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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA BOARD ON AGING

In the Matter of the Proposed
Defunding of the Salvation Army for Hennepin-Anoka Counties
(Congregate Dining Project.)

REPORT OF THE
HEARING EXAMINER

The above-entitled matter came on for hearing before State Hearing Examiner George A. Beck, on May 18 1981, at 9:30 a.m. in the Moot Courtroom of the Hamline University School of Law, 1536 Hewitt Avenue, in the City of Saint Paul, Minnesota. Testimony was heard on seven additional days and concluded or, May 28, 1981. Written briefs were submitted by each party, the last of which was submitted on June 17, 1981, on which date the record closed.

A. Flank Gallegos, Assistant staff counsel, 300 Metro Square Building, Saint Paul, Minnesota 55101, appeared on behalf of the Metropolitan Pillsbury Center, Minneapolis, Minnesota 55402, represented the Salvation Army.

This Report is a recommendation, not a final decision. The Minnesota Board on Aging will make the final -decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations contained herein. Pursuant to Minn. Stat.. 1,5.04,21 (1980), the final decision of the Minnesota Board on Aging shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by, this report to file exceptions and present argument to the Minnesota Board on Aging. Parties should contact Gera-Id Bloedow, Executive Secretary, Minnesota Ward on Aging, 204 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota 55101, to ascertain the procedure for filing exceptions or

presenting argument.

STATEMENT OF ISSUE

The issue to be determined in this contested case proceeding is whether the Hennepin -Anoka Counties Congregate Dining Project, sponsored by the Salvation Army, has failed to carry out its nutrition service activities with demonstrated effectiveness so as to justify defunding of the project in accordance with 45 C.F.R. 1321.143.

Based upon all of the proceedings herein, the Hearing Examiner makes the following:

FINDINGS OF FACT

Background

1. A congregare dining project, often called a nutrition project, is a federally, failed program established by, die Older Americans Act of 1965, as later amended. The purpose of a dining project is to improve the health of

persons over 60 by providing raitritional), balanced @@r, served in a group setting. (M: A34) This setting is then used to identify and attempt to meet other needs which senior citizens may have. (Tr. C11) Several supportive services, such as nutrition education are also offered at the dining site. (Tr. C16)

2. It is the responsibility of the nutrition project to set up a system to provide the meals to senior citizens and to work with organizations in the community to arrange for dining sites to assure that supportive services are available. (Tr. C12-13) A large nutrition project, such as the Hennepin-Anoka County project, will have a project director who is responsible for overall supervision, an assistant director, a dietitian who is responsible for the food service, a supportive services coordinator who arranges those services at the dining sites, and an accountant or bookkeeper who would be responsible for 'Keeping the project's books. (Tr. C16, 20) The Hennepin-Anoka project currently operates over 30 congregated dining sites where hot noon meals are served to senior citizens five days a week. Each site is supervised by a site coordinator who works approximately four or five hours a day. (Tr. C16) The site coordinator is responsible for the delivery of food, supervising its heating and service, taking reservations, collecting contributions and maintaining a good relationship with the site organization. (Tr. C86) Many dining sites are located in community centers, senior citizen centers, schools, churches, or homes. A written agreement sets out the arrangements between the nutrition project and the site. (Tr. U46, 49)

3. Funding for the congregated dining project program was first provided in 1973. At that time, the Minnesota Board on Aging was designated as the state agency to administer these funds. (Tr. A34) In 1973, the Board on Aging granted the authority to administer congregated dining projects in Hennepin and Anoka Counties to the Salvation Army. (Tr. A35) From 1973 to 1978, the State Board had the administrative responsibility for review of the

Hennepin@Anoka nutrition project. During this period, the Metropolitan
Council provided technical assistance to the project and also reviewed
and commented on programs as a part of the annual grant request. (It. A36)
On May 31, 1978, however, the Board on Aging approved shifting IJ,a
administrative responsibility for review of nutrition projects to the Metropolitan
Council.
(Ex. 1) The Metropolitan Council did not actually assume the
administrative responsibility until January 1, 1979.
4. The Metropolitan Council agreed that its administration should be
conducted in accordance with the regulations, policies and procedures
prescribed by the Board on Aging. (Tr. A48; a. 3) The Board's policies and
procedures are set out in a document entitled, "A Manual of Policies and
Procedures for Title VII Nutrition and Operations." (11, 1514 lic. 4) The
Metropolitan Council's current responsibility is to make assessments of the nutrition
project and determine compliance with state and federal statutes,
regulations,

Volume "with regard to the transcript cited in this Report, Volume I-A,
II-B, etc.

policies and guidelines. It uses the state annual as its
tactic Spid*.
(Tr. B109) In the course of an assessment, the staff checks the
objectives
set out in the action plan in each year's grant application to see
if objectives
steps are being completed by the proper dates. (Tr. C62) The Council
is also
to follow up complaints and to recommend corrective action
with identified
dates for correction. (Tr. C26; Ex. 24, Sec. 3.39 b.1.) The
Metropolitan
Council is also authorized to provide technical assistance to the
nutrition
project. (Tr. C25)

5. Fathernine (Faty) Boone, a nutrition specialist with the
Program on
Aging with the Metropolitan Council, is the staff person primarily
responsible
for monitoring the Hennepin-Anoka Congregate Dining Project. (Tr.
(Tr. S) She is
supervised by Ann Whiteside, who is the program manager for the
Aging Program
of the Metropolitan Council. Boone serves as a staff person to the
Metropoli-
tan Council's nutrition task force. She makes a staff report at
each meeting
of the nutrition task force and would summarize the assessments of
nutrition
projects she had performed in the past quarter. (Tr. C151; 155)
The nutri-
tion task force reviews assessments of and applications from the
three congre-
gate dining projects within its jurisdiction and make recommendations
in re-
gard to issues in the area of nutrition. (Tr. C154) The
nutrition task
force, in turn, makes recommendations to the Advisory Committee on
Aging of
the Metropolitan Council, in turn, sends its recommendations
to the
Advisory Committee of the Metropolitan Council. She then
then reports
verbally, to the Metropolitan Council itself. (Tr. C151, 153)
The Advisory
Committee on Aging is appointed by the Metropolitan Council and
the Committee
appoints the members of the nutrition task force. (Tr. E9 5)

The Hennepin-Anoka Congregate Dining Project is the
coordinator
of the Salvation Army to administer and direct the
nutrition pro-
gram. The divisional commander of the Salvation Army is responsible
for all
Salvation Army operations in Minnesota and North Dakota. The project
director

of the congregate dining project reports to the divisional commander. The divisional commander must approve all operating budgets of the project, review its financial reports, approve requisitions, and approve the employment of the project director. The Salvation Army divisional headquarters may provide certain services to the project including internal audit and financial supervision, social services consultation, legal services, public relations services, and services to the aging. The Salvation Army divisional commander reports to the territorial commander in Chicago. The territorial headquarters may also provide services to the nutrition project in the areas of social services, legal services, administrative support and other matters. (1k. 40, p. 31, - Tr. B45)

7. Each nutrition project must submit annually a grant application for the following year. The application submitted to the Salvation Army for the Hennepin and Cook Counties Congregate Dining Project for the years 1979-1980, which is signed by an officer of the Salvation Army, acknowledges that a term and condition of the project award is that "funds awarded as a result of this request are to be expended for the purposes set forth herein and in accordance with all applicable laws, regulations, policies, and procedures of the state and the Administration on Aging, Office of Economic Development of the U.S.

Department of Health, Nutrition and Welfare. (Tr. 57, 61; Exs. 5 and 6) An agreement between the Salvation Army and the state agency contained in the grant application states that the Salvation Army agrees that the project will be carried out in accordance with Title VII of the Older Americans Act, the program regulations issued thereto, the policies and procedures established by, the state agency for the nutrition program, and the terms and conditions of this application as approved by the state agency in making any award of funds. (Tr. 59; Exs. 5 and 6)

The Administrative Costs Issue

8. In its 1979 and 1980 grant applications, the Salvation Army included a budget item under direct administrative costs which represented a portion of the salary of employees of the divisional and territorial offices of the Salvation Army to reimburse them for time spent working on the nutrition project. (Exs. 5 and 6) The budget originally submitted by the Salvation Army for 1979 contained an amount of \$41,267 for these administrative costs.

(Tr. 78) The question of inclusion of this item of administrative costs in the budget was first raised in a June 22, 1978 letter from the Aging staff to the nutrition project director, Colonel T. Herbert Martin. The staff requested an itemized listing of administrative expenses for the project year ending September 3, 1977, and an itemized accounting for the previous year to determine whether or not the administrative costs were project related. (M% ASO: Ex. 7) From 1974 to 1977, these

costs were allowed based upon a percentage of the gross award. (TY. F139) On

October 17, 1978, the Board's executive director wrote to the Salvation Army to remind them that they had failed to provide estimates of the amount of time spent on the nutrition program II, whose salaries were being partially paid by the administrative cost funding. The executive director suggested that either these administrative expenses be spread out among the appropriate line items in the budget, or listed as an alternative

ive, aui approved. indirect cost rate be obtained from the federal government.

