

DEPARTMENTAL GRANT APPEALS BOARD

The Department of Health, Education, and Welfare

SUBJECT: Texas A&M University                      DATE: November 6, 1975  
          System  
          College Station, Texas  
          Docket No. 75-2  
          Grant No. AM-06011-11  
          Decision No. 10

DECISION

Texas A&M University System utilized \$4,569 of funds from year-11 of an Arthritis and Metabolic Diseases Institute research grant AM-06011 to pay for part of the cost of a centrifuge purchased for \$10,400 in year-10. Purchase of the centrifuge and payment to the extent of \$6,300 of year-10 funds were authorized. Appellant utilized only \$1,731 of year-10 funds and paid the balance of the \$6,300 out of year-11 funds. \$4,100 was paid from appellant's funds. Year-11 however was not a noncompetitive continuation, but a competing renewal.

Under applicable Public Health Service (PHS) Policy Statement for Grants for Research Projects, revised July 1, 1967, in effect in both year-10 and year-11, the use of year-11 funds for this purpose would have been allowable had year-11 been a continuation grant, but even then only if the items concerned were incorporated in the approved budget for year-11 and only if, where required for restricted categories, prior approval had been obtained. (Policy Statement p. 36) In the case of a renewal project, however, expenditures made prior to the beginning date of the project or renewal may not be paid for out of the grant.

The Audit Agency questioned the cost, and Financial Advisory Services Branch, Division of Contracts and Grants, National Institutes of Health (NIH), disallowed it. An appeal to the NIH Grant Appeals Board sustained the Division of Contracts and Grants in a letter dated January 28, 1975. Grantee appealed to this Board February 21, 1975. NIH Assistant Policy and Procedures Officer responded to the Appeal.

The facts are agreed to by both parties and the explicit terms of the applicable Policy Statement are agreed to by both parties.

Grantee argues that, notwithstanding its conceded failure to comply with the applicable provisions of the NIH Policy Statements, the violation was a technical one and should not lead to disallowance in the light of the complete history of the long-term cooperation in this venture and the partnership role which should exist in such a research project. NIH responds that enforcement of the clear terms of the Policy Statement is not an impairment of a partnership relation.

The appellant was directed to show cause why the Board should not proceed to decision forthwith on the record already made, identifying the respects, if any, in which the foregoing summary is materially incomplete or inaccurate, and the reasons, if any, why the appeal should not be rejected for violation of unambiguous terms of the Policy Statement, accompanied by any briefing on any aspect of the case the appellant wished to submit. In response, appellant confirmed that the facts as presented are correct.

Appellant furnished a copy of a letter from the National Institute of Arthritis and Metabolic Diseases authorizing purchase of the centrifuge and payment to the extent of \$6,300 of year-10 funds. No authority, however, is shown for the use of year-11 funds for payments on account of this purchase. The Policy Statement, for reasons which are a valid exercise of the supervision required by good grants management, plainly prohibits this utilization of year-11 funds.

#### DECISION

The appeal is denied and the action of the National Institutes of Health is sustained.

/s/ Bernice L. Bernstein

/s/ David V. Dukes

/s/ Malcolm S. Mason, Panel Chair