayuda performed allowable Head Start activities in the times shown on the submitted sign-in/sign-out sheets. DAB No. 2297, at 18. PPCC submitted supplemental documentation, and ACF allowed \$26,433.74 (3,428.5 hours) of supported in-kind contributions for Project Ayuda. PPCC Ex. 28; ACF Br. at 13. PPCC argues that the volunteer services documented by the time sheets totaled 4,478 hours and should be credited as \$34,525.38. PPCC Br. at 14. Because the only issue is the total number of hours, we have calculated the total number of hours recorded on Project Ayuda time sheets found in PPCC Exhibit 19.⁴ We tallied a total of 4,378 hours. At the agreed rate of \$7.71 per hour, we conclude this totals \$33,762.09 that should be credited towards the total amount claimed for Norris Square personnel in-kind contributions.

⁴ When PPCC requested reconsideration of DAB No. 2297, PPCC submitted copies of source documentation that it had previously failed to present for consideration, but we did not admit them into the record. Ruling No. 2010-3, at 2-3. Thus, we tallied the allowable hours on this issue based only on the source documentation previously admitted into the record.

Volunteer time sheets

In *PPCC I*, we concluded that “Volunteer Time Sheets” were sufficient documentation where they indicated the work done, the classroom, the date, and the duration of the work. DAB No. 2297, at 18. ACF allowed \$1,740.53 (225.75 hours) of supported in-kind contributions for the additional volunteer time sheets. PPCC Ex. 28; ACF Br. at 13-14. PPCC argues that the volunteer services documented by the time sheets totaled 432 hours and should be credited as \$3,330.72. PPCC Br. at 15-16.

As the only issue is the total number of hours for which the volunteer sheets contained sufficient information, we have calculated the total number of hours recorded on volunteer time sheets found in PPCC Exhibit 19. We tallied a total of 364.82 hours. At the agreed rate of \$7.71 per hour, we conclude this totals \$2,812.76 that should be credited towards the total amount claimed for Norris Square personnel in-kind contributions.

Classroom meetings minutes

In *PPCC I*, we concluded that classroom meetings minutes were sufficient documentation to establish the provision of volunteer services and found that the minutes reasonably describe activities that presumably would have occupied the participants for at least one half-hour when the exact time was not recorded. DAB No. 2297, at 19. ACF allowed \$2,906.67 (377 hours) of supported in-kind contributions for the additional volunteer time sheets. PPCC Ex. 28; ACF Br. at 14. PPCC argues that the volunteer services documented by the time sheets totaled 407 hours and should be credited as \$3,137.97. PPCC Br. at 17. Because the only issue is the total number of hours, we calculated the total number of hours recorded on volunteer time sheets found in PPCC Exhibit 19. We tallied a total of 374.88 hours, fewer hours than allowed by ACF. Accordingly, we reject PPCC’s position that the classroom meeting minutes support more than the \$2,906.67 ACF credited towards the total amount claimed for Norris Square personnel in-kind contributions.

Resource time sheets

In *PPCC I*, we concluded that the resource time sheets, titled "Norris Square Visitor Sign-In Sheets," established the provision of special instruction services that benefited PPCC's Head Start program. DAB No. 2297, at 19-20. We directed ACF to count towards PPCC's non-federal share the amounts for special instruction provided by APM staff as established by the resource time sheets and supporting sign-in, sign-out sheets. *Id.* ACF allowed \$15,050.88 (180.25 hours) of supported in-kind contributions for the additional volunteer time sheets. PPCC Ex. 28; ACF Br. at 15. ACF limited the hours it counted as allowable to documents that had the acronym “SI” or the words “special instruction” written out on the basis that PPCC had not provided a glossary or definition of terms for the additional acronyms used. *Id.* PPCC argues that the volunteer services

documented by the time sheets totaled 459 hours and should be credited as \$38,326.50. PPCC Br. at 15-16. PPCC also asserts that the additional acronyms used such as “OT” for occupational therapy and “IEP” for individualized education plan represent allowable services and notes that at no point prior to the response brief did ACF ever articulate an inability to understand these acronyms. PPCC Reply Br. at 11-14. We agree that the additional acronyms used by APM staff⁵ are commonly understood and represent the type of special instruction that should be allowable in-kind contributions. We tallied a total of 314.03 hours, which at the agreed upon rate of \$83.50 per hour, totals \$26,221.51. We conclude that amount should be credited towards the total amount claimed for Norris Square personnel in-kind contributions.

