



June 24, 2013

**MEMORANDUM**

To: OPDIV and STAFFDIV Heads

From: Ellen G. Murray / *Signed* /  
Assistant Secretary for Financial Resources

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

The purposes of this memorandum are to remind the Department of Health and Human Services' (HHS) Operating Divisions of the following [Policies on Promoting Efficient Spending](#) and update the policy on Conferences and Meeting Space:

1. Use of Appropriated Funds for Conferences and Meeting Space – Issued January 3, 2012, updated June 7, 2012, May 15, 2013, and June 24, 2013
2. Use of Appropriated Funds for Food – Issued January 3, 2012
3. Use of Appropriated Funds for Promotional Items – Issued January 3, 2012
4. Use of Appropriated Funds for Printing and Publications – Issued January 3, 2012

These policies promote the Department's commitment to comply with appropriations law and to make sure that our dollars are being spent efficiently and wisely, and support the:

- Executive Order on Promoting Efficient Spending ([EO 13589](#));
- Executive Order on Delivering an Efficient, Effective, and Accountable Government ([EO 13576](#));
- Office of Management and Budget (OMB) Memorandum on Eliminating Excess Conference Spending and Promoting Efficiency in Government ([M-35-11](#)); and OMB Memorandum on Promoting Efficient Spending to Support Agency Operations ([M-12-12](#)).

These policy revisions are effective immediately and apply to all sources of funds (whether from an annual appropriation, multi-year appropriation, no year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.), as well as non-appropriated funds, i.e., those set by law, etc.

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 Clarence Randall, of the Office of Grants and Acquisition Policy and Accountability (OGAPA), at [clarence.randall@hhs.gov](mailto:clarence.randall@hhs.gov).

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

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**Exhibit:**

<b>1</b>	Report on Conferences Held by HHS OPDIVs and STAFFDIVs in Excess of \$20,000
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## 1.1 General

It is the Department of Health and Human Services' (HHS) 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, consistent with these tenets.

This policy on Use of Appropriated Funds for Conferences and Meeting Space updates and supersedes the January 3, 2012 memorandum, June 7, 2012 memorandum, and May 15, 2013 memorandum from the Assistant Secretary for Financial Resources "HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting Space".

In addition to supporting [Executive Order 13589](#); [Executive Order 13576](#); [OMB Memorandum M-35-11](#); and [OMB Memorandum M-12-12](#), this policy addresses the increased reporting requirements and enhanced controls required by Section 3003 of the Consolidated and Further Continuing Appropriations Act, 2013, which states:

*“(a) The head of any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act shall submit annual reports to the Inspector General or senior ethics official for any entity without an Inspector General, regarding the costs and contracting procedures related to each conference held by any such department, agency, board, commission, or office during fiscal year 2013 for which the cost to the United States Government was more than \$100,000.*

*“(b) Each report submitted shall include, for each conference described in subsection (a) held during the applicable period—*

*(1) a description of its purpose;*

*(2) the number of participants attending;*

*(3) a detailed statement of the costs to the United States Government, including — (A) the cost of any food or beverages; (B) the cost of any audio-visual services; (C) the cost of employee or contractor travel to and from the conference; and (D) a discussion of the methodology used to determine which costs relate to the conference; and*

*(4) a description of the contracting procedures used including — (A) whether contracts were awarded on a competitive basis; and (B) a discussion of any cost comparison conducted by the departmental component or office in evaluating potential contractors for the conference.*

*“(c) Within 15 days of the date of a conference held by any Executive branch department, agency, board, commission, or office funded by this or any other appropriations Act during fiscal year 2013 for which the cost to the United States Government was more than \$20,000, the head of any such department, agency, board, commission, or office shall notify the Inspector General or senior ethics official for any entity without an Inspector General, of the date, location, and number of employees attending such conference.*

*“(d) A grant or contract funded by amounts appropriated by this or any other appropriations Act to an Executive branch agency may not be used for the purpose of defraying the costs of a conference described in subsection (c) that is not directly and programmatically related to the purpose for which the grant or contract was awarded, such as a conference held in connection with planning, training, assessment, review, or other routine purposes related to a project funded by the grant or contract.*

*“(e) None of the funds made available in this or any other appropriations Act may be used for travel and conference activities that are not in compliance with Office of Management and Budget Memorandum M-12-12 dated May 11, 2012.”*

Section 3003(e) above restricts the use of funds appropriated in the Consolidated and Further Continuing Appropriations Act, 2013 or any FY 2013 appropriations Act for travel and conference activities unless they are consistent with OMB Memorandum M-12-12, and thus, makes it an Antideficiency Act (ADA) violation to use any FY 2013 funds for travel and conferences that are inconsistent with OMB Memorandum M-12-12.