The executive director advised the @ivation Army e@vt the current method of

documentation would not be acceptable for the year ending September 30, 1978,

or for the future. (7t. 897 Ex. 8)

9. on November ;& 197% Colonel Nhrtii sent to t),ic staff a break-

down of tie administrative budget vkdch exued the number of @s worked and

the ra to per hour f or those empl of Uae Salvation Ar-my who provided sgau.

vices to the Nutrition project. (Tr. P96; Ex. 9) lai November 28, 1978, the

Board staff wrote to ODL,va Martin advising him that t3,570 of the pr administrative costs for the last three months of 1978 were disallowed because

irvnifficient information bad been provided concerning the salary structure and

tange benefit padoge of the Salvation Aaou), personnel. (ly. P98; Ex. 10) On

Jan@ 10, 1979, Major Hikl-lquist received some solicited infccmation from the

adard on Aging staff 4Ach told him who to write to with Oie federal govern-

Inent to 4Dxplore the possibility of an indirect cost calculation formula.

Fhllquist wrote to Uhshington but was told Uiat this method could not be used

by the nutrition'project. (7t. F180-81) IDDnsequently, the project did not

apply for use of the indirect formula, but decided to pursue the
administrative cost method. (F176, 184)

10. (Xi February 12, 1979, The Board's executive director wrote to
Colonel Martin expressing concern about the lack of cooperation regarding
resolution of the administrative cost issue and asking that a revised three-
month budget for the last quarter of 1978 be submitted which rebudgeted the \$3,570
that was disallowed by the Board staff. The executive director's letter notes
that the initial correspondence concerning the administrative cost issue
occurred on June 20, 1971 (7Y. A104; ILK. 11) (Xi February 15, 1979, the
project director, Colonel Martin, sent his letter to Noble calling the disallowance
of the \$3,570 in 1978 premature and taking exception to his statement that
administrative costs should not be allowed retroactive to January 1,
1979. AM;

Ex. 13)

11. The 1979 grant award to the Salvation Army by the
Metropolitan Council was subject to a specific stipulation that the Salvation Army
develop an acceptable method of documenting and accounting for the
administrative costs for the 1979 fiscal year. (Tr. AID6; Ex. 5) No specific
deadline was set for submission of the method of documentation. (Tr. EB) On
February 14, 1979, James Noble of the Board staff wrote to Jean Whiteside at the
Metropolitan Council stating that the Hemepin-Anoka project had not yet
submitted an acceptable method for documenting administrative costs for
1978. The Council stated that since this issue was first raised while the project was
funded by the Board, any proposed method of documentation submitted by the
Project should have to be reviewed by the Board staff - Noble also stated that
administrative costs were to be disallowed until such a proposal was reviewed and
approved.

(Mn A112; Ex. 12) The purpose of the documentation system recommended
by the Board and Metropolitan Council staff was so that they would be able to
justify expenditures by the project as allowable costs under federal and state
law and regulations.

12. Colonel Martin sent a memo to the Board's executive
secretary (Noble)

February 15, 1979, with rebudgeted Oie administrative cost item for the last quarter of 1978, into other line items in the 'budget. (IY. A127; Ex. 14) like executive director replied to Martin on February 20, 1979, and approved the alternative uses for the funding Mide had formally been listed under administrative costs. The executive director advised Colonel BES:ln that he had decided that administrative costs could not be paid until an approved method of documentation had been developed and submitted because most of the costs would require documentation in time records for personnel, which records the executive director believed were not currently being kept. (Tr. A132; Ex. 15)

13. Before the final 1979 Budget had been accepted, the Oie Metropolitan Council, Oie administrative cost item had been reduced to 917,500. (Tr. A1 15) On February 12, 1979, Betty Boone of the Metropolitan Council staff wrote to Colonel Martin and requested that the \$17,500 be reduced since it was disallowed. She reminded Colonel Martin that the project must develop an acceptable method of documenting and accounting for administrative costs for the 1979 budget year and advised him that no administrative costs would be allowed until the system had been developed and approved by the Metropolitan

Council and the State Board. (Tr. A139: & 16) Boone also sent a February 16, 1979 memo to Colonel Martin which requested that the revised budget with the \$17,500 rebudgeted be submitted by February 1, 1979. She also requested that the method of documentation of administrative costs be submitted for review as soon as possible. (Tr. A141; IN. 17)

14. On March 1, 1979, a meeting took place at the offices of the Board on Aging with nutrition project staff, their accountants, and Metropolitan (bun- cial) staff. There was agreement that the nutrition project would develop detailed administrative cost calculations for all items that were previously listed as lump sum figures. The nutrition project was also given a system of documentation being used by another nutrition project. (Tr. A136) At this meeting, it was established that the nutrition project would develop a timesheet to record the time and attendance of individual Salvation Army employees; a summary sheet which would summarize the costs for monthly periods; and a billing memorandum or invoice to bill the divisional and territorial headquarters of the Salvation Army for the administrative costs incurred. The nutrition project was advised that they would be expected to use this system on a trial basis before it would be approved. (Tr. A1-152; B129) Metropolitan staff members Whiteside and Boone sent a memorandum to Colonel Martin, dated March 1, 1979, which acknowledged the meeting and expressed hope that the administrative cost issue would be resolved quickly so that a corrected budget would be received before the end of the quarter. (Tr. A142; Ex. 18)

15. On April 16, 1979, Colonel Martin forwarded to the Board on Aging staff proposed a prototype for determining the hourly rate applicable to a Salvation Army employee providing services to the nutrition project. (Ex. 10, -r. Fa47) On April 23, 1979, Colonel Martin sent a memo to Katy Boone which reduced the \$17,000 administrative cost item by placing \$15,750 under the personnel cost category and \$1,250 under the consultant category. Colonel Martin stated that the \$1,250 item represented 10% paid to the territorial

office of the Salvation Army. Attachments to the memorandum included a budget time sheet and an hourly rate, based upon salary and fringe benefits, for each Salvation Army employee whose time was partially spent on the nutrition project. (Tr. A145; El. 19) The attachments did not include a summary sheet which summarized the cost by monthly periods or an invoice or billing memorandum. (Tr. A151)

16. On May 1, 1979, Katy Boone sent a memorandum to Colonel Martin asking him for some of the materials supporting administrative costs. She stated that she had requested that the Board staff furnish her information to use in evaluating the calculations and that she had then informed Martin of her progress. (Tr. B50; Ex. B) The Council staff subsequently concluded that the April 23, 1979 submission by Colonel Martin did not establish a method of documentation of actual costs as expenditures incurred since the summary sheet and billing memorandum were not included and because the \$1,750 item was not broken down in terms of cost calculations. (Tr. A149-150, 162)

17. On May 3, 1979, the Board on Aging staff sent a memorandum to Martin in which they indicated that the method for determining administrative costs submitted by Colonel Martin on April 16, 1979, was acceptable to the Board.

Aging for the period October 1, 1977 to September 30, 1978. The method for determining costs referred to the establishment of a cost rate for each employee. (Tr. B143; Ex. P) The memorandum noted that the method for documenting administrative costs was still to be approved by the Metropolitan Council. (Ex - C, - @ - B5 2)

18. On June 26, 1979, Yate sent a memorandum to Colonel Martin indicating that she had reviewed his April 23, 1979 submission supporting the \$17,500 in administrative cost. She commented that the \$1,750 rate for each employee appeared to be proper, but that the \$1,750 item for the territorial office would have to be broken down by each person by hours and hourly rate. She commented that the time sheets should be audited each month with the billing for services. She advised Colonel Martin that if the Project wished to receive funds for administrative expenses retroactive to January 1, 1979, the project would have to submit the documentation for that time period. (Tr. E50; Ex. 1k) The administrative cost item was included by the project in its quarterly financial report to the Council for the period April 1 to June 30 of 1979. (Tr. A165) From June to October of 1979 the project did not submit the two missing components of the documentation system, nor were any time sheets submitted to the Metropolitan Council staff. (Tr. A16 6)

19. On November 13, 1979, a meeting was set up at the Salvation Army's divisional headquarters to review the time records and administrative costs dating back to January 1, 1979. The meeting was attended by staff from the Metropolitan Council and the Board on Aging and the Salvation Army's financial secretary, Major Hallquist. Major Hallquist indicated that the time sheets for the first quarter had been submitted to Colonel Martin and were, therefore, unavailable at the meeting. (Tr. F15 5) A review of the time sheets for the second quarter indicated that they were not being used correctly or consistently in that: there were no time sheets for employees;

more than one employee was included on one time sheet; the time sheets were not signed by all employees; none of the time sheets had complete financial computations; and there were no monthly, or quarterly summaries available. (Ex. 21; "LY. A166; B6@7)

20. On December 3, 1979, Jim Notae and Jean Miiteski sent a memo to Cblcm1 @rtiri stating that they had concluded that the project had not been able to develop an acceptable method for documenting administrative costs for the 1971 budget year and that the \$17,500 shared 're rebudgeted. Miiteski also asked that the \$15,750 included in the 1990 budget for administrative be reelected - (Ex. 21, p. 2; Tr. A166) On December 19, 1979, the aviation Pxy's divisional commander, Major Edgar Dierstake, replied to Miiteski and expressed his disappointment in the disallowance of administrative costs and stating his belief that 'he thought the project was working to comply with the requests Ono had been made. (TN A171; Dt. 22) Cki DecedDer :)7, 1979, Colonel Martin submitted to Katy Boore time sheets for Army employees for the first six months of 1979. (Bc . T; Irr. F217)

