

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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JUL 25 1979

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FILE: B-195163

AGC00349

DATE:

MATTER OF: ACTION - ^{the} Availability of Appropriation ^{For} Grant
Modification ^{by ACTION}

DIGEST: ACTION's proposed grant modification to expand the area from which enrollees in a demonstration youth employment project are drawn to include additional county ^{would not} enlarge the grant's scope because the statutory authority for the grant (section 348(a) of the Comprehensive Employment and Training Act of 1973, as added by the Youth Employment and Demonstration Project Act of 1977, Pub. L. No. 95-93, 91 Stat. 645, 29 U.S.C.A. § 849g) and the interagency agreement with the Department of Labor ^{delegating this authority to ACTION} support the conclusion that the proposed amendment is necessary to carry out the original purpose of the grant. Accordingly, such an amendment would not require the obligation of current fiscal year appropriated funds.

This decision to the Director of ACTION is in response to a request from the General Counsel of that agency for an opinion on whether a proposed modification would, in effect, constitute a new grant that requires the obligation of current fiscal year funds, or whether the prior year funds, originally obligated for the grant, may be used to fund the modification. Under the circumstances of this case and for the reasons given below, we do not believe a new grant will be created by the proposed modification. ACTION may therefore make the change without obligating current fiscal year funds.

In fiscal year 1978, the Youth Community Services Demonstration Project/Syracuse (YCS/S) received an ACTION grant to conduct a "community service volunteer program" that would provide 16 to 21 year old youths with an experience that would "aid their transition to regular employment." The grant is authorized under section 348(a) of the Comprehensive Employment and Training Act of 1973 (as added by section 201 of the Youth Employment and Demonstration Project Act of 1977 (the Act), Pub. L. No. 95-93, 91 Stat. 645, August 5, 1977, 29 U.S.C.A. § 894g). Section 348(a) is a Department of Labor program, but ACTION made the grant, using funds appropriated to Labor, under an interagency agreement with Labor as expressly authorized by paragraph (3) of subsection 348(a). The funds in question are no longer available for obligation.

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By the terms of the grant proposal, the grant program was to take place in the city of Syracuse and in Onondaga County, New York, but it was determined after the award that the grantee would be unable to recruit the specified number of volunteers without expansion of the geographical area. In order to allow the grantee to recruit the number of volunteers agreed to in the grant, ACTION, with the agreement of the Department of Labor and the grantee, proposes to expand the grant target area to include adjacent Oswego County.

The Director of Contracts and Grants Management for ACTION has questioned the grant amendment on the following basis:

"The purpose of the project was to establish a demonstration project to test the concept of a National Youth Service. To achieve this purpose the City of Syracuse and Onondaga County was chosen as the appropriate site. The Grant application submitted and funded includes the following excerpts:

- "(a) 'The purpose of the grant is to offer a vehicle to provide needed community services to youths of Syracuse and Onondaga County---'
- "(b) 'The target area encompassed by the proposed project is the area of Onondaga County in general and more specifically the City of Syracuse, hereinafter referred to as "Greater Syracuse. "'
- "(c) 'A YCS[Youth Community Service] Volunteer will be a 16 through 21 year old resident of the Greater Syracuse area---'
- "(d) 'Given both the needs and resources of Syracuse and Onondaga County the purpose of the YCS/S[yracuse] Demonstration Project is to offer a vehicle for youths to provide needed community services.'
- "(e) 'Unemployed youth in Syracuse and Onondaga County will respond to the appeal of a full year of community service experience. "'

"The foregoing excerpts clearly illustrate that the funds obligated were intended for a demonstration project in Syracuse and Onondaga County. I can find no reference to indicate any intent to have the project encompass Oswego County. This would clearly indicate that the proposed expansion of the project to cover Oswego County constitutes the equivalent of 'new procurement' and requires funds available for purposes of obligation when that obligation is effected."

A memorandum prepared by the ACTION General Counsel's staff, however, reaches a contrary conclusion.

"In summary, while the grant proposal unquestionably refers to the City of Syracuse and the surrounding Onondaga County as the target area, it appears that these geographic limitations were never perceived by any of the parties as essential elements of the purposes for which the grant was made. Selection of the target area referred to above appears to have been simply the best estimate of the project managers as to the population base which would produce the required number of volunteers. All grant documents are consistent in stating that the purposes of the grant were the placement of approximately 1650 young people in community service positions through a novel method of recruitment, and the testing of a model of youth community service which might later be used elsewhere in a projected national youth service program. The project documents are also clear in their recognition that changes might be required in non-essential elements of the project design to effect the desired result.

