

Prior Approval Requirements under ONC Grants and Cooperative Agreements

NOTE: Grants Management Advisories (GMAs) provide guidance for ONC recipients in selected areas based on ONC's receipt of recurring questions or other factors. Their purpose is to provide a common interpretation for all ONC recipients of how ONC will apply existing policy as reflected in award terms and conditions. They do not replace or modify award terms and conditions.

ISSUES:

How can a recipient determine if prior approval may be required before making a particular expenditure or undertaking a particular activity?

When and how does a recipient request approval?

What happens if ONC does not approve the requested expenditure or activity?

KEY POINTS:

- Prior-approval requirements are ones that require written approval by an ONC grants management officer (GMO) before a recipient may incur a particular type of expenditure (regardless of dollar value) as a direct cost, exceed a specified direct cost expenditure threshold (aggregate or for a particular type of expenditure), or undertake a particular type of activity.
- The types of activities or expenditures that generally require prior approval are specified in several source documents, including the Office of Management and Budget (OMB) cost principles (OMB Circulars A-21 [2 CFR Part 220], A-87 [2 CFR Part 225], and A-122 [2 CFR Part 230]); the Department of Health and Human Services (HHS) grants administration regulations (45 CFR Part 74 or 45 CFR Part 92., as applicable), and the HHS Grants Policy Statement, all of which are included by reference in the Notice of Grant Award (NGA). The Attachment to this GMA lists prior-approval requirements that generally apply to ONC grants and cooperative agreements. The list is based on the listing in the HHS Grants Policy Statement, but is specific to ONC recipients; however, it is not exhaustive.
- The NGA also may include prior-approval requirements specific to that award.
- Some particular areas to note are the following:
 - ONC currently has **not** provided any expanded authorities, including the expanded authority for pre-award costs. As a result, an applicant must request and receive ONC approval to incur any pre-award costs that it wants to claim if an award is made.
 - For the State Health Information Exchange Program, a change in the recipient as a result of a change in a State-designated entity requires prior approval, but follows a different process, which is specified in GMA 2011-08, Change in Recipient under the State Health Information Exchange Cooperative Agreement Program.
 - A request to use an unobligated balance as additional budget authority in a subsequent budget period or under a no-cost extension is addressed in GMA 2011-02, Use of Unobligated Balances under Grants and Cooperative Agreements.
- If an expenditure or activity that requires ONC prior approval is specifically proposed with sufficient detail in the application narrative and budget submitted to ONC to allow for ONC evaluation, and ONC makes an award based on that application/budget without requesting additional information or placing a condition on the award limiting the activity or expenditure, then, if there is no change in circumstances, a recipient does not have to request additional or further approval for that activity or

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expenditure after an award has been made. For example, a statement in an application that a recipient plans to award a contract to carry out a portion of the substantive programmatic activity with a budget amount of \$250,000 generally would not be sufficient detail. The application would have to address such things as the need for the contract, whether it will be awarded competitively, the name of the contractor (if known at the time of application), and how the contract will be overseen.

- Whether a change represents a change in scope from the approved project (Federal funding plus matching or cost sharing) must be reviewed based on the facts and circumstances of a particular award. A change in scope may occur even if no additional ONC funding is requested and may result from an increase in approved project activities, a change from approved project activities, or a decrease in approved project activities. To assist recipients in determining whether there might be a change in scope, ONC uses both program-specific indicators as well as some generic indicators.

Generic indicators: (1) significant rebudgeting, which occurs when, under an award in which the Federal share exceeds \$100,000, there are cumulative transfers among direct cost budget categories for the current budget period that exceed 25 percent of the total approved budget (inclusive of Federal funds and required matching or cost sharing) for that budget period or \$250,000, whichever is less; (2) transfer of the performance of substantive programmatic work to a third party; (3) purchase of a unit of equipment exceeding \$25,000.

Project officers (POs) should be consulted regarding any program-specific indicators.

