DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, D.C. 20201

June 7, 2012

MEMORANDUM

To: OPDIV and STAFFDIV Heads

From: Ellen G. Murray
Assistant Secretary for Financial Resources

Subject: HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meetings, Food, Promotional Items, and Printing and Publications

On January 3, 2012, I issued a memorandum with the Department of Health and Human Services' (HHS') Policies on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meetings, Food, Promotional Items, and Printing and Publications (http://dhhs.gov/asfr/ogapa/acquisition/effspendpol_memo.html). These policies support the Executive Order on Promoting Efficient Spending (EO 13589); the Executive Order on Delivering an Efficient, Effective, and Accountable Government (EO 13576); and the Office of Management and Budget (OMB) Memorandum on Eliminating Excess Conference Spending and Promoting Efficiency in Government (M-35-11). The policies also promote the Department's commitment to comply with appropriations law and to make sure that our dollars are being spent efficiently and wisely.

The purpose of this memorandum is to update the policy on the Use of Appropriated Funds for Conferences and Meetings (Attachment 1) to implement enhanced controls, as required by OMB Memorandum on Promoting Efficient Spending to Support Agency Operations (M-12-12), by:

1. Updating the definition of conference
2. Requiring OPDIV/STAFFDIV Head approval (which cannot be delegated) of all conferences where the total expenses by HHS will be from $25,000 to $100,000
3. Requiring Deputy Secretary approval of all conferences where the total expenses by HHS will be in excess of $100,000 following OPDIV/STAFFDIV Head review and approval (which cannot be delegated)
4. Limiting conferences where the total expenses by HHS will be in excess of $500,000 to those which receive a waiver from the Secretary
5. Revising the annual reporting requirements

These policy revisions are effective immediately and apply *to all new obligations* and *all funds appropriated by Congress* (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.).

The January 3, 2012 policies on the Use of Appropriated Funds for Food, Promotional Items, and Printing and Publications remain in full force and effect and are available at: http://dhhs.gov/asfr/ogapa/acquisition/acquisitionpolicies.html#OtherAcquisitionGuidance.

Please share this transmittal memorandum and the attached policies with all appropriate officials within your OPDIV or STAFFDIV.

Questions regarding this policy may be addressed to Nancy Gunderson, Deputy Assistant Secretary for the Office of Grants and Acquisition Policy and Accountability (OGAPA), at Nancy.Gunderson@hhs.gov

Attachments

CC: Deputy Secretary
Chief of Staff
Acting General Counsel
Assistant Secretary for Administration
Executive Officers

Attachment 1

HHS Policy on Use of Appropriated Funds for Conferences and Meeting Space

1.1 General

It is the Department's policy that the conferences and meetings it funds shall be consistent with legal requirements and HHS' missions, objectives, and policies; represent an efficient and effective use of taxpayer funds; and be able to withstand public scrutiny. HHS' Operating Divisions (OPDIVs) and Staff Divisions (STAFFDIVs) must conduct business, including conferences and meetings, in space controlled by the Federal Government whenever practicable and cost effective.

This policy supersedes the January 3, 2012 memorandum from the Assistant Secretary "HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meetings" and is in addition to the requirements and procedures set forth in the following policies, or any updates thereto:

- HHS Travel Manual, January 2012
- Memorandum from the General Counsel "Agency Gift Acceptance Authorities and the Co-Sponsorship of Events with Outside Non-Federal Entities," August 8, 2002

1.2 Definitions

The following definitions apply:

A. Conference

OMB Memorandum M-12-12 employs, and HHS has adopted, the following definition for a conference from the Federal Travel Regulation (FTR):

- A meeting, retreat, seminar, symposium or event that involves attendee travel. The term "conference" also applies to training activities that are considered to be conferences under 5 CFR 410.404.
    - HHS interprets this definition to mean attendee travel that is funded by HHS, not an outside source and to include conferences held locally by the OPDIV or STAFFDIV.

- 5 CFR 410.404 provides that Agencies may sponsor an employee's attendance at a conference as a developmental assignment under section 4110 of title 5, United States Code, when—
    (a) The announced purpose of the conference is educational or instructional;
    (b) More than half of the time is scheduled for a planned, organized exchange of information between presenters and audience which meets the definition of training in section 4101 of title 5, United States Code;
    (c) The content of the conference is germane to improving individual and/or organizational performance, and
    (d) Development benefits will be derived through the employee's attendance.

