

GAO

Report to the Honorable
Paul S. Trible, U.S. Senate

September 1987

PUBLIC HEALTH SERVICE

Disapproval of a Grant Application for Migrant Health Services



134094

RESTRICTED—Not to be released outside the General
Accounting Office except on the basis of specific
approval by the Office of Congressional Relations.

RELEASED

Human Resources Division

B-228961

September 21, 1987

The Honorable Paul S. Tribble
United States Senate

Dear Senator Tribble:

This is in response to your February 24, 1987, letter regarding disapproval of a grant by the Department of Health and Human Services' (HHS's) Public Health Service (PHS) to Telamon Corporation for continued funding of the Shenandoah Migrant Health Clinic in Winchester, Virginia. Telamon had provided health services to migrant farmworkers in the Winchester area under PHS grants since 1984. Grants to Telamon totaled \$229,536, and its most recent grant expired in October 1986.

Grants to Telamon were administered by PHS's Philadelphia regional office. In September 1986, the regional office disapproved Telamon's application for a \$118,000 grant covering a 12-month period because it believed the relatively small number of migrant workers involved could be served at less cost. Telamon's appeal of this decision was denied by the HHS Grant Appeals Board because it lacked jurisdiction. To provide health services in the Winchester area, the regional office later awarded a 12-month supplement of \$69,249 to Intercounty Health, Inc.'s, existing grant, under which health services are provided to migrants in parts of West Virginia.

In accordance with your letter and discussions with your office, we reviewed the basis for (1) PHS's disapproval of the grant to Telamon, (2) the Appeals Board's denial of Telamon's appeal, and (3) PHS's award of grant funds to Intercounty Health to provide health services in the Winchester area.

In responding to these concerns we reviewed and analyzed PHS's grant regulations, files, and internal assessments of Telamon's and Intercounty's applications. In addition, to determine the basis for denying Telamon's appeal and the subsequent basis for awards, we interviewed the chairman of the Appeals Board and PHS officials responsible for the grant awards. A draft of this report was discussed with PHS officials, and their oral comments were considered in preparing this report.

Our review showed no basis for questioning the actions or decisions of either the regional office or the Appeals Board.

Telamon Grant Application

In response to PHS's February 28, 1986, Federal Register announcement concerning the award of competitive grants for migrant health services, Telamon submitted an application to PHS's Philadelphia regional office on July 16, 1986, to continue providing health services to migrant workers in the Winchester area. The grant application covered the period September 1986 to October 1987 and was a "competing continuation application." These applications compete with other such applications along with new applications for funds. In this case, Telamon submitted the only application to provide migrant health services in the Winchester area. Even so, the application was considered a competing application because it fell within PHS's definition of a competing continuation application, which states that it is a request for financial or direct assistance to extend a grant beyond a project period that would otherwise expire. In addition, the opportunity to compete was available to other potential applicants in that area.

In accordance with the Philadelphia regional office's policy, Telamon's application was reviewed by PHS objective review and technical review committees. The objective review committee is responsible for assessing the application according to programmatic criteria contained in applicable federal and regional office regulations and policies. The committee's review focuses on the applicant's objectives, its operating plan, quality of its personnel resources, and the project's financial viability.

Philadelphia regional office officials told us that while there are no formal written procedures for the technical review committee, the committee reviews the technical aspects of the application, including the applicant's capabilities to provide the intended services as well as its past experience with the regional office. For the Telamon application, the three-member objective review committee consisted of two regional office program management officers and a representative from the regional office's department of health services delivery who was chairman. The technical review committee consisted of a program consultant, a grant management specialist, and the branch chief of the program management branch, all from the regional office.

The two committees recommended that Telamon's grant application not be approved, citing the following reasons:

- There was a limited need for health services because of the relatively small number of migrants in the Winchester area. According to the technical review committee, the number of migrants in the Winchester area between early July and early October fluctuated between 1,700 and

2,000. Because other areas in the region had greater concentrations of migrants, the committee considered the Winchester area's need to be relatively small.

- The average cost per migrant user was too high. According to the technical review committee chairman, the average cost per user of services provided under migrant health grants administered by the regional office was a little over \$100. Telamon's average cost per user in 1984, 1985, and through August 1986 was about \$400. (Other data showed the average cost by the end of the 1986 grant period to be about \$200 per user.)
- The region's allocation of funds was reduced by about 10 percent, from \$2,065,630 to \$1,831,500.

Additionally, the technical review committee raised concerns about Telamon's proposed health care system and level of productivity. The regional program consultant who chaired the committee noted that a physician's assistant, contracts with part-time physicians equaling one full-time physician, and several licensed practical nurses visiting camps in a van formed the backbone of Telamon's health care delivery system. He pointed out that:

"With the clinic, inappropriately located in downtown Winchester away from the camps, opened only on some evenings, it was virtually impossible to serve migrants working further than a 15-20 mile radius from Winchester. Telamon's claim of an eight county catchment area, in this light, must be considered as wishful thinking and indeed the data proved it, for 83% of the patients in 1985 came from Frederick and 13% from Clarke County."

Of the total PHS estimated migrant population of 2,000, the technical review committee found Telamon had served about 110 migrants in 1984, about 320 in 1985, and 241 as of August 1986.

Based on the committees' recommendations, the Philadelphia regional health administrator disapproved Telamon's application for a competitive continuation grant. In a September 24, 1986, letter, the health administrator advised Telamon that his decision was based on administrative, programmatic, and financial considerations. He said:

"Because of the low numbers of migrant and seasonal farmworkers and the high demand for limited migrant health service dollars in high impact areas, the Migrant Health Program does not consider this a priority area for funding. It is reasonable to expect that access to health care for this small number of migrant and seasonal farmworkers, and for this short period of time [July through November], could be made available through other local health resources "

Telamon pointed out to PHS that, based on a PHS-sponsored needs assessment, the migrant and seasonal worker populations in the Winchester area together totaled about 6,100, not 2,000 as the health administrator had indicated in the letter, thus making it a high-impact area.