- For post-award changes from the approved application/budget that require prior approval, the request must be submitted by an authorized organizational representative by e-mail to the following address: ONCGrants@hhs.gov.
- Requests based on significant rebudgeting or that seek additional funds that would expand approved project activities must be accompanied by an SF 424 application budget and narrative.
- Any prior-approval request must be sufficiently detailed to allow ONC to be able to review it and approve or disapprove it.
- If a recipient does not obtain prior approval, when required, ONC may disallow related costs or take other appropriate enforcement action.

RECIPIENT RESPONSIBILITIES:

- Review your NGA to understand what prior-approval requirements apply to your grant or cooperative agreement.
- Ensure that you flow through to subrecipients prior-approval requirements in your NGA (including the requirements of the HHS grants administration regulations at 45 CFR Part 74 or 92, as applicable, and the OMB cost principles) that apply to the type of subrecipient (e.g., if the recipient is a State and makes a subaward to a non-profit organization, the prior-approval requirements are those in 45 CFR Part 74 and 2 CFR Part 230 [OMB Circular A-122]).
- Oversee subrecipient compliance with Federal prior-approval requirements.
- Track transfers in and out of the object class budget categories shown in the NGA to know whether significant rebudgeting has occurred.
- Request prior-approval from ONC for subrecipient activities or expenditures that require ONC approval.
- When required, request prior approval sufficiently in advance to permit the 30-day ONC review period and possible need for dialogue with ONC.



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- Consult with your GMO, grants management specialist, or PO if you are uncertain about whether prior-approval is required.

REFERENCES:

45 CFR 74.25; 74.27

45 CFR 92.22, 92.30

OMB Circular A-21 (2 CFR Part 220); OMB Circular A-87 (2 CFR Part 225); OMB Circular A-122 (2 CFR Part 230)

HHS Grants Policy Statement

ATTACHMENT

**SUMMARY OF PRIOR-APPROVAL REQUIREMENTS IN HHS GRANTS
ADMINISTRATION REGULATIONS AND THE HHS GRANTS POLICY STATEMENT¹**

Expenditure/activity	ONC prior approval is required for this expenditure/activity under the following circumstances
Carryover of unobligated balances	All instances (see GMA 2011-02, Use of Unobligated Balances under Grants and Cooperative Agreements).
Change in scope or objectives of the grant-or cooperative agreement-supported activity	All instances.
Changes in status of PI/PD, or other key personnel named on the NGA	(1) Replacement for Principal Investigator/Project Director (PI/PD) or PI's/PD's absence for any continuous period of 3 months or more; reduction of time devoted to project/program by 25 percent or more from level in approved application. (2) Change in key personnel (in addition to the PI/PD) identified in the NGA.
Change in recipient organization	All instances (see GMA 2011-08, Change in Recipient under the State Health information Exchange Cooperative Agreement Program).
Cost principles prior-approval requirements	ONC has not waived any cost principle prior-approval requirements for any type of recipient. Prior approval for a piece of equipment required only if the acquisition cost would exceed \$25,000 (see below).
Deviation from award terms and conditions	All instances. Includes undertaking any activities generally unallowable or specifically disapproved as a condition of the award.
Equipment	General- and special-purpose equipment exceeding \$25,000 per unit.
Need for additional Federal funding (with or without an extended period of performance)	All instances, including extension of a final budget period of a project period with additional funds.
No-cost extension	All instances.
Pre-award costs	All instances.
Significant rebudgeting (occurs when, under an award where the Federal share exceeds \$100,000, cumulative transfers among direct cost budget categories for the current budget period exceed 25 percent of the total approved budget (inclusive of Federal funds and	All instances.

¹ If an expenditure or activity that requires ONC prior approval is specifically proposed with sufficient detail in the application narrative and budget submitted to ONC to allow for ONC evaluation, and ONC makes an award based on that application/budget without requesting additional information or placing a condition on the award limiting the activity or expenditure, then, if there is no change in circumstances, a recipient does not have to request additional or further approval for that activity or expenditure after an award has been made.



Expenditure/activity	ONC prior approval is required for this expenditure/activity under the following circumstances
required matching or cost sharing) for that budget period or \$250,000, whichever is less)	
Transfer of amounts for training allowances (direct payments to trainees) to other budget categories	All instances.
Transfer of substantive programmatic work under non-construction grants	All instances.