21. The Metropolitan Council staff was concerned about the administrative cost documentation 'cause they were responsible for making sure that funds are used for the purpose for which they are granted and for reporting

that all costs are necessary and reasonable. (Tr. A176, 179,- B41) The failure to breakdown the \$1,750 lump sum proposed in Colonel Martin's April 23, 1979 memo made it impossible to determine if the cost was necessary and reasonable as required by the state manual. (Ec. 4, SOK: 5.321, subpart J, - Tr. A176) The documentation in regard to Salvation Army employees was necessary so that the Council staff could determine exactly what the nutrition project was receiving from the Salvation Army in order to justify the proposed expenditure. (Tr. A181) Based upon a listing of the positions, it appeared that there could be some overlap between the responsibilities of project employees with the responsibilities of Salvation Army employees. (M" A181 188)

22. All of the administrative costs originally proposed by the nutrition project for the 1979 and 1980 budgets were disallowed by the Council staff and were eventually removed from each budget. The 1979 administrative costs which were disallowed were rebudgeted for meal service in February, of 1980. (Tr. F26; 116) Grant funds were, therefore, used for costs attributable to the services of Salvation Army employees who provided services to the nutrition project. (Tr. E6 ; U9 0) Until the costs were finally disallowed, however, Salvation Army employees continued to charge hours to the nutrition project and they eventually, in, permitted. (Tr. F169)

23. In a letter dated January 10, 1990, the executive director of the metropolitan Council replied to Major Overstake's letter of January 19, 1979. He advised Overstake that because the project had failed to comply with the 1979 grant condition requiring an adequate system for documentation of administrative costs, the nutrition project was once again requested to submit revised 1979 and 1980 budgets no later than January 28, 1980. The executive director noted that the time sheets received from Colonel Martin on January 2, 1980, were submitted late and were incomplete or incorrectly filled out and were not accompanied by copies of the billings. (El - D; Tr. 978)

22L Da a Ftbruary 26, 1980 letter, the executive director of the t*trc>-
politan Cbuncil advised Major Overstake of -Oie steps which would be necessary to have administrative costs put back in the 1%0 budget. 7he nutrition lxoj-
ect was told that they would 'have to submit a detailed explanation of respn-
sibilities, number of hours worked and hmwly rates for each employee of the Salvation Army. 'The time sheets w@ either have to be filled in correctly or modified and the system, including a summary form and a billing farm, would have to operate on a three-m@ trial 'basis ioiti monthly submission of reports by the nutxition project. (Ex. E; Tr. B81; F212)

25. on July 11, 1980, Major %Ilquist submitted to Katy Boone a proposed summary, sheet and homey rate calculations for Salvation Army s.
(EK. Q; Tr. F160) Boone replied on August 14, 1980 and advised H&U@st @t three steps would have to be taken, namely @ssion of rate callculaticns @ supporting data, submission of a revised time sheet, and 1 Y
submission of time sheets, a summry. and a billing for a three-month trial paxiod. (Es. 14
,r. F161) (Xi September 10, 1990, Hallquist sent Boone a detailed explanation of reqxxudbiliti6s, hours to be worked, and hourly rates for Army and advised her that Oie existing time sheet would be used. (MK. S; Tr. F162)

26. PAty Poone sent a -September 29, 1980 letter to ?Oa@ Hsllquist in which she acknowledged receipt of information from him concerning aftinistra- tive costs on September 10, 1980. She approved the time sheet that he sub- mitted, a3 well as the responsibilities, number of hour,; and hourly rates for the Salvzition Pxmy, employees whidi was submitted. Elie a t tached a a sheet tndm ano0ior nutrition project which she believed was simpler than the one sukrittied by Ftllquist in July. She advised Major flallquist that the thre -,;h trial period would begin on Octdber 1, 1980, and that they were to supply the time sheets, the summary sheet and an example of a billing to her on a mont)ily basis. (Ek. F; Tr. EB6,- F162)

27. Irbe nutrition project submitted time sheets for the period October 1, 1980 to tbvember 24, 1%0, to Faty Wme on December 5, 1980.

The sheet and the invoice were not enclosed, however. (Ex. 54; Tr. B138) Jane thiteside then wrote to Mjor Overstake and advised him of the missing items and requested monthly submissions. (Ex. 55; @. B140) @ a December 2t 1980 memo to 16jor ltdlquist, @teside notes that Hallquist has agreed to submit the su=elry sheet and to advise if it is also to be used as a billing i@ voice. (@Ek. 56; nn B141) Oi December 24, 1980, Ntjor ltllquist did send the suznar, sheet for Octcber 1 to November 24, 1980 to Yaty BoxnA (Ex. 5 7;

TY. B142) Time sheets and summary- sheets/invoices for the period November 24, 1980 to Jarmaq- 2, 1981, were submitted on Jarsoxy 20, .1981. (Mc. 58;

Tr. B145) 9lie ODuncil staff had agreed that the s @, sheet could @o be u@ as z.n invoice or billing sheet. (Tr. B146) In a ?Jarch 17, 19E[L letter, yety R=e advised ttjor Ftllquist that the time sheets and summary sheets for the thrm@mcmtn trial period were completed :in an acc@able manner. She

again requested, however, that they be submitted-on a moi-i&- Iy basis. (Ex. G; T'r. 1392; B134; Ex. 59)

28. in an April 2, 199L letter, Major Ballquist sent to Yety Boone the time sheets and summary sheet for the lxoioid ammaxy !4 1981 to Mardi 27,

19 al. (iEx. 61; @. @7) In an April 6, 1991 memo,
Ka@r again reminded
Major adlqdst that the nutrition project was to submit the
time sheets and
summa, Ly sheet/irvoice on a monthly basis. (&. 60; M:. B153)
Eoxxv?

idie Arequest for monthly submissions in an April 10,
1981 memo to Colonel
mart irL (Ex. H; Tr. B93)
29. The general and records of the no=lticn
project are audited
y by an outside accounting firm. (Tr. E116) The
hxks are kept in
accmdwice with generally accepted accounting principles. (Tr. E117)
'Die Aff irmative Action and Bgual Enp@nt Cppportunity Issue

30. In September of 1980, the Metropolitan Council staff
was advised that
Cblonel I%rtin was plmmtng to resign as project
director. (Mr. A22 0) On
September 22, 1980, Katy Boone met with Major Overstake @
advised hi= that
Cne Salvation Armgr should follow equal opportunity and[
aff irmative action
practices in recruiting a new project director. (Tr. A221)

31. After learning that Cblonel Martin intended@
to retire, Major
Overstake contacted the Salvation Army's territorial
headquarters in Chicago
and they began looking for a @lvation Army officer to
replace iftrtin. Ter-
ritorial be& era did, in fact, locate a Salvation Arm),
officer who Chey

believed was qualified. (Tr. H153) In mid-November of 1978, the administrative assistant to Major Overstake advised Captain Wm* that the project director was in Chicago discussing Colonel Martin's replacement with Salvation Army headquarters. (Tr. A223) Colonel Yartin did not, in fact, retire and was still project director at the time of the hearing. (Tr. PB2) Had he retired, the Salvation Army would have appointed the officer they had selected as project director without taking any other applications. (Tr. H154)

32. Major Overstake sent a memorandum on December 31, 1980 to the Metropolitan Council in which he advised them that, "Colonel Martin's replacement is my responsibility as the divisional commander of the Salvation Army in this area. . . . The Salvation Army determines when a Salvation Army officer is appointed to take charge of Salvation Army operations or sponsored operations. . . . For non-officer personnel, the Salvation Army, in full support of both affirmative action and EEOC regulations." (Tr. A225; Ex. 23)

33. The Salvation Army's position concerning replacement of the project director is that if they appoint a Salvation Army officer then affirmative action and equal opportunity procedures do not apply. Those procedures would apply if a non-officer is appointed. (Tr. H154) The Army understands that in order to hire a Salvation Army officer as project director in this manner, he could not be paid directly with federally funded nutrition project dollars. The Salvation Army would pay his salary, but would seek reimbursement from the project as an administrative cost item. (Tr. H157, 16.L) If the Salvation Army was required to use affirmative action in hiring a project director, however, they would comply. (Tr. IU56)

34. The Managerial Problems Study on Aging Staff sent an assessment of the project to Colonel Yartin based upon a November, 1978 observation of the project. (Tr. C30) The assessment recommended that the project develop a new staffing plan which clarified responsibilities and relationships among participants and further recommended that the position descriptions be revised. (Tr. C35; Ex. 25)

35. on April 18, 1979, Katy Boone sent to OD Martin an a report for the nutrition project for the first quarter of 1979. (Tr. C37; Ex.