This policy is also 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

Additionally, there are numerous Federal acquisition, fiscal, and ethics laws and regulations that apply to the issues raised by conferences in which the Federal government participates. The Office of Government Ethics (OGE) has issued an updated list of a selection of ethic laws and regulations and their interpretation. A link to the guide, "Conferences: A Guide for Ethics Counselors" can be found on the OGE website: <http://www.oge.gov/Program-Management/Program-Management-Resources/Ethics-Community/Ethics-Community/>.

## 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](#).”

For the purposes of this policy and explaining the term “conference”:

- The FTR defines travel, under the term “official travel”, as follows, which excludes local travel to the extent that travel authorizations are not involved:
  - “Travel under an official travel authorization from an employee's official station or other authorized point of departure to a temporary duty location and return from a temporary duty location, between two temporary duty locations, or relocation at the direction of a Federal agency.”
- The term “attendee travel”, as used herein, refers to:
  - federal employees participating in meeting, retreat, seminar, symposium or event on official travel as defined in the FTR, and

- non-federal participants whose travel is funded by HHS (except by grant or cooperative agreement) (see Section 1.6 below for restrictions on and exceptions for non-federal attendee travel to be funded by HHS).

Therefore, except as addressed in Section 1.2 E. below, in order to comply with the Section 3003 of the Consolidated and Further Continuing Appropriations Act, 2013 (FY 2013 Appropriations Act), the term “conference”, as used herein, includes:

“all meetings, retreats, seminars, symposia or other events that involve: (1) federal participants on official travel as defined in the FTR or (2) non-federal participants whose travel is funded by HHS (except by grant or cooperative agreement).”

#### B. Conference Training Activities

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.

Therefore certain conferences are considered training activities; however, not all training activities are considered conferences (see Section 1.2 E. below).

#### C. 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.”

In addition to the expenses outlined by OMB, the following expenses shall also be included in the estimated and reported conference costs:

- speaker fees;
- contractor, planner, etc. support costs;
- registration website and/or support costs;
- printing, promotional material and training material costs;
- exhibit fees;
- local travel expenses for federal employees (in addition to the cost of official travel);
- travel and per diem expenses of for non-federal attendees (excluding costs funded by grants or cooperative agreements);
- other expenses as defined by the FTR; and
- other expenses for which HHS funds will be obligated.

OPDIVs and STAFFDIVs are reminded that agencies may not use a grant or contract funded by FY 2013 appropriations Acts for the purpose of defraying the costs of an HHS conference unless such conference is directly and programmatically related to the purpose for which the grant or contract was awarded.

#### D. Funds

The term “funds”, as used herein, refers to those from an annual, multi-year, no year, or mandatory appropriation; appropriated user fees; gift funds; or reimbursements from such appropriations, as well as non-appropriated funds, i.e. funding set by law, etc.

#### E. Exceptions and Clarifications

The following events are not considered conferences under this policy:

- Meetings, retreats, seminars, symposia or events where: (1) federal employees are not on official travel as defined in the FTR and (2) HHS is not funding the travel for non-federal participants.
- Meetings, retreats, seminars, symposia or events that are funded with amounts awarded under an HHS grant program, unless the primary purpose of the award is to sponsor a conference (See 1.3 B. below).
- Meetings held by contractors in the course of their performance, unless a primary purpose of the contract is for support or sponsorship of a conference.
- Classroom or Instructor based certification and/or job training activities that are not in a conference format/setting, and do not include federal attendees on official travel.
- Meetings that occur during the course of responding to an emergency or major disaster declaration are not considered conferences.
- Meetings that occur during the course of an audit, investigation or inspection are not considered conferences.