For the approval and reporting requirements set forth in this policy, the following meetings are not considered conferences:

- Advisory Committee and Federal Advisory Committee meetings
- Tribal consultation and compact or contract negotiation meetings
- Solicitation / Funding Opportunity Announcement Review Board meetings
- Peer review/Objective review panel meetings
- Evaluation panel/board meetings
- Program kick-off and review meetings (including those for grants and contracts)
- Class-room training available through Federal and commercial sources (such as Federal Acquisition Certification classes, Supervisor classes)
- General staff meetings

B. Conference Expense

OMB Memorandum M-12-12 defines conference expenses as "all direct and indirect conference costs paid by the Government, whether paid directly by agencies or reimbursed by agencies to travelers or others associated with the conference, but do not include funds paid under Federal grants to grantees. Conference expenses include any associated authorized travel and per diem expenses, hire of rooms for official business, audiovisual use, registration fees, ground transportation, and other expenses as defined by the FTR. All outlays for conference preparation and planning should be included, but the Federal employee time for conference preparation should not be included. Conference expenses should be net of any fees or revenue received by the agency through the conference and should not include costs to ensure the safety of attending governmental officials."

HHS interprets the statement, "but do not include funds paid under Federal grants to grantees," to mean when a federal grantee uses its grant funds to travel to or attend an HHS conference, such expenses are not to be included as a cost of the conference. However, when grantee travel and attendance is funded by other means, such as HHS invitational travel orders or by contract, such expenses shall be included as a cost of the conference. In addition to the expenses outlined by OMB, speaker fees, contractor support and registration support costs are also to be included. See the HHS Conference Request and Approval form at Attachment A for further clarification and instructions on expenses to be included.

1.3 Request and Approval Requirements

A. Conferences Sponsored, Planned, or Hosted and Funded by HHS (Excluding through Grants)

Prior to the obligation of funds (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.) by means such as contract or purchase order, purchase card, inter- or intra-agency agreement, Tribal contract or compact, etc., to support a conference (whether for internal or external purposes, or a combination thereof), the sponsoring office must obtain approval (which may not be delegated) from the officials designated below:

- For conferences where the total expenses by HHS will be less than $25,000, approval shall be in accordance with OPDIV's or STAFFDIVs' standard operating procedures.

- For conferences where the total expenses by HHS will be from $25,000 to $100,000, requests for conference approvals shall be approved by the OPDIV or STAFFDIV Head, and shall be documented using the HHS Conference Request and Approval form at Attachment A.

- For conferences where the total expenses by HHS will be in excess of $100,000, requests for conference approvals shall be submitted to the Office of Grants and Acquisition Policy and Accountability (OGAPA)[1] for approval by the Deputy Secretary through the OPDIV or STAFFDIV Head using the HHS Conference Request and Approval form at Attachment A.
    - The HHS Conference Request and Approval form, signed by the OPDIV or STAFFDIV Head, shall be received at the Department no later than 30 calendar days prior to the date a solicitation is to be issued or funds are to be obligated.
    - The Department's goal is to review and decide upon each request within 10 calendar days.

- For conferences where the total expenses by HHS will be in excess of $500,000, waivers to the prohibition on such conferences shall be submitted to OGAPA[1] for approval by the Secretary through the OPDIV or STAFFDIV Head using the HHS Conference Request and Approval form at Attachment A <u>and</u> the HHS Conference Request for Waiver at Attachment B.
    - The HHS Conference Request and Approval and HHS Conference Request for Waiver forms, signed by the OPDIV or STAFFDIV Head, shall be received at the Department no later than 30 calendar days prior to the date a solicitation is to be issued or funds are to be obligated.
    - The Department's goal is to review and decide upon each request within 10 calendar days.

For a conference that will be funded jointly by more than one OPDIV or STAFFDIV, the respective Executive Officers shall designate a lead sponsoring office (based on the office with the highest total expected cost) to ensure that the single request submitted to OGAPA[1] includes all expenses to be incurred by all OPDIVs and STAFFDIVs that are reasonably expected to participate in or attend the conference.