26) in a memorandum of the same date, Boone asked Colonel @in to keep her informed regarding the request of the Fdverside lu@se for a dining site and she also asked for copies of revised job descriptions and organizational charts as they became available. (Tr. OC2; Ex. 27)

36. Boone believed that she needed to understand the project's organization in order to carry out her duties such as determining whether there might

be an overlapping or duplication of responsibilities and to determine if PCSJ-tions funded were necessary and reasonable. (Tr. C44, 48, 50)

She believed that it was unclear in regard to the Hemepin-Anoka Cbrglwpte Dining Project Who was supervising the site

the district supervisors was and how they related to the assistant proj@dir@cir. (Tr. C 51-5 2)

37. In an April 27, 1979 letter, Cblava Vartin replied to stated that it was not possible for the nutrition project to open a site in

Cedar @verside at the present time airce the kitchen facilities were not ade-

quate. tairtin also stated that revised job descriptions were being cnagyloted

and would loa forwarded. (Tr. C54; 35" 28)

38. CNI June 14, 1979, Boone sent to Colonel Martin her assessment report

--om..the nu-trition.-Froject for the second quarter of-. 1979. The - cuarterl),

assessment raised concerns in the areas of more meals being served thaln b@

geted, that Oie staffing plan had not been completed nor the district super-

iviscz INDsitions evaluated, and includes new recommendations that the nutrition

project develop a procedure for handling requests for new dining sites by Jwie

30, 1979, and that nuulticn project council meetings be conducted at the

dining sites. (w. C60; Ek. 29)

39. Colonel Martin replied to Boc@ in a memorandum dated June 25, 1979.

(Tr. C68; Dc. 30) Mrtin did not sl;ply a plan to bring the meal service

level within the budgeted level as re(.pested, but suggested ways in which the

nutrition project might get more funding. (Tr. C70; M16) A staffing plan

tqas not enclosed. (Tr. C70) (?Dlonel Martin did enclose a procedure for

opening new dining sites. 'The r-roc4k.ure did not explain, however, how re-

quests would be handled if funds vqere unavailable (or how sites were to be

7oved and did not say how requests re(:eived iaxdd be acknowledged. (Tr. 71-

72) !Die procedure did not specify tl-ie role of the site selection c@ttee,

nor define target areas. Mae priorities nxoainued in the@ procedure seemed to

be based upon the chronology of the project council decision and while the

procedure. appeared to give the project council authority to ap@e a new

site, Cblonel Vtrthts letter indicated that he bad the final apr-roval.

(T-r. C73-75, 78) Colonel Mrtin raised the idea of traveling to dining sites

to bold meetings to idie nutrition project c il, but they rejected the

idea. (@. G28)

40. IN>one sent a menn dated June 29, 1979, to CoIcRiel Martin express@

concern about the meal service level, the procedure for landling requests for

new dindryt sites art[lo@range plans. She advised Martin that the district

supervisor position. It should not be filled until the organizational chart and position descriptions were developed. She advised him that at the staffing plan

did not accompany his letter of June 25, 1979. (Tr. C81; Ex. 31)

41. On July 5, 1979, Colonel Martin replied to [redacted] and advised her that [redacted] he did not understand her expression of concern in regard to the procedure for

new dining sites. [redacted] Mr. [redacted] enclosed an organizational chart with his memo.

(Tr. C83; Ex. 32) [redacted] organizational chart did not indicate any relationship

between the site coordinator and either the nutritionist or the site coordinator.

It was noted in fact, [redacted] the site coordinator was, in fact,

directed by those two [redacted]. (Tr. C85) The nutritionist is responsible for

food service and the training of site managers in regard to the food.

(Tr. C88) The chart also did not indicate any connection between the site

coordinator liaison and the site coordinators. The chart showed the [redacted] administrative assistant as responsible to the social services coordinator,

although [redacted] he does not provide any social services. (Tr. C92)

42. By a letter dated September 27, 1979, Boone sent to Colonel Martin

the third quarter assessment of the project. (Tr. C102; Ex. 33) [redacted] Bar letter

pointed out that there were problem areas that had needed attention for over [redacted]

six months. She stated that the problem areas were organizational structure, such as unclear division of responsibility among the staff, personnel policies, such as supervision and performance evaluation, and operating procedures such as the site selection procedure. Boone* stated that "a nutrition project with problems in the organizational structure, distribution of responsibility and authority, and basic operation procedures is not able to function efficiently and effectively as necessary". She suggested that the project hire an outside management Consultant. (Tr. C103) Boone also pointed out that the project had yet to submit a plan to bring the service level within the budget, noted the organizational chart problems and requested a staffing plan. She stated that the procedure for site requests was not clear or complete. A new problem was also raised in that an addendum to the project's contract with the caterer had not signed by anyone other than the executive director of Oie Board on Aging. (SY. C118)

43. Colonel Martin sent an October 9, 1979 letter to Boone in reply. It states in his letter that the organizational chart clearly spells out who is responsible to whom and that job descriptions clearly define how the positions are to function in relation to each other. Martin stated that staff supervision is systematic and performance evaluation well conducted so that he can see no basis for Boone's conclusions. (Tr. C129; Ex. 34) Martin also stated that the nutrition project had a complete standard procedure for site selection. (Tr. C137; Ex. 34) Martin did agree in his letter to hire a management consultant. (Tr. C142)

44. On October 30, 1979, a meeting took place with Colonel White, Boone and assistant project director Carol Kosen. In a memorandum dated November 8, 1979, Colonel Martin referenced the October 30 meeting and indicated that it be understood that staff recommendations were not final, but that management decisions were to be implemented by the project. He also stated that he felt the third quarter assessment contained 1 inaccuracies.

racies and presented a veal, distorted picture. (Tr. C145,, EX. 35) Witeside replied to (b@l Mrtin in a mewrandum dated Nc)v@r 20, 1979, in whicli she indicated that his understanding concerning staff recommendations was ccr-rect, but that he should not be surprised if Base -&at be chose not to fo@-would come up again in the future to the task force as concerns about the way Uie project was operating. (11:. 36; 7t. C149)

45. In a Novetxx 8, 1979 meal CblaNU Martin re to the third quarter Assessment in detail. Nhrtin expressed his di intmnt that much of the contents of the assessment was not factual. In r@ to overspending Uie food budget, he repeated his belief that this @d be done by 10% as long as the total budget was not overqpent. In regard to the district supervisors, ykrtin. stated that an organizational chart had been supplied. He expressed surprise that had not reviewed the ;wojwd"s 'Stwi%xdz of Opmation rrosmkmes" (ScP) ovicerning Oie procedure for b&muing requests for new dining sites. He had not, however, ever fcxwarded any portion of the SCp to B,3ne in resonance to her requests. (7Y. D&14; G126) Boon* did not review this document until September of 1980. (Tr. rlll) Section 11@I of the projects Standard C"ration Procedures manual is entitled "Criteria for Site Selection" and includwi a listing of the facilities and services which must be available

at each site, a checklist to be completed before a site is opened, a form proposal for a site, and a form agreement between a dining site and the project.

(F.\-. V; @. G122)

46. A revised procedure was attached to Martin's Nov 8, 1979 letter. He stated that the possibility of moving sites that are not accessible to the handicapped would not be pertinent to this procedure. The only significant change in the procedure for handling requests for new dining sites was what the acknowledgement of requests it; to "indicate the possibility of responding favorably or negatively". The remainder of the procedure was not addressed. (Tr. E9, 11; Ex. 30) The project opened one new dining site in 1979 and seven new sites in 1980. (EX. K; @. a25) Martin also stated that the unexecuted addendum to the contract was being followed. (loc. 38; Tr. D6) The original of the conduct, dated November 8, 1979, which the addendum amended, was proper, executed by all parties. (Ex .

L@. GB 2)

47. On December 13, 1979, Colonel Martin sent a memorandum to Whiteside in response to her memorandum of November 20, 1979. Martin stated his belief that there was sufficient distortion in the third quarter assessment to justify redoing it. (TY. ES; Dc. 37) (In February 5, 1980, Re sent Martin a letter which summarized, in regard to the fourth quarter of 1979, that the nutrition project had done a good job. (a. N; @. F9 0) ? B. At its October, 1979 meeting, the nutrition task force directed the nutrition project to revise its 1980 grant application to include the hiring of a management consultant. (Tr. E12) The application was revised to include a provision for a management consultant who would submit a written report and stated that the nutrition project would implement the consultant's recommendations. (TY. 124; EK. 6, p. 18) The areas to be included in the consultant's study were organizational structure, site selection, procedures, personnel policies, and a long-range plan. (TY. DL8; Ex. 39)

49. From April to mid-June of 1980, a management consultant studied the

project . E13) His report was transmitted to -
dw nutrition project with
a June 19, 1980 letter. (@. I:20; Ex. 40) -the
nutrition project @ a copy
of @e report to Yaty Re= on July 3, 1980. (Tr.
E21) In regard to organi-
zati@ structure, the management consultant found that the chain of c
in the nutrition project was not clear and that there
Vast a Considerable over-
lapping of responsibility. FE found ta%at many
employees could not identify
their bmmxuate supervisor. Fbr emmqae, Uie
responsibility for --be @ua-
tion of the site coullinator was contained in
ttxee different loositions.
(Tr. E2(& 24) 'Mis results in a delay in the
decisio)d ng pr s. The
consultant saw a high risk of isolation ;Df the site coordinators. (7t.
E20)

50. Mie consultant recammmed laot Uie
nutrition project @ge from its
functionall organizational structure, in whida eadi area
of izatican
adopts and impl s its own policies, to a line
alnd @@tional staff struc-
ture, where the policies and procedures are still
adopted by the specialists
but implementation is shifted to line gerent and
supervisors. (Tr. E18)
Specifically, the consultalnt recc=nended that four
s@@ems be hired to
supervise the site coordinators so that each site
coordinator woul,l @vo only

one supervisor. (Dc - 40, p. 1) He also recommended the creation of an administrative and accounting manager to ensure efficient utilization of resources. (Tr. p. 22)

51. In regard to personnel policies, the consultant found that the position descriptions did not clearly state the objective of each position and its responsibility. (Tr. p. E28) He recommended to the project that the definition of specific tasks and functions be in a procedure manual but not in the job descriptions. (Tr. p. E31) He also recommended that the project develop criteria by which employees were to be evaluated. 5-12) He noted in his report that the nutrition project had started to put together a procedures manual, but he believed the existing SOP was a collection of regulations and guidelines from external sources rather than the procedures manual for the project. (Tr. p. E36, 39)