#### F. Events Designated for Class Approval

In the event the following meetings and events include attendee travel, the following conference types are designated as eligible for Class Approvals, as described in Section 1.3 A. below, to the extent any individual event will exceed \$75,000:

- 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)
- Site visits, such as those conducted as part of a research project or program oversight activity
- General staff meetings

### **1.3 Request and Approval Requirements**

Given the imprecision in conference and travel costs estimates, avoiding Anti-Deficiency Act (ADA) violations requires that a margin of safety be added to the approval thresholds. Therefore, and to ensure compliance with the FY 2013 Appropriations Act, the Departmental approval threshold for all conference types begins at \$75,000, in lieu of \$100,000 as required by OMB Memorandum M-12-12.

Information about the forms and/or Conference Tracking Application system to be used will be provided to the OPDIV and STAFFDIV designated representatives.

#### **A. Conferences Held by HHS (Including by Contract, etc.)**

**Prior to the obligation of funds** by any means including: contract (including modification such as option exercise) 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 from the officials designated below:

- Total expenses to HHS less than \$20,000: Approval shall be in accordance with the OPDIV's or STAFFDIV's standard operating procedures.
- Total expenses to HHS from \$20,000 to \$75,000: Approval is required by the OPDIV or STAFFDIV Head, or a direct report.
- Total expenses to HHS in excess of \$75,000: Approval is required by the OPDIV or STAFFDIV Head (non-delegable), and then submitted to the Office of Grants and Acquisition Policy and Accountability (OGAPA) for approval by the Deputy Secretary.
- Total expenses to HHS in excess of \$475,000: Approval is required by the OPDIV or STAFFDIV Head (non-delegable), and then submitted to the OGAPA for approval by the Deputy Secretary and the Secretary. OMB M-12-12 prohibits expenses in excess of \$500,000 on a single conference unless waived by the Secretary for exceptional circumstances.

For a conference that is funded by two or more HHS appropriations, the respective Executive Officers of the OPDIVs or STAFFDIVs that will be funding the conference 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 includes all expenses to be incurred by all OPDIVs and STAFFDIVs that are reasonably expected to participate in or attend the conference.

Class Approval for designated events: The advance approval requirements also apply to the designated events described in Section 1.2 F. above. OPDIVs and STAFFDIVs may submit a Class Approval for a group of individual designated events that are of the same type and in excess of \$75,000 each. A Class Approval provides approval for the obligation of funds for a class of conferences and is intended to ensure that the types of events described in Section 1.2 F. above are compliant with M-12-12 (e.g. approved prior to obligation of funds and tracked for reporting purposes). Class Approval requests shall provide adequate descriptions into the type and number of events, anticipated costs and attendance levels, location, projected dates and occurrences, etc. for which funds will be obligated. For guidance on this process, contact Clarence Randall at [clarence.randall@hhs.gov](mailto:clarence.randall@hhs.gov). OPDIVs and STAFFDIVs may opt to follow the approval process in this Section to receive approval for each individual event rather than a class of events. To the extent that the cost of individual events included in each Class is less than \$75,000 each, the approval requirements are not required by M-12-12 and are, therefore, at the OPDIVs' and STAFFDIVs' discretion.

As applicable, requests requiring the Deputy Secretary's or Secretary's approval shall be submitted no later than 30 calendar days prior to the date funds are to be obligated, or no later than 90 calendar days prior to the start of the conference – whichever date is earlier.

B. Conferences Funded through Grants and Cooperative Agreements

**Prior to the obligation of funds** to award a grant or cooperative agreement where the primary purpose of the award is to support a conference, whether or not there are expected to be federal attendees and whether or not those attendees will be on official travel, the sponsoring office must obtain approval from the officials designated below:

- Total award less than \$75,000: Approval is in accordance with the OPDIV's or STAFFDIV's standard policies, procedures, and/or practices.
- Total award in excess of \$75,000: Approval is required by the OPDIV or STAFFDIV Head (non-delegable), and then submitted to the OGAPA for approval by the Deputy Secretary.
- Total award in excess of \$475,000: Approval is required by the OPDIV or STAFFDIV Head (non-delegable), and then submitted to the OGAPA for approval by the Deputy Secretary and the Secretary.

In determining the total cost of the conference and submitting a request, OPDIVs and STAFFDIVs shall include the total amount of the grant related to the event and any estimated

federal attendance or participation costs to be funded by HHS (such as travel, registration fees, contract support, exhibit costs, etc.).

As applicable, requests requiring the Deputy Secretary's or Secretary's approval shall be submitted no later than 30 calendar days prior to the date funds are to be obligated, or no later than 90 calendar days prior to the start of the conference – whichever date is earlier.

