

DEPARTMENTAL GRANT APPEALS BOARD

THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DATE: September 12, 1974

RE: Donald Guthrie Foundation for Medical Research, Sayre,
Pennsylvania, Docket #11, Grant No. HE 11318-01-02-03
Decision No. 6

This is an appeal pursuant to 45 CFR Part 16 from the National Heart and Lung Institute of the National Institutes of Health decision on August 24, 1973 not to allow the foundation to retroactively alter the cost-sharing proposals of the grant to enable the grantee to claim full indirect cost reimbursement on a research project that had expired three years previously. The undersigned members of the Grant Appeals Board have been designated as a panel of three for the disposition of the instant case. This decision is made on the basis of documents submitted to the Board.

BACKGROUND

A 3-year research grant was made to the Donald Guthrie Foundation for Medical Research. The grantee agreed to the cost-sharing proposal to accept less than full indirect cost reimbursement. Each year for three years it received the Institute's standard instruction on cost sharing in research grants and agreed to the conditions of the grant. The grant period ended on May 31, 1970. On August 7, 1973 the grantee wrote to the Institute indicating that it had been brought to its attention that it should have claimed the donated time of the principal investigator, an amount calculated to be \$5,400, as a cost-sharing item.

FACTS

The National Heart Institute on August 22, 1969, notified the Donald Guthrie Foundation for Medical Research in its standard instruction memo on cost-sharing in research grants that it was necessary to establish in advance, the extent of cost participation by the applicant institution. The letter indicated that if the grantee elected to contribute through indirect costs it was to indicate the portion of indirect costs being requested from the Public Health Service and that indirect costs related to salaries or other items contributed by the grantee institution were not to be included in the amount requested from the Public Health Service. Additional information contained in the memo indicated any proposed contribution of less than 5 percent of the total cost should be accompanied by

an explanation of the reason therefore.

On October 16, 1967, the grantee returned the revised Grantee Cost-Sharing Proposals in which it elected to cost share at the required acceptable minimum of 5 percent of the total cost and this sharing would be in the indirect cost category.

On October 31, 1967, the Institute wrote to the grantee making minor revisions in the indirect cost amounts and restating the grantee's proposals to cost share 5% of the total activity and that the grantee contribution would be done completely through the indirect cost category.

On April 29, 1968, the Institute sent the grantee another standard instructional memo on Cost-Sharing in Research Grants.

On April 24, 1969, the Institute sent the grantee a third standard instructional memo on Cost-Sharing in Research Grants.

On May 19, 1969, the Grantee wrote to the Institute indicating that it had again "elected to obtain grantee cost sharing through the indirect cost method".

On August 7, 1973, the grantee appealed to the Institute for relief from excessive cost-sharing requirements and indicated that the principal investigator had donated time to the project equivalent to \$5,400 and that it had been brought to its attention that "this cost should have been listed in the grant application budget and should have been considered in the cost sharing requirements which in itself would have amounted to approximately 10% of the total expenditures incurred in the performance of the grant...the allowance of this method of cost-sharing would not exceed the amount originally awarded for this grant".

On August 24, 1973, the Institute replied to the grantee indicating it could not comply with the grantee's request citing that an arrangement for receiving less than full indirect costs was proposed by the grantee on three separate occasions and during the active life of the project the grantee made no attempt to alter the proposed method of cost-sharing. The Institute feels the grantee's intent was clear and it cannot allow a change in options on an inactive grant at this late date merely because the grantee found in retrospect it would be to its advantage to do so.

On October 11, 1973, the grantee appealed to this Board indicating its belief that the time contributed (donated) should now be used for cost-sharing purposes and that at the time the grant was made it understood that the principal investigator's contributed time could not be used as a cost-sharing item.

DISCUSSION

1. On three occasions the grantee received the Institute's standard memorandum of instruction which contains guidance on cost-sharing in research grants. This memorandum indicates that grantees may cost share personnel.
2. The grantee elected to cost share at the required acceptable minimum of 5% of the total cost in the indirect cost category.
3. There is no indication that the grantee tried to modify the agreement during the three years of the project.

The panel feels that the grantee's subsequent discovery that it could, by using the estimated value of the services of the principal investigator as its cost contribution have claimed full indirect cost reimbursement, which is the issue of this appeal, does not retroactively alter the cost-sharing arrangement entered into.

DECISION

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

/s/ William T. Van Orman, Chairman

/s/ Frank DeGeorge

/s/ Charles Saunders