52. In regard to the long-term plan, the consultant found that the existing plan leaned more toward forecasting than toward an identification of decisions that have to be made to achieve objectives. He recommended that a new plan be developed which would address such items as the potential of reduced funding and the development of other alternatives. The consultant believed that some of the problems in the project were reaching dangerous proportions. (Tr. p. E87) He concluded that implementation of all of his recommendations would take approximately one to two years, but that a procedure manual could be completed within three to four months. He suggested to the project that it obtain outside assistance in implementing his recommendations. (Tr. p. E60, 67)

53. The growth of the nutrition project from 1974 to 1981 is as follows:

The SBLI, 7ation @
Bennepin-Ancka ODunties
ODngregate Lining Project

Diing Eyperiences Provided

Annual

IrK=ease

From Previous Date 'Year	Total Per Annual EUdDer Quarter Sites	of ndtal	Total To -Da te	Annual Increasc
3/31/74	6,614			
6,614			7	
6/30/74	21,283		27,897	
9/30/74	25,764		5	
3,661			12	
12/31/74	32,124	85,785	12	
85,785				
3/31/75	32,106			
117,891				12
6/30/75	35,070		15,291	
El			15	
9/30/75	37,410			
190,371			14	
12/31/75	31,870	144,456	230,241	58,671
68.39%	14			
3/31/76	43,073		27	
3,314			17	
6/30/76	49,251			
322,565				is
9/30/76	52,044			
374,609			is	
12/31/76	54,841	197,209	427,450	52,753
36.52%	24			
3/31/77	57,899			
485,349				22'
6/30/77	60,234			
548,583				25
9/30/77	67,088			
612,671				26
12/31/77	77,952	263,173	690,623	68,964
3.4 St	26			3

The Salvation Army
 1*@irt-@a Q=ties
 Cbngregate Dining Project

I
 Dining Dyperiences provided
 (Continued)

From	lbtal Per Nmukl	Total	Annual
Previous	of	To-Date	Increase
Date	Qu art er Sites		
'Year			
3/ 31/78	86,440	77	
7,063		27	
6/30/78	97,3 36		28
874,399			
9/30/78	9 9,706		27
974,105			
12/31/78	95,899 379,3el	1,070,004	116,20S
44.16%	29		
3/ 31/79	101,131		30
1,171,135			
6/30/79	99,293	1,2	30
70,428		30	
9/30/79	94,CA		30
1,364,a39			
12 /31/79	95,337 39C, 172	1,460,176	10,791
2.84%	30		
3/ 31/80	111,354	1,5	
71,530		34	
6/30/80	112,715	1, 6 S4, 2	
45		35	
9/30/80	12 0,055		36
1,804,300			
12 / al/ 80	12 2,167 4 6C, 2 91	1,926,467	76,119
L9. 51%	37		
3/ 31/&L	12 C IB7		37
2,054,654			

(ibc. It; ID:. 14)

54. Prior to any organizational changes re nde-
 d by the consultant,
 the cpaaj-ity, and quantit@- of the meals served was high
 and the meals were gen-
 erally, served in a ti@-ly marner. (@. G47, 53;
 H83) j'he average employee

turnover in the nutrition project from 1974 to 1981 was 7% (Ex. Y; Tr. H79) The 1979 turnover was approximately 10% and the 1980 turnover was approximately 10% (Tr. Fa37)

55. Faty Boone sent a July 10, 1980 memo to Colonel Martin asking that he submit a written description of the course of action to be followed in implementing the consultant's recommendations indicating which, if any, of the recommendations be felt were not appropriate. (Tr. U23; It. 41) Martin replied in a July 29, 1980 letter and stated that presently the project did have a line and functional staff administration so that not a great deal of change would be necessary in the organizational structure. (Tr. E26; G174; itc. 42) Martin did not see too much difference between the consultant's recommendations of the current organizational structure. (Tr. G173-74) He agreed to hire four area site supervisors and indicated that job descriptions would be prepared for them. He also proposed creation of a personnel coordinator position which did not presently exist. (Tr. E29) Martin stated that the job descriptions for the project director and assistant project director were satisfactory. He also stated that the personnel could not be under the 'business accounting manager as recommended because this is contrary to basic Army structure and therefore not appropriated (Pk. 42) Martin agreed to the recommendations concerning performance evaluation and in regard to recruitment and staffing. He stated that the Long-range plan would be revised with a target date of December, 1982 He also stated that the

procedures manual was being updated into two separate manuals; one for office procedures and one for site selection, with this work to be performed by the social services coordinator and the transportation Coordinator and to be completed by November 30, 1980 (IN.. 42; Tr. M2) In regard to the consultant, Martin criticized him for failing to read the SCP and stated that too many errors were discovered in the report "by me before I would accept the report, which is a real reflection on the supposed experts". (Ex. 42) Ykrtda did not agree that the division of responsibility and authority was a problem in the project. (Tr. G172-73)

56. Subsequent to O'Donel Martin's letter, the nutrition task force decided that a management consultant should be retained by the nutrition project to assist the project in three areas; namely, management training for the staff, a policy and procedure manual, and a revision of job descriptions. (at. G63-64) In a September 26, 1980 letter, Katy Boone requests a nutrition project to prepare a request for a proposal for a management study recommendations. (Tr. LB 8) O'Donel Martin sent an October 1980 memorandum to Katy Boone which stated his understanding - that

the project would decide whether of one consultant's recommendations were appropriate and, therefore, should be implemented. He stated that the project would not agree to the hiring of a consultant to implement the recommendations. He also stated that staff training and the revision of job descriptions could be and was being done by the project. (Tr. MB; Ex. 43) The council staff understood that the appropriateness of the consultant's recommendations was to be jointly determined by the nutrition project and the nutrition task force. (Tr. E25, 45) Although the 1980 grant application provided that the procedures manual was to be updated, the task was not completed in 1980. (Tr. G143) The ongoing updating of the manual was sporadic. (Tr. G115, 130; H107) The Community Disputes Issue

57. In 1980, a dispute arose at the nutrition project's Circle Pines site

in @ka Cbunty. The dispute involved the site manager, some @iciparrtr, and the GcDod Shepard lotheran Chuntn u&ida was Cme location of the dimag sibe. The dispute centered around the use of storage space, - the hours that the nutrition project would 'be able to use the dining room and the cor-duct of the site manager. (To rV 3) A muting ums held at the Putrcpolitart Cbuncil c)ffices, in the suamt of 1990 to attempt to resolve the problem. 'Die meeting @s attended by Faty , Cblonel Nhrtin, Chrol Yepsen and an Anoka dining i3iteparticipant. (Tr. H87)

58. In September of 1980, the Metropolitan Senior Pedera@on a resolution at its annual meeting expressing concern about the problems at the dining site. (-&. 44; Tr. r62) Su to the resoluti(NI assistant proj-ect director Chrol Yapsari discussed OAs matter with the vatrcpolititan seni(or Federation on the t elerhone. (Tr - H91) 7be project diri@or beli@ that the problem at the Cirr-le Pines sites was due to the attitude of a few par-ticipalnts who were also church ina4mrs and who wanted to run the site and were, therefore, 'causing problems for the site coordinator. (Tr. G6 5) Mie

participants at the dining site voted to mine, and the project
determined because of the attitude of the pastor and a church council
(Tr. G67-68)

59. In a resolution dated October 26, 1980, the church
council of the Good Shepard Lutheran Church resolved that the church's
facilities would no longer be available for the congregational dining program as of
November 7, 1980, because "the Salvation Army has not been willing to cooperate with
the representatives of the Good Shepard Lutheran Church regarding the
congregational dining program". (Tr. E69; Dc. 45) Colonel Martin replied to the
pastor of the Circle Pines Church in a letter dated November 4, 1980, expressing
dissent that the church's resolution had not fully spelled out how
the Salvation Army was not cooperating and advising the Pastor that the dining
site would move to St. Joseph's Catholic Church on November 6, 1980. (Tr. D71; @. 46)

60. Colonel Martin sent a letter November 4, 1980 memorandum to Faty
Boone which noted their discussion of the Circle Pine problem.; The day
before in his opinion Martin also stated that she had given a two-month
leadway to bring the new site up to accessibility standards. (Tr. EV3; Ex. 47)
She replied to Martin in a November 5, 1980 memo stating that she had not
given a two-month leadway to the project in regard to the St. Joseph's site.
(Tr. L80; nt. 48; @. D77) on November 14, 1980, she sent a memo to
Martin which summarized an earlier meeting and indicated that she could be
served until November 21, on which date written plans were
to be submitted by the project for making the dining site
barrier-free. (@. @0; Ex. 49) On November 20, 1980, Martin wrote I and
stated that the St. Joseph Church had approved bringing the site up to the
handicapped access specifications, but he did not indicate what changes were
to be made, how they were to be financed, or how soon they were to be
achieved. (Tr. E82-83; Ex. 51)

61. In early 1979, a group of senior citizens in the Cedar
Riverside area organized a task force to work toward obtaining a parking site in
the Cedar

Riverside hitrise. (Mn H95) The group met weekly, initiated contacts with the nutrition project and contacted political figures in the course of their drive. (M: DB 5) When the Hemepin-Pnoka dining project began its operation, it initially had a policy to avoid locating dining sites in highrises since they often had extensive social services. (Tr. G76) At the time that the Riverside group formed, however, this policy was under review for change by the nutrition project. (Tr. H95)

62. In a letter to the Cedar Riverside group, dated August 9, 1979, Colonel Martin stated that the nutrition project had a definite intent to open a site at the highrise, but that two things prevented this from presently being accomplished; namely, the kitchen not being suitable and a lack of funds. (Tr. AA; Tr. G77; HD3) In a December 8, 1979 memo to Colonel Martin, Colonel Martin explained that a lack of funds and kitchen remodeling were the reasons for not opening a dining site at that time. (Exs. 1, BB; Tr. B235, H203)

63. On August 8, 1979, Colonel Martin sent memorandums to the Cedar Riverside task force and to the Minneapolis Housing and Redevelopment Authority advising each that a substantial increase in funding would be available in 1980, and that therefore they were committed to opening a site in the

@r Pi,versid* hi@ia* in January of 1980. (&- Z: @rt. Ha33)

The dining

site was finally o i n Ja nuary of 19 eo. (Tr. G7 9: H9 7)

64. Li late 1979, several participants at the IMtna dining site com-
plained about tranqxxtatial to the site and about the site
coadlinator.