Field Trips

In *PPCC I*, we afforded PPCC an opportunity to submit to ACF upon remand supplemental evidence that the volunteer sheets appearing to track parent volunteers on field trips to the zoo and to a pumpkin patch were used to record the receipt of donations of volunteer services from Head Start parents. DAB No. 2297, at 20. PPCC submitted supplemental documentation, and ACF allowed \$732.45 of supported in-kind contributions for parent volunteer hours during field trips. PPCC Ex. 28. PPCC does not contest this determination. PPCC Br. at 17. Accordingly, there remains no issue for Board review, and \$732.45 should be credited towards the total amount allowed for Norris Square personnel in-kind contributions.

III. PPCC is entitled to a credit of \$42,599.73 for in-kind fringe benefits towards its non-federal share of Head Start program costs.

In *PPCC I*, we sustained the disallowance for the entire amount claimed by PPCC for fringe benefits based on the volunteer services because PPCC failed to submit any source documentation. DAB No. 2297, at 24-25. However, we noted that ACF was not precluded from allowing a reasonable amount for fringe benefits that are fixed by law and thus readily determinable, such as FICA. *Id.* at 25 n.14. PPCC asserts that it is entitled to \$111,567.49 of the originally claimed \$261,133.14. PPCC Br. at 27; PPCC Ex. 45. ACF allowed fringe benefits for FICA (7.65%), unemployment compensation (0.59%), and workmen’s compensation (0.12%) based on the amount of volunteer hours that ACF accepted from each of the volunteer providers, in the amount of \$33,978.18. ACF Br. at 19; ACF Ex. 17. PPCC argues that the regulations do not require that fringe benefits be fixed by law in order to be allowable and references documentation that explains the health and dental benefits offered to employees. The reason we limited fringe benefits in this case to the type of benefits required by law is that PPCC failed to submit source documentation in support of these other claimed in-kind contributions. We did not

⁵ PPCC included the acronym “RAR” for the United Way Raising a Reader Program but no APM staff utilized “RAR” on the sign-in, sign-out sheets contained in PPCC Exhibit 19.

permit PPCC yet another opportunity to submit such documentation. Therefore, we do not consider the additional health and dental benefits PPCC now attempts to support with new source documentation. However, we use ACF's method for calculating fringe benefits to modify the total allowed amount to \$42,599.73,⁶ due to the additional personnel in-kind contributions allowed elsewhere in this decision.

IV. PPCC submitted source documentation that supports \$37,731.74 of the claimed in-kind donation of disability services towards its non-federal share of Head Start program costs.

In *PPCC I*, we concluded that the sign-in sheets submitted in support of the claimed disability services did not establish the receipt of allowable in-kind contributions. DAB No. 2297, at 32-33. However, because PPCC submitted underlying source documentation and ACF did not originally state the specific reason why it found that the documentation was insufficient, we afforded PPCC an additional opportunity to submit supplemental documentation to support its claim. *Id.* at 32. PPCC submitted supplemental documentation and asserted that the documentation of record supported the total amount of the in-kind expenditures originally claimed, \$37,731.74. PPCC Br. at 31. Thereafter, ACF agreed and allowed \$37,731.74 for disability services. ACF Br. at 21-22. Accordingly, there remains no issue for Board review in this category.

V. PPCC submitted source documentation that supports a credit of \$122,652.00 of the claimed in-kind donation of classroom space towards its non-federal share of Head Start program costs.

In *PPCC I*, we recharacterized PPCC's claimed categories of occupancy and rent as "classroom space," and PPCC agreed that the distinction between these categories was primarily one of semantics. DAB No. 2297, at 26. We concluded the submitted materials relating to mortgage payments by Norris Square did not establish the receipt of permissible in-kind contributions. *Id.* at 27. On the other hand, we found the source documentation sufficient to support the claimed donations of classroom space at Project Rainbow. On remand, we permitted PPCC to submit additional documentation in support of the claimed donation of classroom space at the additional collaborative agencies. *Id.* at 26-27. PPCC submitted additional documentation for The Lighthouse and APM. PPCC Ex. 30. ACF allowed \$16,320.00 for donated classroom space at Project Rainbow and \$9,952.00 for classroom space at The Lighthouse. PPCC Ex. 28. In its brief in response to the appeal now before us, ACF also allowed \$20,004.00 for donated classroom space at APM. ACF Br. at 20. PPCC asserts that it is entitled to \$151,428.00 for the value of the in-kind donations of classroom space at Project Rainbow (\$16,320.00), The

⁶ This amount is the product of \$509,566.18 (total personnel in-kind donations allowed) multiplied by 8.36% (FICA, unemployment compensation and workmen's compensation benefits required to be paid by employers by law).

Lighthouse (\$115,104.00), and APM (\$20,004.00). PPCC Br. at 28. However, PPCC originally claimed only \$146,185.42 (\$34,721.40 originally classified by the parties as "occupancy" plus \$111,464.02 originally classified by the parties as "rent") in classroom space donations, and, therefore, we limit any current calculations to this amount.