C. Attendance at Conferences Held by Other Organizations or Federal Agencies (Non-HHS Conferences)

The HHS Division of Transportation Services (DTS) currently conducts semi-annual data calls to collect information on projected requests to attend non-HHS conferences. Additionally, and if after submission of the semi-annual data call, an OPDIV or STAFFDIV identifies that it will expend more than \$10,000 on any individual, non-HHS conference, it shall immediately notify the DTS and provide relevant information (e.g. conference name, date, location, requested number of attendees, and estimated registration fees and travel costs). Until an automated system is available, this information, as well as other data as may be necessary, will be used to determine if the total estimated cost to HHS for a given conference will exceed \$75,000.

**Prior to the obligation of funds**, the appropriate approval must be obtained as follows for each individual conference and includes all conference and travel costs:

- Total expense to HHS at or below \$75,000: DTS will inform the requesting offices that Departmental approval is not necessary, and enter the conference and assigned attendance totals in the travel system.
  - OPDIVs/STAFFDIVs have the discretion to delegate approval, such as to the designated Senior Travel Official, when the total expense to an individual OPDIV or STAFFDIV is at or below \$75,000.
- Total expense by an individual OPDIV or STAFFDIV in excess of \$75,000: Approval is required by the OPDIV or STAFFDIV Head (non-delegable), and then submitted to the DTS for review and submission to OGAPA. OGAPA will process the request for the Deputy Secretary's approval, or the Secretary's if over \$475,000, and inform the DTS of the approval. DTS will enter the conference and assigned attendance totals in the travel system.
- Total expense to HHS (for two or more OPDIVs and STAFFDIVs) in excess of \$75,000: DTS will prepare and send a combined request to OGAPA. OGAPA will process the request for the Deputy Secretary's approval, or the Secretary's if over \$475,000, and inform the DTS of the approval. DTS will enter the conference and assigned attendance totals in the travel system.
  - When an individual OPDIV's or STAFFDIV's cost is in excess of \$75,000, this combined request will be accompanied by the OPDIV or STAFFDIV Head's signed request.

Requests shall be received at the DTS no later than 90 days before the start of the conference.

D. Meeting Space (For Other than Conferences)

OPDIVs and STAFFDIVs must conduct meetings 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. The following website provides information about meeting space available in federal facilities: <http://fedmeetingspace.cfoc.gov>.

**1.4 Reporting Requirements**

A. Reporting of Conferences in Excess of \$20,000

To meet the requirements of Section 3003(c) of the FY 2013 Appropriations Act, HHS' OPDIVs and STAFFDIVs are required to submit a report on each conference they hold where expenses to the United States Government are in excess of \$20,000. This report is due within 15 (calendar) days of the date of the conference; therefore, and to follow a consistent reporting cycle, using the template at Exhibit 1:

- For conferences held on the 1<sup>st</sup> through 10<sup>th</sup> of each month, the report shall be submitted to the OIG (at [OIGConferencereports@oig.hhs.gov](mailto:OIGConferencereports@oig.hhs.gov)) by the 15<sup>th</sup>, with a copy to OGAPA (at [OGAPA@hhs.gov](mailto:OGAPA@hhs.gov)).
- For conferences held on the 11<sup>th</sup> through 20<sup>th</sup> each month, the report shall be submitted to the OIG by the 25<sup>th</sup>, with a copy to OGAPA.
- For conferences held on the 21<sup>st</sup> through the end of the month, the report shall be submitted to the OIG by the 4<sup>th</sup>, with a copy to OGAPA.

OPDIVs and STAFFDIVs shall designate a primary and an alternate representative to manage this reporting process. This reporting requirement applies to all conferences held by HHS in excess of \$20,000.

B. Annual Reports

M-12-12 Annual Report: OMB Memorandum M-12-12 requires agencies to publicly 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. Agencies are to report this information on a dedicated place on their official website. This reporting requirement applies to all conferences held by HHS, Conferences sponsored by HHS through a grant or cooperative agreement (where the primary purpose of the grant is to support a conference), and attendance at Non-HHS conferences in excess of \$100,000.

Section 3003 Annual Report: Sections 3003(a) and (b) of the FY 2013 Appropriations Act requires the submission of an additional annual report to the OIG regarding the costs and contracting procedures related to each conference held by HHS during FY 2013 in excess of

\$100,000. This reporting requirement applies to conferences held by HHS in excess of \$100,000.