(Tr. F97; C74,- D6,1),,. The -cceplaints resulted in an informal hearing
before the

executive, secretary of the Board on Aging. (Tr. U61; lb

Ex . N)

Colonel Martin

responded in a DL-cember 7, 1979 letter to one of t-ne ccelplainants
expressing

hope that she might again attend the 'Edina site and resolve her
differences

witti Une site coordinator. Martin also stated that, "VDur statements
made at

the hearing before Mr. Gerald Bloedow, the Executive SearetaLry of
the Minne-

sota Board on Aging, will never 'be forgotten. On the other hand, they
are and

can be falivem I was under the i@ession that you regretted many
of the

statements you made at the hearirxg." Cblonel hbrtin alsco) wrote a
subsequent

letter in Deceavx of 1979, to the same complainant again, inviting her
to at-

tend either the Blina or landen Hills site. (Ex. 19)

65. (hi January 22, 1979, the Board on Aging staff sent a
as@ t

report to Cblcm1 Mrtiit which wa s upon the staff 's observat-ims
of the

last quarter of 1978. (F-lx. 25) In regard to the problems in Anoka
and Edina,

Cie assessment cammated that, "Analysis of both situations brought
out some

possible alternatives which mijo: have alleviated the situations
somewhat, but

it rust be o=xauded that project administrative staff acted
reauxuldy in

Doth situations.- (EK. 25, p. 2; Tr. F98)

66. on octdder 29, 1980, the nutrition task force voted to r
d ap-

Incoval of the grant for the nutrition project to the Salvation Army
for the

calendar year 1981, wit:]-i the condition ttat the recommendations of the
manage-

meit consultant be i aldemented and that another -consultant: be hired
to assist

in development of a policies and procedures manual and in revision of
the job

descriptions. (Ex. 53, p. 3) At a meeting of the Adviscr Committee
on Aging

.Y

on November 21, 1980, after a discussion of the management -at Cie
project, the

circle E. nes dining site situation, the recruitment and hiring of a new project director, and the administrative costs issue, the Advisory Board on Aging voted to approve funding for the dining project only for the period January 1 through March 31, 1981, and to seek another sponsor for continuation of the project in Hennepin and Anoka Counties. (Ex. 53, pp. 3-3; Mn A208, 213; BE34) Colonel Martin @e to the @ttee before its vote. (,a. @6) 'The decision of the Advisory Committee was st tly a f Vaned ty the Rmen Resources committee of: The Metropolitan Council and the Metropolitan Council itself on March 12, 1981. (EX. 59; B150) Based upon the foregoing Findings of Fact, the Board makes the following:

CONCLUSIONS

1. That the Board of Aging and the Hearing Examiner have jurisdiction in this matter pursuant to Minn. Stat. § 256.975, subd. 2(g), P.U.N.C. Stat. 15X)52, and 45 C.F.R. 1321.51 and 1321.143.
2. The order for Hearing and Notice 'Thereof was proper in all respects and the Board has fulfilled all relevant substantive and procedural requirements of law or rule.

3 Pursuant to 9 ICAR 2.217 C.5. (1980 Ed.), the burden of proof in

this preceding is on the Metropolitan Council.

4. Section 533212 12-c. of the Board on Aging Manual provides that:

Amounts charged to the project for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the recipient of award. Payroll must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one program of the recipient of award or other cost objectives will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

5. That the Salvation Army failed to comply with Section 5.332 12.c.

during 1979 and 1980 in that it was unable to develop a system for the documentation

of administrative costs and failed to comply with grant terms and

conditions regarding such documentation.

6. Section 4.33 of the Board on Aging Manual requires the nutrition project to develop and maintain an affirmative action plan for equal opportunity

for all persons.

7. 42 U.S.C. 2000d-2(a)(2) (Title VII of the Civil Rights Act of 1964)

prohibits discrimination by an employer, in hiring, on the basis of race,

color, religion, sex, or national origin.

8. Section 4-32 of the Board on Aging Manual requires nutrition project

funds to be administered in compliance with Title VI of the Civil Rights Act

of 1964.

9. 42 U.S.C. 2000d (Title VI of the Civil Rights Act of 1964) provides

that no person shall be excluded from participation in, or be denied the benefits of, any program or activity receiving financial assistance from the Federal Government, on the basis of race, color, religion, sex, or national origin.

of or be subjected to discrimination under any federally funded program.

10. 42 U.S.C. 2000d-3 excludes employment practices from the
su er
except where a Primary objective of the federal financial
assistance is to
provide employment.

11. The Metropolitan Council has failed to show by a
preponderance

of the evidence -Not the Salvation Army has not complied with Sections
4.32 or

4.33 of the state manual or with Title VI or VII of the Civil
Rights Act of

1964.

12. Section 4.315 of the Board on Aging Manual provides in part:

The paid staff of the nutrition project should be sufficient in
number and skills to assure efficient performance of all its
duties and responsibilities. The staff should be organized and
structured to allow clear channels of authority and communi-
cation. Job responsibilities should be specified in writing.

13. The Salvation Army failed to comply with Section 4.315
during 1979

and 1980.

14. Section 4.318 of the Board on Aging Manual provides that:

Each project must establish job descriptions for all staff posi-
tions, both paid and volunteer. These must be on file in the
project office and each employee must have his or her own copy.
General job descriptions may be developed for similar positions.

15. The Salvation Army, failed to comply with Section 4.318
during 1979

and 1980.

16. Section 44115 of the Board on Aging Manual provides, in part, that where meals, services, use of space or equipment are purchased in a nutrition project, there must be a written contract between the nutrition project and the vendor.

17. The Salvation Army failed to comply with section 4.115 during 1979 and 1980.

18. That the Salvation Army was unable to develop a management system capable of effectively responding to increased levels of federal funding and failed to take appropriate steps to respond to management problems identified to the State Board and the Metropolitan Council.

19. That the Metropolitan Council has failed to show by a preponderance of the evidence that the nutrition project was effectively managing its relationships with various community groups and was regularly involved in unproductive community disputes.

20. 45 C.F.R. 1321.143(b) (3) provides that funding to a nutrition project may not be discontinued unless the Board on Aging determines that the project has not carried out its nutrition service activities with demonstrated effectiveness.

21. That, based upon the conclusions No. 5, 13, 35, 17 and 18, the Salvation Army's Hennepin-Anoka Counties Congregate Dining Project failed to carry out its nutrition service activities with demonstrated effectiveness during 1979 and 1980.

22. That the above Conclusions are arrived at for the reasons set forth in the Memorandum attached hereto which is incorporated by reference.

23. That the Findings of Fact herein are more specifically termed Conclusions or any conclusions herein are more properly termed Findings of Fact, are hereby adopted as such.

Based upon the foregoing Conclusions, the Board on Aging recommends the following:

RECOMMENDATION

It is respectfully recommended that the Board on Aging affirm the decision of the Metropolitan Council to discontinue funding to the Salvation Army for the Hennepin-Anoka Counties Congregate Dining Project.

Dated: July 1, 1961.

GEORGE A. EOK
State Hearing @niner

NCMICE

Pursuant to Minn. Stat. 15.0422, subcl. 1 (1980), the a is
required
to serve its final decision upon each @y and the hearing ex r by
first
class mail.

nie parties have devoted argument in their briefs to the appropriate status to be given to the manual of policies and procedures for Title VII nutrition program operations which has been compiled by the Minnesota Board on Aging to guide the operation of nutrition projects. The 1 (Ek. 4) is a lengthy document dealing with topics such as organizational structure, nutrition project applications, program requirements standards and guidelines,

financial administration, state agency nutrition project relations, assessments and resource materials. The manual has not been adopted as a rule pursuant to the State Administrative Procedure Act, Minn. Stat. § 15.0411

although 15552 and the parties have so stipulated. (EK. 62) The parties are in agreement that the Board on Aging's enabling statute, Minn. Stat. § 256.975

does not provide statutory authority for the adoption of this manual as a rule. The parties are also in agreement that Minnesota case law precludes implying statutory authority to adopt the manual as a rule.

State v. Fry Roofing Company, 246 N.W.2d 696, 700 (1976).

The question which remains then is the effect of the manual provisions in this contested case proceeding. As the Salostich Axon asserts, the manual does not have the force and effect of law as it would had it been adopted as a rule pursuant to Ch. 15. The Metropolitan Council suggests that the manual is merely a statement of policies and procedures. The introduction to the manual states that:

The following materials were prepared by the Minnesota Board on Aging, in accordance with federal guidelines and mandates for the development of a state manual of policies and procedures to govern administration of Title VII programs under the Older Americans Act of 1965, as amended. The manual is intended for joint use by the Minnesota Board on Aging and Minnesota's Title VII projects. (a. 4, p. 1-2)

The Metropolitan Council suggests that the manual is similar to the policy bulletin considered in Wach v. Kandiyohi County Welfare Board 242 N.W.2d 837 (1976). In that case, the Court held that a policy bulletin issued by the

Department of PWA-ic tltare constitated merell, a restatement. of existing policy and a directive concerning internal management to county welfare agencies.