PPCC asserts that the \$9,952.00 for donation of classroom space at The Lighthouse should be a monthly amount for FY 2007, not the total amount allowed, and notes that this is the amount found on each of the monthly "invoices" submitted by PPCC for The Lighthouse. PPCC Br. at 28; PPCC Reply Br. at 8-9. ACF asserts that, "[a]lthough PPCC argues otherwise, the Lighthouse document makes no mention of, nor suggests that the amount of \$9,952 is a monthly amount, or that the total should be \$115,104." ACF Br. at 20. The supplemental documentation submitted by PPCC from the executive director of The Lighthouse notes that the total usage of building space by the Head Start program is 6,199 square feet and that The Lighthouse listed space usage totaling \$9,592 on its "In Kind Report." PPCC Ex. 30, at 22. We agree with ACF that the supplemental documentation from the executive director references a single in-kind report. However, PPCC had previously submitted multiple monthly in-kind reports from The Lighthouse. *See* PPCC Ex. 17(A), Tab Collaborative (The Lighthouse). Viewing the supplemental documentation in light of the originally submitted source documentation, we conclude that the \$9,952.00 is a monthly amount and that PPCC is entitled to a credit for each monthly in-kind report submitted. PPCC submitted source documentation for each month in FY 2007 except for November 2006, December 2006 and July 2007. *Id.* The nine submitted reports each list an in-kind donation for space usage in the amount of \$9,592. *Id.* ACF made no finding that the amount per square foot was unreasonable. Therefore, we find that PPCC is entitled to \$86,328.00 as an in-kind contribution from The Lighthouse.

A total of \$122,652.00 of the claimed classroom space donations is supported by source documentation and allowable as PPCC's non-federal share of Head Start program costs.

VI. *PPCC failed to submit a timely request to the Board to reopen DAB No. 2297 in connection with our previous findings for the claimed in-kind donation of consulting services.*

In *PPCC I*, we sustained ACF's disallowance for the \$107,101.02 claimed by PPCC as in-kind contributions of consulting services. DAB No. 2297, at 29. PPCC now asserts that it should receive an in-kind credit in the amount of \$26,305.50 for the value of professional accounting services based on additional documentation submitted by PPCC. PPCC Br. at 30. PPCC argues that "ACF did not specifically state in its brief why it found PPCC's documentation pertaining to its accountant consulting services to be insufficient." *Id.* at 29. PPCC asserts that it submitted additional documentation in support of professional accounting services because we permitted PPCC to submit supplemental documentation in similar circumstances. *Id.* at 29-30.

When discussing the claimed in-kind contributions for accounting services in *PPCC I*, we specifically noted:

Contracts for the provision of accounting services to PPCC indicate that the consultant would provide them at the discounted rate of \$50 per hour and that the consultant's regular rate was \$75 per hour. [PPCC Ex. 23]. However, PPCC submitted no receipts or invoices documenting that the consultant actually provided any of the contract services. PPCC submitted various spreadsheets recording the entry of amounts labeled as in-kind contributions that it attributed to the accounting consultant and allocated to PPCC's different programs. Nonetheless, these spreadsheets do not verify that PPCC actually received the accounting services and do not establish how those services benefited the Head Start program or that the undiscounted rate "was consistent with those paid for similar work in the labor market in which [PPCC] competes for the kind of services involved," as required by 45 C.F.R. § 74.23(d).

DAB No. 2297, at 30 (citation omitted). Under the applicable regulations, the Board may reconsider its own decision "where a party promptly alleges a clear error of fact or law." 45 C.F.R. § 16.13. However, PPCC did not timely request we reopen our prior decision. Therefore, no consulting services claimed by PPCC as in-kind contributions are considered allowable.

VII. PPCC is entitled to a total of \$713,520.08 for in-kind contributions towards its non-federal share of Head Start program costs.

Based on our analysis above, we find that \$713,520.08 of PPCC's in-kind contributions claimed towards its non-federal share of Head Start program costs for FY 2007 are supported by source documentation. Using ACF's formula (which PPCC did not challenge), we determined the amount of the disallowance for failure to meet the non-federal share requirements as follows. We amend ACF's calculation of the total approved program costs to \$6,087,922.08. As a result, PPCC's required total non-federal share was \$1,217,584.42 (20% of total program costs). The shortfall in PPCC's non-federal share was therefore \$504,064.34. We uphold ACF's disallowance of the shortfall in non-federal share (\$504,064.34) plus the amount of staff salaries previously disallowed (\$387,238.00). PPCC's total FY 2007 disallowance is \$891,302.34.

Conclusion

For the foregoing reasons, we uphold a total disallowance for FY 2007 of \$891,302.34.

_____/s/
Judith A. Ballard

_____/s/
Leslie A. Sussan

_____/s/
Stephen M. Godek
Presiding Board Member