



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: General Services Administration--Line-Item
Appropriations--Administrative Expenses

File: B-251285

Date: September 9, 1993

DIGEST

The General Services Administration (GSA) had no authority to establish a reserve account for administrative expenses using a portion of grant funds awarded to various grantees pursuant to line-item appropriations. GSA must disburse amounts in the administrative expense reserve to the appropriate grantees and reimburse the grantees for any amounts previously expended for administrative purposes.

DECISION

The General Counsel, General Services Administration (GSA), asks whether GSA may reserve a portion of funds, appropriated for grants in specified amounts, to pay the costs of administering the grants. We conclude that GSA may not reserve a portion of the earmarked grants to cover administrative costs. GSA should disburse any amounts previously reserved to the grantees or return such amounts to the Treasury if the grant has been closed out.

BACKGROUND

From fiscal year 1986 to fiscal year 1989, the Congress used GSA's National Defense Stockpile Transaction Fund (Transaction Fund) to award grants for scientific research projects. The Congress authorized the grants as line items within the Transaction Fund appropriation. See, e.g., Pub. L. No. 100-440, 102 Stat. 1721, 1740 (1988) ("[T]here is hereby appropriated \$30,000,000 to the Fund, to remain available until expended, the amounts to be allocated for the following projects: . . . University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, \$3,000,000"). GSA had not requested the authority to award the grants nor had it budgeted for the expense of administering the grants in its budget submissions. The General Counsel states that the agency, therefore, "lacked the necessary resources to administer them." As a result, the agency established a practice whereby it reserved 1.1

PUBLISHED DECISION

72 Comp. Gen. 317

percent of the grant amounts to pay the necessary costs of administering the grants.

In fiscal years 1989 through 1991, the Congress awarded similar grants through GSA's Federal Buildings Fund (Buildings Fund).¹ The language that the Congress used to make grant awards through the Buildings Fund was substantially similar to the language used to make awards through the Transaction Fund. See, e.g., Pub. L. No. 101-509, 104 Stat. 1389, 1404-05 (1990) ("The revenues and collections deposited into said Fund shall be available for . . . construction of additional projects at locations and at maximum construction improvement costs . . . as follows: . . . Flagstaff, a grant to Northern Arizona University, Southwest Forestry Science Complex, \$4,500,000"). The Congress earmarked these grants as line items within the Buildings Fund appropriations and GSA continued its practice of reserving 1.1 percent of the grants to cover administrative costs. The Congress also used GSA's fiscal year 1990 General Management and Administration (General Management) appropriation to make earmarked grants, but did not use any GSA appropriations to award grants in fiscal years 1992 or 1993.

According to a GSA official, the Congress awarded a total of \$110 million in earmarked grants through the Transaction Fund, the Buildings Fund, and the General Management appropriation during the period between fiscal years 1986 and 1991. Of that amount, the agency set aside \$1.2 million into the administrative expense reserve. Of the amount set aside, GSA has used about \$5,000 to cover administrative expenses. The General Counsel asks whether the GSA practice of reserving a portion of the earmarked grants to pay for direct administrative costs is proper.

DISCUSSION

In each grant awarded through the GSA appropriations, the Congress, on the face of the statute, specified the amount, purpose and recipient of the grant, earmarking the appropriations. For example, GSA's fiscal year 1987 appropriations act provided:

"\$5,000,000 is appropriated, to be available until expended, for a grant for construction of a

¹Pursuant to Executive Order 12626, February 25, 1988, the President transferred the authority to manage the Transaction Fund to the Department of Defense. See Pub. L. No. 100-180, § 3203, 101 Stat. 1019, 1246-47 (1987) (statute authorizing transfer of Transaction Fund management).

strategic materials research facility at the University of Massachusetts at Amherst."

Pub. L. No. 99-591, 100 Stat. 3341-319 (1986).

This language requires GSA to grant the \$5 million appropriated to the University of Massachusetts at Amherst for the purpose of constructing a research facility. Since the funds were made available for a specific grantee in a specific amount to accomplish a specific purpose, GSA may not grant less than the Congress has directed by using the funds to pay its administrative costs. See 69 Comp. Gen. 660, 662 (1990); 42 Comp. Gen. 289, 293-94 (1962).

