



Disallowance Offset by Unclaimed Costs But Not Additional Nonfederal Resources

Central Piedmont Action Council, Inc., DAB No. 1916 (April 2004)

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In this U.S. Department of Health and Human Services (HHS) Departmental Appeals Board (DAB) decision, the DAB overturned a determination by the Administration for Children and Families (ACF) to disallow \$78,774 in Head Start funds awarded to Central Piedmont Action Council (CPAC). ACF disallowed the funds, claiming that CPAC spent funds allocated for the years 2000 and 2001 on expenses for the years 1999 and 2000 respectively.

According to HHS regulations governing grants to non-profit organizations, award money may only be used to cover cost obligations incurred during the funding period for which the grant is awarded.¹ Funds from one award may not be used to compensate for deficiencies in other awards.² Because the use of funds in such a way effectively increases the grant award for the deficient period, violation of these rules has been a basis for disallowance.³ CPAC did not deny the basis for disallowance. Instead, it argued that unclaimed costs should be used to offset a portion of the disallowance. CPAC further argued that it acquired additional resources that should further reduce the disallowance, and that because there was no decrease in Head Start services the remainder of the disallowance should be reversed. The DAB agreed to offset the disallowance with other unclaimed costs, but denied the rest of CPAC's arguments.

ACF disallowed \$75,023 for 2001. In 2001, CPAC did not originally claim federal Head Start funding for food-related costs which were partially funded by the U.S. Department of Agriculture (USDA). CPAC mistakenly did not apply for these costs initially because of the funding from the USDA, however, the costs not covered by the USDA remained allowable costs under the Head Start grant. In addition, the HHS audit on which the disallowance was based, was completed before the end of the 2001 budget year, and so did not accurately depict the actual Head Start costs for that year. CPAC argued that this amounted to \$37,638 that could have been deducted from its total disallowance. ACF did not question the allowability of these costs. The DAB previously held that a disallowance may be reduced by documented, unclaimed, allowable costs⁴ and thus DAB accepted CPAC's argument that its total costs incurred in 2001 should be considered and the \$75,023 disallowance should be reduced accordingly.

Because the Head Start Act requires that grantees acquire 20 percent of total approved program costs from nonfederal sources⁵ CPAC had to show that its unclaimed costs were distinct from and in addition to the 20 percent of total approved Head Start costs that it was required to pay with nonfederal funds. The DAB found that CPAC submitted evidence establishing that, including the unclaimed costs, it paid for

29 percent of total program costs in 2001 from nonfederal sources. Therefore, the \$37,638 in unclaimed costs could be allowed without violating the 20 percent nonfederal share requirement.

CPAC also contended that the \$81,130 it acquired in additional nonfederal resources in 2001 including cash, in-kind services, and cost savings should offset the disallowance. However, the DAB noted that CPAC failed to explain why acquiring additional resources to spend on the Head Start program by itself, would be a reason to reduce the disallowance. The DAB determined that in-kind contributions and cost savings cannot be charged to federal funds, and thus cannot be used to offset the disallowance. Although in-kind contributions may be used to satisfy cost-sharing or matching, they are not costs for which the grantee can seek reimbursement.⁶ The DAB further determined, that cost savings do not result in additional allowable costs either.

Finally, CPAC argued that because there was no reduction in Head Start services, the disallowance should be reversed. The DAB dismissed this argument, finding that this approach disregards the importance of responsible handling of federal funds. Documenting "costs is a fundamental principle of grants management, not a mere technicality, and thus the burden to demonstrate the allowability and allowability of costs claimed in a grant program rests with the grantee."⁷

Based on this analysis, the DAB reversed the disallowance of \$37,638 from unclaimed costs, and sustained the remaining disallowance of \$41,106.

¹ 45 C.F.R. 74.28.

² OMB Circ. A-122, Att. A, A.4.b.

³ Delta Foundation, Inc. DAB No. 1710 at 41 (1999), citing Bedford Stuyvesant Restoration Corp., DAB No. 1404, at 15 (1993).

⁴ Campesinos Unidos, Inc. DAB No. 1546 (1995).

⁵ 42 U.S.C. § 9835(b); 45 C.F.R. 1301.20.

⁶ 45 C.F.R. 74.23.

⁷ Council of the Southern Mountains, DAB No. 1861 at 11 (2003), citing Lac Courte Oreilles Tribe, DAB No. 1132 at 5, n.4 (1990).