"For the above reasons I conclude that the extension of the project into Oswego County is simply a modification of a non-essential element of the project model within the scope of the original grant of a kind which was authorized by the grant document, and does not amount to a change of scope which would require the obligation of additional funds."

The issue is whether the proposed modification of the geographical area from which project enrollees are recruited will change the scope of the grant.

We recently summarized the general rule in 57 Comp. Gen. 459, 460 (1978) as follows:

"It is well established that agencies have no authority to amend grants so as to change their scope after the appropriations under which they have been made have ceased to be available for obligation. See, for example, 39 Comp. Gen. 296 (1959). The substitution of one grant for another extinguishes the old obligation and creates a new one. The new obligation is chargeable to the appropriation available at the time the new obligation is created. See 41 Comp. Gen. 134 (1961); 39 *id.* 296 (1959); 37 *id.* 861 (1958); and B-164031(5), June 25, 1976."

As we said in one of the cited cases (39 Comp. Gen. 296, 298 (1959)):

"The execution of a grant based upon a proposal containing specific objectives, research methods to be followed, and estimates of project costs would ordinarily give rise to a definite and maximum obligation of the United States. To enlarge such a grant beyond the scope of the original is to create an additional obligation and must be considered as giving rise to a new grant."

A shift in the community served by a grant may also alter the scope of the grant. B-164031(5), June 25, 1976. We held in that case that where the originally intended recipient community was unable to use a grant, to make the grant to another community, for the same purpose, was not a "replacement" grant but a new and separate undertaking. This is not necessarily so in all cases, however. We have held that in the case of a joint application where the designated grantee was replaced by the other applicant that a new grant was not created because "the alternative proposal amounts to a replacement grant rather than a new and separate undertaking." 57 Comp. Gen. 205, 208-209 (1978).

In the instant case, there would be no change in the original grantee. Moreover, a total obligation has been recorded against funds which were available for the grant, in an amount sufficient to fund the participation of 1650 youths. Thus, the proposed modification of the grant would also not change the amount originally expected to be spent. Finally, the same geographical area originally named to receive services will continue to do so. The only question is whether that area may be expanded under the stated circumstances.

In order to determine the scope of this grant we look at the authorizing legislation, the interagency agreement as well as the actual grant documents.

Section 348(a) of the Act provides authority for the Government:

"* * * to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives."

The interagency agreement between Labor and ACTION stated the purpose of the proposed project as follows:

"The purpose of the demonstration project covered by this Interagency Agreement is to explore the feasibility and the effectiveness of implementation of the 'national youth service' concept by means of having an ACTION selected local non-profit organization arrange community service internships (a) for unemployed young persons residing in a selected area who are 16-21 years old, from all economic backgrounds, and wish to volunteer for such public service, and (b) designed to meet local community service needs, and at the same time, provide youth volunteers with an experience which will aid their transition to regular employment and advancement in the work world."

The ACTION General Counsel further summarizes the agreement in a staff memorandum as follows:

"The agreement then lists seven major objectives of the demonstration, and seven 'major tasks of ACTION.' None of these specific tasks or objectives involves geographic limitations. One of the tasks, however, is to arrange for 'about 1650 community service volunteer internships for youth.'"

The grant proposal also emphasizes the demonstration aspects of the grant. The first sentence of the grantee's proposal says:

"The ACTION Agency proposes to test a national youth service concept by developing and implementing a Youth Community Services (YCS) Demonstration Project in an urban setting."

The introduction to the grantee's proposal also says that ACTION approached city and county officials to inform them that they were under consideration as a potential grant site for a demonstration project and that the grantee in preparing the proposal understands that--

"* * * because the YCS/S project is to be a demonstration of principles and procedures related to the development of a larger National Youth Service policy, changes in certain aspects of the proposal will be necessitated by the realities of experience as project implementation occurs."

Further, the project goals and objectives are generally described as follows:

"Given both the needs and resources of Syracuse and Onondaga County, the purpose of the YCS/S Demonstration Project is to offer a vehicle for youth to provide needed community services while enabling them to gain the necessary knowledge, skills and attitudes to assist in their subsequent transition into additional education/training or into the adult labor market while, at the same time, to test and demonstrate the concepts, policies, and procedures which would support the development of a nationwide youth service program.