The cognizant PHS regional program consultant told us that including the term "seasonal workers" in the letter was inappropriate as the denial was based on the estimated number of migrants. He said that the focus of the Migrant Health Program was the migrant population; therefore, the needs assessment for the Winchester area was based only on the migrant population estimate of 2,000 and not on the seasonal worker population. PHS regulations (42 C.F.R. Part 56, Subpart F, Grants for Operating Migrant Health Programs), under which Telamon submitted its application, apply to areas with migrant populations of 6,000 or less; under these regulations, the seasonal worker population is not a criterion. High-impact areas having a combined migrant and seasonal worker population of more than 6,000 are covered by other PHS regulations.

Also, in determining whether to award grants under 42 C.F.R. Part 56, Subpart F, PHS has the discretion to award grants to applicants that will, in its judgment, promote the purposes of the statutes and regulations. In its Federal Register announcement for grant applications, PHS cited its discretionary authority under which it would consider, among other things, the needs assessment of the area, as well as the reasonableness of the costs for providing service to the area.

Denial of Telamon's Appeal of Grant Denial

On October 23, 1986, Telamon appealed the disapproval of its application to the regional office, by way of the informal procedure for resolution of postaward grant disputes before its submission to the departmental Grant Appeals Board. The regional health administrator advised Telamon on November 3, 1986, that the disapproval was not appealable under the provisions of the Public Health Service Grants Policy Statement. (Under federal regulations, the denial of Telamon's application did not constitute an "adverse determination" to which this appeals procedure is applicable.)

On December 4, 1986, the Board acknowledged Telamon's December 1, 1986, notice of appeal, and, since a preliminary jurisdictional issue was raised, according to regulations, referred the matter to PHS for an opinion as to whether the Board had the power to review the determination. Specifically, the Board noted that the dispute concerned a direct, discretionary project grant, and its power to review it was therefore limited

by provisions of the federal regulations relevant to termination of a grant for failure to comply with the terms of the award, or to denial of a noncompeting continuation award under the proposed system of funding where the denial is for failure to comply with the terms of a previous award. It appeared to the Board that, rather than a "termination," what was at issue was PHS's refusal to award further funds to continue Telamon's project in 1986/87 and that this refusal was not based on a determination that Telamon failed to comply with the terms of the previous grant.

On December 18, 1986, PHS responded to the Board's request and stated its opinion that the disapproval decision is unreviewable by the Board because the decision was not based on the grantee's failure to comply with the terms of the previous award, nor was the grant a noncompeting continuation award. PHS stated that the grant was not terminated, but was not refunded at the end of the projects period (Oct. 31, 1986). PHS's determination was binding on the Board unless the Board found it to be clearly erroneous.

Telamon was permitted to respond to PHS's submission, and did so on January 15, 1987. Telamon argued that the application was not a "competing" application because there were no other competitors for the project grant.

On February 3, 1987, the Board, after considering PHS's and Telamon's submission, held that it lacked jurisdiction and must decline to review the case. The Board determined that, as evidenced by the Notice of Grant Award, the Telamon grant was not terminated but expired on October 31, 1986. The application was a competing grant application because, under the PHS Grants Policy Statement definition, it was for a grant "to extend for one or more budget periods a project period which would otherwise expire." Therefore, there was no basis for the Board to hold clearly erroneous the opinion of PHS that the Board lacked jurisdiction, and the Board declined to review Telamon's claim.

Award of Supplemental Grant to Intercounty Health, Inc.

In February 1987, health care providers, migrant organizations, advocacy groups, and a federally supported community health center met to discuss the health needs of migrants in the Winchester area. According to PHS officials, after consulting with the various groups, the regional office contacted Intercounty Health, Inc., a PHS grantee that provides such services in the Martinsburg, West Virginia, area, about providing migrant health services in the Winchester area. The regional office

advised Intercounty that \$50,000 would be made available for a grant for the health services.

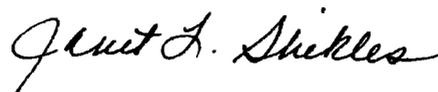
The requester's office asked whether advising Intercounty of the amount of funds that would be available was appropriate. The Philadelphia regional office's practice has been to inform applicants for noncompeting grants of the amount of money available for such grants; in this case the office informed Intercounty of the "target" amount for the grant. We have no basis to question this practice.

On April 10, 1987, Intercounty submitted a proposal to provide migrant health services to the Winchester area for \$69,249. After a favorable review by a PHS review team, PHS headquarters made additional funds available to cover the proposed costs for the grant. On May 15, 1987, PHS awarded a 12-month supplemental grant of \$69,249 to Intercounty for migrant health services to the Winchester area.

The PHS Grants Policy Statement differentiates between competitive and noncompetitive supplemental grant applications on the basis of whether a "change in scope" will result. While the supplemental grant would expand the Intercounty geographic area for services, the type of services to be provided under the supplement would be the same as those provided under the primary grant. Nothing in the policy guidelines makes the extension of a geographic service area to be such a change in scope that would require competition. Therefore, we have no reason to find the way in which the supplemental action was issued to be improper.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 15 days from its issue date. At that time, we will send copies to appropriate congressional committees, the Secretary of HHS, and other interested parties.

Sincerely yours,



Janet L. Shikles
Associate Director

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are \$2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use \$300

Address Correction Requested

First-Class Mail Postage & Fees Paid GAO Permit No. G100
