

Recipient Name Change or Successor-in-Interest 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:

What process needs to be followed with relation to Department of Health and Human Services (HHS) grants or cooperative agreements if the recipient changes its legal name is merged with another entity(ies)?

KEY POINTS:

- ONC expects the entity that submitted the application that served as the basis for award of a grant or cooperative agreement ("recipient of record") to remain responsible for the award throughout the project period. Among the bases for award were the eligibility of the submitting entity and the capabilities of that entity to successfully complete the project, appropriately use Federal funds, and supply the matching share, when required.
- However, there may be instances when the recipient of record—
 - changes its legal name ("name change"). A name change can occur as the result of a reorganization, branding, or other change initiated by the recipient. A name change does not otherwise affect the rights and obligations of the organization as a recipient of an HHS grant or cooperative agreement. A name change must be reflected in legal documentation, such as articles of amendment filed with the appropriate State and Internal Revenue Service records.
 - merges with another legal entity or entities due to legislative action, other legal action such as divestiture, or other corporate change. In some cases, a merger may result in the transfer of all or part of the assets of the recipient of record to the new legal entity. If those assets include an HHS award(s), HHS must ensure that the transferee assumes the rights to, and obligations for, the award(s) ("successor in interest" or "SII"). If the merger does not involve the transfer of an HHS award(s), HHS will treat it as a name change.
- Under a name change, the recipient of record continues to be responsible for performance of an ONC-supported (or other HHS-supported) project consistent with the requirements of the Notice of Grant Award (NGA). The name change simply must be recorded in appropriate federal systems and databases. If this is not the case, the recipient must advise the "lead HHS office" (see below).
- Under an SII, the recipient of record and the transferee must provide to HHS documentation of the change in organizational status (see below and the Attachment to this GMA) that is sufficiently detailed to allow affected awarding offices to determine the eligibility of the transferee and any potential impact on the approved project. If an ONC award is affected, ONC may recognize a new (transferee) organization as the SII when it meets the eligibility requirements for the award and the change is consistent with the interests of ONC, i.e., approval is not necessarily automatic or guaranteed.

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- Name change and SII documentation must be submitted to the GMO of the HHS awarding office from which the recipient receives the greatest amount of grant and cooperative agreement funding (“lead HHS office,” as determined by the recipient from its records). Therefore, if the recipient has multiple HHS grant or cooperative agreement awards made by various HHS awarding offices, the documentation may go to an office other than ONC, which will share relevant information with ONC. If ONC provides the only HHS funding to an entity, the documentation must be sent directly to ONC. Required documentation must be submitted as soon as an impending change is known and, in all cases, in advance of the change. Generally 30 days advance notice is necessary to ensure timely processing by HHS.
- Documentation requirements are specified in the Attachment to this GMA, “Documents Required to be Submitted to HHS in Support of a Name Change or Successor-in-Interest Request.” The lead HHS office will provide further instructions concerning documents that a responsible official of HHS and the transferee must execute under an SII to ensure that the transferee accepts the rights and responsibilities associated with HHS grants and cooperative agreements.
- ONC will use the documentation it receives from the lead HHS office to make changes in ONC records, including issuing a revised NGA. By means of the NGA, ONC also will inform HHS’ Division of Payment Management (DPM) of the change.
- If there is a change in the project or in project personnel in addition to a name change or SII, prior approval may be required, as described in GMA 2011-07, Prior Approval Requirements under ONC Grants and Cooperative Agreements.

RECIPIENT RESPONSIBILITIES:

- If you are uncertain whether the change in your organization will be considered a name change or SII, contact your ONC GMO for guidance.
- If you have multiple active HHS grants and cooperative agreements, determine with which HHS awarding office your organization has the most funding and provide to that office, through a GMO, the required documentation (see the attachment to this GMA), along with a list of all of the affected awards.
- When ONC is the lead HHS office, notify ONC by sending the written notification/request and supporting documents via e-mail to ONCGrants@hhs.gov
- Obtain a new Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when required (e.g., for an SII or if a name change is accompanied by a change in physical address).
- Submit any updated payment information based on a new DUNS number to DPM.
- Update information at Central Contractor Registration (CCR).