The General Counsel argues that since the GSA budget submissions did not include requests for funds to administer grants, the only appropriations available to cover the administrative costs were the grant funds themselves. However, as we have held in the past, budget submissions are nothing more than the statement of an agency's anticipated financial needs which it presents to the Congress for consideration. B-195007, July 15, 1980. The absence of grants in the budget submissions, or a request for funds for grant administration, does not prevent GSA from using otherwise available appropriations to pay the costs of administering the grants.

The General Counsel also states that GSA had legislative approval for the establishment of the administrative expense reserve, even though it is not apparent on the face of the statutes. Specifically, the General Counsel asserts that the reserve "was developed in conjunction with GSA's House and Senate Appropriations Subcommittees" subsequent to the initial grant awards in fiscal year 1986. Nevertheless, it is a well-established principle that post-enactment statements of legislators, however explicit, cannot serve to change the legislative intent expressed in statutes. Regional Rail Reorganization Act Cases, 419 U.S. 102, 132 (1974). See United States v. Southwestern Cable Co., 392 U.S. 157, 170 (1968).

Although we appreciate GSA's effort to involve its appropriations subcommittees in its search for a solution to this funding issue, we think GSA had several funding sources to choose from to cover the cost of administering these grants.² In our opinion, GSA could have used either the appropriation under which the grant was awarded or the

²When an agency selects one appropriation from amongst several available for the same purpose, it must continue to use that appropriation to the exclusion of the others. 68 Comp. Gen. 337 (1989).

General Management appropriation to finance the administrative costs.³

By awarding and funding the grants through the Transaction and Buildings Funds, the Congress implicitly authorized GSA to use amounts available in those Funds to cover administrative expenses. Since the Transaction and Buildings Funds are available without fiscal year limitation, GSA may use amounts currently available in each Fund to reimburse grantees, or the Treasury in the case of closed out grants, for any reserve amounts used to pay the expenses of administering the grants of that Fund. Alternatively, GSA may choose to reimburse the grantees or Treasury for the costs of administering the grants by using the General Management appropriation which was broadly available:

"[f]or necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for"

Pub. L. No. 99-591, 100 Stat. 3341-319 (1986).

Because expired, unobligated General Management appropriations made available for fiscal years prior to 1989 were canceled, they are no longer available; hence, GSA must use its current General Management appropriation to reimburse grantees or the Treasury for administrative costs incurred in fiscal years 1986 through 1988. 31 U.S.C. § 1551 note. The expired, unobligated General Management appropriation accounts for fiscal years 1989 and 1990 remain available and may be used to make reimbursements for grant administration expenses incurred in those years.

With regard to fiscal year 1991, the General Management appropriation was only available:

"[f]or necessary expenses . . . Provided, That this appropriation shall be available, for general administrative and staff support services, subject to reimbursement by the applicable organization"

Pub. L. No. 101-509, 104 Stat. 1389, 1411-12 (1990)
(emphasis added).

³It may be noted that the General Management appropriation was the only source of funds available to pay the costs of administering the General Management grants.

The legislative history of this provision indicates that the purpose of this language was to switch the ultimate responsibility for paying for administrative and management services from the General Management appropriation to the appropriation that received the services. See H.R. Rep. No. 589, 101st Cong., 2d Sess. 50 (1990). Thus, the Buildings Fund is the only source available to make reimbursements for the expenses of administering fiscal year 1991 Buildings Fund grants.

Pursuant to this decision, GSA must disburse to the appropriate grantees all amounts now in the administrative expense reserve. In the case of a grant that has been closed out, GSA should turn over any amounts remaining in the reserve to the Treasury as miscellaneous receipts. With regard to the \$5,000 already expended for administrative purposes, GSA must reimburse the grantees, or the Treasury with respect to closed grants, from the appropriations that were available to administer the grants at the time the administrative expenditures were made.

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