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[1] OGAPA has established a SharePoint Conference Requests Drop-off & Approval Center, which is available at: https://asfr.hhs.gov/OGAPA/Conference%20Requests/default.aspx, for the submission of requests. Each OPDIV/STAFFDIV shall provide a point of contact and one alternate to Nancy Gunderson. The points of contact will be given access to the site for the submission of requests. If the site is not accessible or available, requests may also be emailed by the OPDIV/STAFFDIV points of contact to OGAPA@hhs.gov.

B. Conference Grants and Cooperative Agreements

This section is applicable when the primary purpose of a grant or cooperative agreement is to support a conference. Prior to the obligation of funds (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.) by grant or cooperative agreement to support a conference, the sponsoring office must obtain approval (which may not be delegated) from the officials designated below:

- For conferences where the total expenses by the OPDIV or STAFFDIV will be $100,000 or less, the request and approval requirements of this policy do not apply. Such conferences shall be approved in accordance with OPDIV's or STAFFDIVs' standard operating procedures.

- For conferences where the total expenses by the OPDIV or STAFFDIV will be in excess of $100,000, requests for conference approvals shall be submitted to OGAPA[1] for approval by the Deputy Secretary through the OPDIV or STAFFDIV Head using the HHS Conference Request and Approval form at Attachment A.
    - The HHS Conference Request and Approval form, signed by the OPDIV or STAFFDIV Head, shall be received at the Department no later than 30 calendar days prior to the date the funding opportunity announcement is to be issued, merit review is to commence, or funds are to be obligated (as applicable).
    - The Department's goal is to review and decide upon each request within 10 calendar days.

- For conferences where the total expenses by the OPDIV or STAFFDIV will be in excess of $500,000, waivers to the prohibition on such conferences shall be submitted to OGAPA[1] for approval by the Secretary through the OPDIV or STAFFDIV Head using the HHS Conference Request and Approval form at Attachment A and the HHS Conference Request for Waiver at Attachment B.
    - The HHS Conference Request and Approval and HHS Conference Request for Waiver forms, signed by the OPDIV or STAFFDIV Head, shall be received at the Department no later than 30 calendar days prior to the date the funding opportunity announcement is to be issued, merit review is to commence, or funds are to be obligated (as applicable).
    - The Department's goal is to review and decide upon each request within 10 calendar days.

C. Attendance at Conferences Not Sponsored, Planned, or Hosted by HHS (non-HHS Conference)

The HHS Travel Manual requires the OPDIV/STAFFDIV Head or Senior Travel Official (STO) to submit semi-annual conference projections to the HHS Travel Office for conferences that might exceed 20 attendees per OPDIV/STAFFDIV. To ensure that HHS does not expend more than $100,000 for any single conference without the Deputy Secretary's approval, or the Secretary's approval if over $500,000, these semi-annual projections will be used as the basis for

determining if the Deputy Secretary's or the Secretary's approval is required. The following process applies:

- In addition to the semi-annual projection, the OPDIV/STAFFDIV shall submit the HHS Conference Attendance Request and Approval form at Attachment C to the HHS Travel Office for each conference that might exceed 20 attendees per OPDIV/STAFFDIV.

- This information will be used to determine if, when alone or combined with other OPDIVs and STAFFDIVs, the total estimated cost will exceed $100,000.
    - When the costs will be below $100,000, the HHS Travel Office will inform the requesting office that Departmental approval under this policy is not necessary (with the exception of any other approvals that may be required by the HHS Travel manual).

- When the total cost to HHS is expected to exceed $100,000 for a single conference, the HHS Travel Office will prepare and send a combined request to OGAPA.

- OGAPA will then process the request for the Deputy Secretary's approval, or the Secretary's if over $500,000.

For meetings that were not captured, for whatever reason, on the semi-annual conference projections, and where the number of attendees is expected to exceed 20 per OPDIV or STAFFDIV, the OPDIV/STAFFDIV shall submit the HHS Conference Attendance Request and Approval form at Attachment C to the HHS Travel Office. Requests shall be received at the HHS Travel Office no later than 30 days before the deadline for earlier registration fees.

No registrations may occur or travel authorizations be approved until the projected conference attendance has been approved by the Deputy Secretary or Secretary as applicable.

To assist OPDIVs and STAFFDIVs in identifying possible annual conferences that have exceeded $100,000 in the past, a list of such conferences from calendar year 2011, and regularly thereafter, will be provided to the OPDIV and STAFFDIV Executive Officers and STOs.