REFERENCE:

HHS Grants Policy Statement

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DOCUMENTS REQUIRED TO BE SUBMITTED TO HHS IN SUPPORT OF A NAME CHANGE OR SUCCESSOR-IN-INTEREST REQUEST

NAME CHANGE

For a name change, the recipient's written notification must include the grant or cooperative agreement number, whether D&B has been contacted, and effective date of the change, as well as the following documents:

- A copy of the instrument that effected the name change, authenticated by a proper official of the State having jurisdiction.
- An opinion of counsel for the recipient that the change of name was properly effected in accordance with applicable law within the jurisdiction in which the recipient is located.

A revised SF 424, Application for Federal Assistance, is not required for a name change at the time of the request unless the award is comprised of only a single budget period. For all other awards, the ONC GMO will advise the recipient of when a revised SF 424 is required.

SUCCESSOR IN INTEREST

For an SII, the following documents are required:

- A letter signed by an authorized organizational representative (AOR) of the current recipient (transferor) and the SII (transferee) (in a pdf file). The letter must do the following:
 - Stipulate that the transfer will be properly completed in accordance with applicable law.
 - Indicate that the transferor relinquishes all rights and interests in all HHS awards.
 - Request that the affected OPDIV(s) modify its (their) records to reflect the transferee as the recipient of record.
 - State the effective date of the transfer (which should be prospective).
 - Provide the transferee's DUNS number and Entity Identification Number (EIN).
 - Include verification of the transferee's compliance (or intent to comply) with applicable requirements, including continued accountability for property acquired under the award(s).
 - Include a list of all affected HHS grants and cooperative agreements, active and pending, with the following information for each or for the organization, as applicable:
 - Complete award number.
 - Name of PI/PD.

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- Current budget period and project period.
- Separately indicate, by contract number, any affected HHS contracts.
- A properly authenticated copy of the instrument that transfers the assets such as a bill of sale, certificate of merger, or decree of court.
- If applicable, a certified copy of the recipient's Board of Trustees resolution(s) authorizing the transfer of assets.
- A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed to receive the assets involved in the performance of the Federal grants and cooperative agreements.
- An opinion of counsel for the transferor and the transferee organizations that the transfer was properly completed in accordance with applicable law and the effective date of transfer.
- A completed SF 424 for each affected grant and cooperative agreement showing the transferee as the applicant organization. Each SF 424 must be signed by both the PI/PD and the AOR at the transferee organization.
- A copy of the current negotiated indirect cost/facilities and administrative cost rate agreement for the transferee.
- For awards with a single multi-year budget period, the **transferor** must provide an estimate of the unobligated balance of direct and indirect (facilities and administrative) costs as of the date of the SII. For awards with multiple budget periods, if the SII will occur during a budget period rather than on the anniversary date, the **transferor** also must provide estimated levels of current-year direct and indirect (facilities and administrative) costs remaining as of the SII effective date. The estimate may be reported on PHS 3734 (Official Statement Relinquishing Interests and Rights in a Public Health Service Research Grant) (<http://grants.nih.gov/grants/phs3734.pdf>) or an equivalent relinquishing statement for each affected grant or may be itemized by grant number as an attachment to the letter.
- For awards with a single multi-year budget period, the **transferee** must provide a budget and budget narrative for use of the remaining funding, including its current negotiated indirect cost rate agreement. For awards with multiple budget periods, if the SII will occur during a budget period rather than on the anniversary date, the **transferor** must provide a budget and budget narrative for use of the remaining funding, including its current negotiated indirect cost rate agreement. Otherwise, this information is required as part of the non-competing continuation application/performance report.