"The primary goal of the YCS/S Demonstration Project will be to enable up to 1650 youth, ages 16 through 21, to provide a year of quality service to their community."

* * * * *

"The secondary goal of the YCS/S Demonstration Project will be to demonstrate that youth community service is an effective way of developing experiences which will aid the participants' transition to regular employment and advancement in the work world and, therefore, should be replicated on a national basis.

* * * * *

"A final goal of the YCS/S Demonstration Project is to develop in youth a feeling of self-esteem and self-worth, as well as to give them greater community awareness and responsibility." (Emphasis added.)

While it is not entirely clear how ACTION arrived at the figure of 1650 volunteers for the project, the figure seems to be related to the need for a large enough base of volunteers to provide meaningful demonstration test results. The ACTION proposal to Labor describes the demonstration objectives as follows:

- "1. To test the appeal of a full scale community service volunteer program among the unemployed youth of the respective community.
- "2. To determine the capability of a community to identify viable community service roles that volunteer youth could fill.
- "3. To identify successful components of the pilot program that could be replicated for a National Youth Service program.
- "4. To determine what effect the participation of youth in a volunteer community service program has on their post program employment.
- "5. To contrast the YCS pilot program with other traditional youth manpower programs.
- "6. To test the capacity of local agencies to cooperate in the implementation and management of the YCS project.
- "7. To assess the effect of in-service training and external education opportunities on the volunteer and on their performance in the community service environment."

At too low a level of volunteer presence, these goals, in ACTION's view, cannot be reached. As ACTION's proposal to Labor indicates, an earlier project of 372 young people in another city was too small for demonstration purposes. According to ACTION, YCS/S has only produced about 800 volunteers at the present time. ACTION has concluded, according to the General Counsel's staff memorandum, that the 800 existing volunteers do not reach "***the quantity or quality of participants needed to complete the demonstration." This 800 figure is less than half the consistently stated project goal, and we have no reason to question ACTION's judgment.

Further, the ACTION proposal to Labor and the YCS/S proposal to ACTION both discuss the placement of small groups of volunteers with 600 (ACTION) and 350 (YCS/S) local work stations that would provide enough placements for 1650 volunteers. The number of work sites, coupled with the project goal of providing "1650 volunteer work years to a medium size city" in order to "expand and provide needed community services" translate into a need for a sufficient number of volunteers to man the available work sites. Accordingly, efforts to expand the number of volunteers up to the project goal are consistent with the purposes of the grant.

Our earlier decisions concerning changes in grants after the period of availability of the grant funds for obligation has ended have identified three closely related areas of concern:

- (1) whether a bona fide need for the grant project continues;
- (2) whether the purpose of the grant will remain the same; and
- (3) whether the revised grant will have the same scope as the original grant.

The scope of a grant grows out of the grant purposes. These purposes must be referred to in order to identify those aspects of a grant that make up the substantial and material features of a particular grant which in turn fix the scope of the Government's obligation. In this case, the bona fide need for the project continues. The Government's purpose in making the grant will not change if the amendment is accepted. The Government's purpose in making the grant is expressed most clearly in the interagency agreement. It is clear that the overriding purpose of this grant was to obtain test results for use by the Government from the demonstration. In defining this purpose, a specific number of volunteers--1650-- was considered to be necessary. The geographic site specifications constitute an initial estimate of an area which was expected to produce the required number of volunteers, but which has not done so to date. Clearly, a larger recruitment area is necessary. According to the grant proposal, the Syracuse Standard Metropolitan Statistical Area covers Onondaga, Oswego and Madison Counties. Presumably the inclusion of one or all three of the counties in this metropolitan area would meet the requirements of the interagency agreement as explained in ACTION's proposal to the Department of Labor. Accordingly, if the scope of the grant is considered from the standpoint of the Government need and purpose in making it,

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the precise geographic boundaries would not appear to be a material aspect of the grant--one upon which approval or disapproval depended. Viewed as a whole, the proposed grant amendment if adopted ^{would} will not create a new or separate undertaking, and will not enlarge the scope of the grant. Therefore, the proposed amendment will not require the obligation of current fiscal year funds.

R. F. KELLER

Deputy

Comptroller General
of the United States