D. Meetings

OPDIVs and STAFFDIVs must conduct meetings, including but not limited to the types of meetings addressed in Section 1.3 above, in space controlled by the Federal Government whenever practicable and cost effective. Therefore, OPDIVs and STAFFDIVs shall establish internal policies and procedures to approve the obligation of funds for non-federal meeting space for meetings.

When the total cost to HHS to acquire non-federal meeting space for a single meeting is expected to exceed $100,000, the sponsoring office shall submit a request to OGAPA[1] for approval by the Deputy Secretary through the OPDIV or STAFFDIV Head using the template at HHS Conference Request and Approval form at Attachment A (explaining in the Purpose of Conference section that this is a meeting using non-federal space).

To avoid unnecessary effort associated with disapproval, the Deputy Secretary's approval shall be received prior to issuance of a solicitation or otherwise committing to the venue. The HHS Conference Request and Approval form, signed by the OPDIV or STAFFDIV Head, shall be received at the Department no later than 30 calendar days prior to the date funds are to be obligated. The Department's goal is to review and decide upon each request within 10 calendar days.

1.4 Reporting Requirements

OMB Memorandum M-12-12 requires agencies to report, by January 31 of each year (beginning on January 31, 2013 for fiscal year 2012) all agency-sponsored conferences from the previous fiscal year where the total expenses for the agency associated with the conference were in excess of $100,000. HHS' reports will be based on the dates conferences were held during each fiscal year, be posted on the HHS website, and include:

- The title of the conference;
- The name of the sponsoring OPDIV, STAFFDIV, or non-HHS organization;
- The total conference expenses;
- The location and date of the conference;
- A brief explanation how the conference advanced the mission of the agency;
- The total number of individuals whose travel expenses or other conference expenses were paid by the agency; and if applicable
- The Secretary's waiver that identified the exceptional circumstances that necessitated exceeding $500,000.

Fiscal Year 2012:

- HHS will utilize data gathered through the January - March 2012 Conference Funding Reports submitted in accordance with the January 3, 2012 policy on Conferences and Meetings, as well as data from requests and approvals submitted in accordance with the above requirements.
- To obtain information about conferences held between October and December 2011 or not contained in the aforementioned data, by November 30, 2012, OPDIVs and STAFFDIVs will be provided a draft report.
    - By December 31, 2012, OPDIVs/STAFFDIVs will be required to verify the data in the report, including total expenses, and provide information on any other conference held where the total expense was in excess of $100,000.
- Only those conferences over $500,000 that were funded after the date of this policy will require the Secretary's waiver. Therefore, for fiscal year 2012, there may be some conferences reported that do not include the Secretary's waiver.

Fiscal Year 2013 and beyond:

- HHS will utilize the data from requests and approvals submitted in accordance with the above requirements to develop a draft report by November 30 of each year
- Each OPDIV and STAFFDIV shall verify the total conference expense by December 31 of each year.

1.5 Use of Conference Fees

Agencies must have statutory authority to charge a fee for one of its programs or activities. In addition, even if an agency has authority to charge a fee, it may not retain and use the amounts collected without statutory authority. An appropriation establishes a maximum authorized program level, meaning that an agency, absent statutory authorization, cannot operate beyond the level that can be paid for by its appropriations. An agency may not circumvent these limitations by augmenting its appropriations from sources outside the government, unless Congress has so authorized the agency.

Questions on this topic should be addressed to the HHS Office of the General Counsel, General Law Division.

1.6 Implementation Requirements

OPDIVs and STAFFDIVs shall implement internal policies and practices to:

- Ensure consistency across their organizations regarding the documentation and submission of requests to support a conference or hire meeting/conference space when it requires the obligation of funds.
- Coordinate with other OPDIVs/STAFFDIVs joint requests for approval for conferences.
- Establish a process for OPDIV or STAFFDIV Head approval of conference requests within the $25,000 to $100,000 threshold.
- Establish a process for OPDIV or STAFFDIV Head review and approval of conference requests (for HHS and non-HHS conferences and non-federal meeting space) exceeding $100,000 for submission to OGAPA.
- Appoint a point of contact and one alternate who will be given access to the OGAPA SharePoint Conference Requests Drop-off & Approval Center, https://asfr.hhs.gov/OGAPA/Conference%20Requests/default.aspx.
- Establish a process to approve the obligation of funds for non-federal meeting space for meetings.
- Determine the total expenses and verify the data to be reported in the annual conference report for posting on HHS' website.