The Salvation Army, while can,uT*d that the manual not be given the force and effect -of law, has not qpecificzll), articulated its view of the status that it should be gi"no It did cite the case of McKKKee v. Likens 261 N.W.2d 566, 576 (1977), where the held that a DPW pol-i ' cy bulletin dealing with public financing of abort icns i nvolveci an issue so inpoltant to the public as to require use of the ralemakirKI process contained in the APA.

The 1 would ap@ to be closer to the bulletin iri Wacha than that in McKee. Al- O-g'h the material contained in the iantial would falls within the definition of rule as contained at Mim. Stat. 15.0411, subd. 3, it would appear to fall within the exception concwtdng intwoml emnt of the y or (Ddner agencies since the purpose and use of the manual is to direct area agen- cies such as the Metropolitan Council and the nutrition projects in ting

an effective program and in conforming with federal regulations and statutes.

Accordingly, although the manual does not have the force and effect of law,

neither should it be considered invalid as a statement of policy and procedure

for failure to comply with the requirements of the Act. A violation of a

manual provision would not necessarily mean that the nutrition project had not

demonstrated its effectiveness. Insofar as a manual provision is reasonably

related to demonstrated effectiveness, however, its violation should not be

considered a factor in the final determination.

A related argument has to do with how the term "demonstrated effective-

ness" is to be interpreted. 45 C.F.R. 1321.143 states; that an area agency

may not discontinue funding to a nutrition project unless the state agency has

determined that the project has not carried out nutrition service activities

and demonstrated effectiveness. No definition of this term is contained in

the federal statute, the federal regulations or the state manual. Michigan

Salva- tion Army, therefore, claims that the lack of a definition and that there is

a no standard by which to make a judgment and that the lack of a standard

would permit decisions to be made based upon the whim and caprice of the

regulatory agency. it cites the case of Lee v. Delmont, 36 N.W.2d 530, 538 (1949), which

stated that::

If the law furnishes a reasonably clear policy or standard of action, which controls and guides the administrative officers in ascertaining the operative facts to which the law applies, so that the law takes effect upon these facts by virtue of its own terms, and not according to the whim or caprice of the administrative officers, the discretionary power delegated to the board or commission is not legislative The policy of the law and the standard of action to guide the administrative agencies may be laid down in very broad and general terms. . . . What is a sufficiently definite declaration of policy and standard obviously varies in some degree according to the complexity of the subject to which the law is applicable.

The Metropolitan Council points out that the later case of City of Minneapolis v. Krebs, 226 N.W.2d 617, 620 (1975), which stated that the

power of

discretion need not always be accompanied by precise rules of action and noted

that the modern tendency is to be more liberal in permitting use of discretion

to administrative officers in order to facilitate the administration of

laws as the complexity of facts and governmental conditions increase. At

any rate, the Council contends that the state manual of policies and procedures

provides complete standards and criteria to the nutrition project as to

whether or not it is proceeding with demonstrative effectiveness. It must be

concluded as a practical matter that the comprehensive materials set out in

the manual provided to the Metropolitan Council at the nutrition project

detailed criteria by which to judge the project's effectiveness. It is

the invariable certain limited arbitrary enforcement of policy by the staff

of either the Metropolitan Council or the Board on Planning. "It is regrettable that

contested case proceeding, the Metropolitan Council has not relied on the same

vague generalized idea of what constitutes a substantive effect -

Pathways have referred to violations of specific portions of the or

federal law or regulation in making its allegations meaning the nutrition

project's effectiveness. Realistically, it cannot be claimed that the nutri-

tion project is being judged without standards. The federal 'logition

CCnLempLeited that the state agency would adopt -policies and ;romknaes to gidde the program. Althoucp the manual does not have the force a@' effect of law, it does provide- guidance to the nutrition projects. Nor cari it accu- rately be said, as the Salvation Army has argued, that. the contorts of the manual are not rationally related to the effectiveness of the project. 'Ihe contents specifically relate to the organization to the programs, to the financial administration and the inter-agency relations to be maintained by t-l-ie nutrition project -

Inie Salvation Army has suggested one means of defining "demonstrative ef- fectiveness". It has suggested that the term ,effectively is defined in 45

C.F.R. 1321-103(b) which states as follows:

Fbr purposes of dAs se&Aon, effectively refers to capacity tc) provide a defined service. It includes considerations of ser-- vice Tudity and delivery criteria, such as adequate quantity and timeliness. Efficiently refers to the relative total costi- of Froviding a ur-dt of service.

This rule, however, p)lainly- applies only to the direct provision c,f s@ct--s b-y state and area agencies. It does not apply to provision of services by nutrition projects themselves Tie definition of effective and efficiently in viis section is an aid in deciding if the area or state agency can and p@-o= the services more effectively and efficiently t-,ni!Ln any other providex such as a nouatioia Project. Al@gh the Rdvation Pvmy urges t.@t effec- tiveness is limited to service quality, quantity and timeliness, ilne tran- script is replete %dth testimony, including that of project employees, to @e e f f -@ that the suppxt ive services provided at the dii@ site fire a ve-y significant part of the Frogram which could not be ignored when making a jud@ ment as to whether or not the provision of all- services has been done with

d- trated effectiveness.

In regard tc) the status to be accordej the state ma@ of pc)olicies 7-nd Ix@ es, the !metropolitan Coxmil asserts that it, signing the agraront contained in the grant application and ll, accepting the f@all f urxis, the Shivatori Prmy agreed to mee-t the requirements contained iin the manual as. well

as federal regulations and statutes. The Salvation Army believes that if this contractual agreement is a substitute for the appropriate adoption of rules, it would be against public policy since it would permit the parties to determine the meaning of the statutory provisions. The project director did testify that he believed that he was bound by the policies and procedures in the manual, as well as federal regulations and statute in detecting the nutrition project. The terms and conditions set out in the grant award do specify that the funds awarded may be terminated at any time for violation of the agreement. The agreement would not, however, center upon the

policies and provisions contained in the manual, apart from the requirements of federal statute or regulations, the status of having the force and effect

of law. The Metropolitan Council points out that as a recipient of federal grant funds, the provisions of federal statute and regulation apply to the nutrition project. Any state statute conflicting with the federal provisions would run afoul of the supremacy clause. *Townsend v. Swank*, 404 U.S. 282 (1971). This status in regard to legality would extend to Policies and

procedures not contained in the federal regulations or statute " not adopted pursuant to state rulemaking procedure.

The Salvation Army at various points in this proceeding has indicated that it challenges the delegation from the United States Commission on Aging to the state Board on Aging, and suggests that the state board may lack the authority to administer the federal statute or regulations. In its reply brief, however, the Salvation Army indicates that it will not pursue this issue before the state board, but will reserve the matter for judicial review if necessary.

The administrative cost issue in this proceeding relates to the inclusion in the budget of a portion of the salary of certain Salvation Army employees. Although these employees are not employed by the nutrition project, a portion of their time was spent on activities of the nutrition project and the project was, therefore, seeking payment to the Salvation Army for those services. Prior to 1974 these costs had been budgeted for and routinely paid to the Salvation Army divisional and territorial headquarters by the use of a flat percentage of the total budget. There had been no breakdown of the items involved or any documentation for actual expenses incurred. In 1978, however, the board on Aging staff advised the nutrition project that this method would not longer be acceptable and that a more detailed record for documenting the costs would have to be developed. The first letter in the record concerning the necessity for this documentation is dated June 22, 1978. The later letter, however, refers to the administrative cost issue as having been first raised in a June 20, 1977 correspondence.

The Findings at No. 8 explain the history of the steps taken and not taken by the nutrition project-- in its attempt to develop an acceptable method of documentation of administrative costs. This was finally accomplished in early 1981, although at that time the project had still been unable to submit the records on a monthly basis as has been requested. It is specifically found that the nutrition project failed to comply with section 5-332 12-c. of the Maryland Code during the years 1979 and

1980, which are the years that the parties have stipulated -are the subject of this contested case proceeding and v4ddh immediately precede the decision by the Metropolitan Council to discontinue funding to the nutrition project. She project was inoble &name that b4agear period to develop and implement the method of documentation supported by time records for individual employees as required by the 1. The -cemxal issue in this pr ing, however, i s w or @ot the nutrition lxoject's inability -to successfully resolve the administrative cost issue over the t@year period in question means that the nutrition project has not carried out its motion service activities udvh demonstrative el- f activeness. She Fi ndings ref lect the repeated r of the Board staff and the metropolitan Council staff for specific action by the in regard to administrative cost, The Findings also demonstrate the numerous instances irt utdcil tie project simply took no action in this regard despite the requests and the Findings reflect i es where the project-.si@y failed to a ish what was requested in an adequate or. Ibcnqil*ii iii- clude submission bf a 10% item to be paid to t-ne territorial office despite the request to switch to the documentation method; the failur&- to @t a

sheet despite repeated requests the failure to submit time sheet,, and the failure to properly fill out those time sheets. Although, as the Salvation Army has pointed out, there was no time limit set out in the 1979 grant application for submission of a method of documentation, the time period involved was unreasonably long. The length of time which is necessary for the project to accomplish a well-defined task which really consisted of only a few steps directly, related to whether or not they are carrying out their activities with effectiveness.

The administrative cost matter was not an important issue. Costs have to be documented so that it can be determined whether or not the costs are being used for the purpose for which they are granted and to ensure that all costs are necessary and reasonable. Although the Salvation Army points out that the \$17,500 cost item was a small portion of a 1979 budget in excess of \$200,000, all costs must be documented no matter what amount of dollars appear in the item of the budget. The Salvation Army has also pointed out that no funds were actually expended for the administrative cost items in issue since the costs were disallowed and ultimately removed from the budget. Although the actual expenditure of funds would be significant if an improper expenditure were alleged, that is not the issue in this proceeding. The issue is whether or not the Salvation Army has demonstrated the administrative ability to comply with cost documentation procedures under the federal grant program. The administrative cost item, is just as necessary, to a successful operation of the program as is the prompt delivery of hot, quality meals. The record shows by a preponderance of the evidence that the project has not acted with administrative effectiveness in regard to the administrative costs issue due to its repeated inability or failure to comply with staff requests to develop a system of documentation. Although it was agreed by the parties at the end of 1979 or early 1980 that the administrative cost item should be removed from the budget, it was understood that the Salvation Army was precluded

ceeding to attempt to develop a documentation system so that the items could be retroactively included in the budget.

The Salvation Army has announced that it believes that it has the authority to replace the project director with a Salvation Army officer without following equal opportunity and affirmative action practices which, as mandated by federal law. In regard to Title VI of the Civil Rights Act of 1964, the Metropolitan Council argues that this title applies to the nutrition project since it not only prohibits discrimination from participants in federal programs, but also extends to employees of federally funded programs. The Salvation Army argues that the Title VI applies, to recipients. Mae Metropolitan Council has provided no legal authority, to support its interpretation of the statute. The statute, in its own terms, applies to a person who is excluded "from participation in, be denied the benefits of or be subjected to discrimination under any federally funded program. The Salvation Army's contention seems to be supported by 42 U.S.C. 20003-3 which specifically excludes employment practices from Title VI except where a primary objective of the federally financed program is to provide employment. In this case, the primary objective of the nutrition project is to provide meals maximum supportive

services to senior citizens. Its primary objective is not to provide employment to nutrition project employees.

Section 4.33 of the manual requires the nutrition project to develop and maintain an affirmative action plan for equal employment opportunity. The nutrition project has developed such a plan...which is included in its annual grant application. The Metropolitan Council suggests, however, that that section of the manual also basically incorporates the requirements of Title VII of the Civil Rights Act of 1964, which prohibits discrimination by an employer in hiring. It would certainly appear that had the Salvation Army proceeded to hire a project director without complying with affirmative action and equal opportunity provisions of law that they would then have violated the statute. The device of not paying the project director directly with federal funds, but paying his salary with Salvation Army funds and then attempting to reimburse that as an indirect administrative cost from the Metropolitan Council would not save the nutrition project from the necessity of complying with Title VII. The fact is that the project director is an employee of the nutrition project which is a federally funded program and the hiring for that position must comply with Title VII and the federal regulations promulgated under that statute.

The Metropolitan Council, however, has not shown a violation of Title VII since there was no act of hiring. A violation cannot be based upon the state of mind of the employer or upon an intention. It likewise follows that a decision to discontinue funding to a federally funded program cannot be considered

but a hypothetical violation of the Civil Rights Act. The Council staff cannot be certain how the project would have acted had the new project director actually been hired. It should be noted that the Metropolitan Council devoted an extensive amount of its brief to the possible First Amendment implications of enforcing federal discrimination law against the Salvation Army. In its brief, however, the Salvation Army disclaimed any need to assert a First Amendment defense and instead relied upon the defenses discussed above.

for

discontin-

The metropolitan Council has alleged as a separate gi. uing foxung to the nutrition project that the project 'has failed to develop and maintain an o@zaticnal and administrative sbnxtmre vkdch is cN,Yle of delivery of services in an effective manmn% The project war, unable to c@y witr, the manual prcnision that requires staff to be or,- garized and structured to allow clear cbamaas of authority and ccmmtmicatiol- ribe need for a new staffing plan was first raised in Janverynof 1979. Ilhe staff be- lit-ved that this was necessary since it was unclear wbc) was s si @ the site managers or what the function of the district site sipervisars were. In June of 1979, the Council staff reminded the project that they had not sub- mitted a staffing Itzri. Tie organization chart submitted by the project in July of 1979 was defective in that it did not accurately de@ibe the work relationships in the project. Tie chart was neither logical nor clear. mw project's response to this criticism was to simply state in Octdoer of 1979 ,Nat the organizational chart was clear. Mie management consultant found that the chain of ca=and in the project was not clear and that there was ider- able overlning of responsibility. 'The project directors reaction to the management consultant's report was that little change would be neoisary.

in June of 1979, the Metropolitan Council staff reported that the project

develop a procedure for handling requests for new dining sites by June 30,

1974 The procedure submitted on June 25, 1979, was found inadequate.

This procedure was criticized by staff person Boons, the project director (Director) reported that he believed that the project had a complete standard procedure

for site selection. Although the project suggested that its standard open

ating procedures (SCP) manual contained a procedure for handling requests for

new dining sites, at no time was this material forwarded to the project director in reply to

her request for such a procedure. A review of the SCP indicates that it con-

tains criteria for setting up a dining site rather than at procedure to handle

requests. The revision of the procedure for handling requests for new dining

sites submitted by the project in November of 1979 carried the procedure very

little and failed to address the problems pointed out by the staff.

Section 4.318 of the Council Manual requires the project to establish job descriptions for all positions.

The revision of position descriptions was first requested in January of 1979.

In April of 1979, the project director assured the staff that revised job descriptions were being completed.

In October of 1979, the project director stated that the job descriptions existing in the

project clearly define how the positions are related to each other.

The management consultant found in June of 1980 that the job descriptions did not clearly state the objective of each position and its responsibility.

In reply, the project director stated that the job descriptions of the project director and assistant director were satisfactory, but agreed to

revise others. The project director rejected the recommendation of the nutrition task force that a consultant be hired to aid in the revision of the job

descriptions. This occurred in an October 5, 1980 memorandum from the project

director to the Council staff. The requirement of Section 4.318 that job

descriptions be kept implies that these descriptions be accurate and useful and that they state the objective of the position and its

responsibility.

in the course of an assessment, the Council staff find 3 an
addendum to the
caterer's contract which had not been executed by the parties.
The only signature
nature appearing as that of the executive director of the
Board on Aging.

The manual provides that meals purchased by the project must be
the subject of

a written contract. The requirement of a written contract
implies that both

parties will sign the contract. This matter was first raised in
September of

1979. In a November 8, 1979 memo, the project director advised
the Council

staff that the addendum was "being followed".
The record

does not reflect whether or not the addendum was finally executed.

The project did not submit for the record a subsequently executed
addendum. Other

matters which the project was unable to deal with with dispatch
concerned a

plan to deal with the problem of more meals being served than
budgeted, and

the development of a long-range plan.

The record in this proceeding concerning the interaction
between the project

and the staff in regard to the project's organizational and
administrative

structure shows a failure on the part of the project to
promptly cooperate

with requests. Some attempts to comply with requests were
simply inadequate.

and had apparently not been given sufficient attention. Many of
the project

responses were tardy and reflected an inattention to the
details which had

been requested. The project director came consistently assertive in his dealings with the staff and was often defensive concerning suggestions which were made to improve the project's operation.

Maintaining a clear and effective organizational structure, devolving to and plans assigned in activities of the project and providing information to the staff which would enable it to discharge its responsibilities to monitor the project are all directly related to the carrying out of nutrition service activities with demonstrated effectiveness. The Salvation Army has suggested in its attempt that it did provide good service to our citizens and that this suffices to demonstrate its effectiveness. The staff and consultant testimony makes clear the impact of the project's inability to deal with organizational matters on the delivery of services. In addition to the actual delivery of services, however, an important element of the project's activities is to cooperate with the staff to improve the project and to permit monitoring of the program. In several instances, the project was simply managerially unable to cooperate and in other cases the project simply refused or obeyed very slowly in complying. This history, the nutrition project together with its handling of the administrative costs matter show that it has failed to carry out its activities with effectiveness.

The final issue raised by the Metropolitan Council is its contention that the project was unable to effectively manage its relationships with various community groups and was repeatedly involved in counterproductive disputes. Much evidence in this record fails to support that allegation. Some disputes in regard to the operation of the dining sites are, of course, to be expected. The determination of whether or not the project has acted with demonstrative effectiveness in regard to the disputes would seem to revolve around whether or not the project could successfully resolve the matters.

None of the problems raised by the Council were important. Each was time subject of attention by the project. Although the Circle Pines situation did result

in a move of the dining site, there was an interruption of raml service.
Nor

was there any direct evidence that it was the project's fault that the
dining

site had to be moved -

The Cedar Riverside sionoin involved a good deal of r-cmunication
between the project and the group hoping to obtain a dining site. The
project
director did advise the group that when funding was available and the
kitdien
was in accordance with Legal requirements that there would be a dining
site

located in the Cedar Riverside Idese.

The complaints concerning the Edina dining site were dealt with
in a
series of letters from the project director. The Board on Agirg wacff
con-
cluded that the project had acted reasonably in regard to both Edina
and
A-,ck a

G.A. B.