Annual Reporting Process: To develop the annual reports, the following information for each conference will be obtained:

- The title of the conference;
- The name of the sponsoring OPDIV, STAFFDIV, or non-HHS organization;
- A brief explanation of the purpose of the conference and how the conference advanced the mission of the agency;
- The total net conference expenses funded by HHS, along with a breakout of the costs of:
  - contractor support,
  - any food or beverages (which should be \$0, see the January 3, 2012 policy on the Use of Appropriated Funds for Food),
  - any audio-visual services,
  - federal attendee travel,
  - non-federal attendee travel, and
  - other costs; and
- The location and date of the conference;
- The total number of participants attending and federal and non-federal attendees (including contractors and grantees) whose travel expenses were paid by HHS;
- A description of the contracting procedures used including discussions of:
  - the methodology used to determine which costs relate to the conference,
  - whether contracts were awarded on a competitive basis, and
  - any cost comparison conducted by the OPDIV or STAFFDIV in evaluating potential contractors for the conference; and if applicable
- The Secretary's waiver that identified the exceptional circumstances that necessitated exceeding \$500,000, if applicable.

OMB M-12-12 also includes a requirement that the annual report located on the Agency's website must include information about the net conference expenses for the fiscal year incurred by the agency as well as a general report about conference activities throughout the year. OGAPA will use the data from requests and approvals submitted in accordance with the above requirements to develop the draft reports by November 30 of each year. Each OPDIV and STAFFDIV Head shall verify the content of and total conference expenses in each report 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 Non-Federal Attendee Travel Restrictions**

OPDIVs and STAFFDIVs shall abide by the general rule that an appropriation may not be used for non-Federal employee travel, transportation, and subsistence expenses for a meeting. Specifically, 31 U.S.C. § 1345, “Expenses of Meetings”, applies to our appropriations and states that “except as specifically provided by law, an appropriation may not be used for [non-Federal employee] travel, transportation, and subsistence expenses for a meeting.” Therefore and as a general principle, appropriated funds generally cannot be used to pay the expenses of persons who are not federal employees. There are a few exceptions to these general rules/principles, as follow below, that may be applied in determining to fund non-Federal employee travel to HHS’ or other organizations’ meetings and conferences.

### **A. Statutory Authority**

Agencies may have a unique statutory authority to use their appropriated funds for travel and other expenses of non-federal employees. This statutory authority must be specific (e.g., general training and technical assistance authority is not enough). Statutorily-required (rather than merely authorized) conferences *may* provide sufficient specificity.

### **B. Invitational Travel Statute**

5 U.S.C. § 5703, stated that "an employee serving intermittently in the Government service as an expert or consultant .... or serving without pay or at \$1, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service." This statute permits agencies to invite individuals to a meeting or conference at government expense if the individuals are legitimately performing a direct service to the government, such as making a presentation or advising in an area of their expertise. Paying for the travel and subsistence of invitational travelers must still serve a legitimate authorized purpose of the agency for which funds have been appropriated, such as to provide technical assistance as authorized by program statute. Travel Regulations would apply and travel orders would need to be issued to such individuals.

### **C. HHS Appropriations Exception**

Section 505 of the FY1993 Labor/HHS/Ed appropriations act, (Pub. L. 102-394), 31 U.S.C. § 1345 note, provides that “appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.” The appropriate program official must determine that the private individual’s attendance will contribute to improved conduct, supervision, or management of those functions

or activities. Funds must come from Salaries and Expenses for this exception to apply.

D. Limited Procurement Exception

An agency may contract for various conference-related services, including services related to presentations. Contractors may, but are not required to, utilize subcontractors for the purpose of providing such services, and the contractor may incorporate allowable costs (including travel expenses) into its price for these services. However: (a) Contractors, through their employees or subcontractors, must provide a deliverable (e.g., a speech, presentation, or other specific role) and (b) Contractors should generally be responsible for selecting the individuals (their employees or subcontractors) who will provide services such as presentations, though the contracting officer, with input from the program office, may have final approval over a list of topics and presenters if required by the contract. Various allowable contract costs (including travel) may be properly included in the contractor's price for the deliverable in question. This exception may not be used to pay for non-Federal employees to simply attend an event, even if they might say something during the event and you need to work closely with the Office of the General Counsel, General Law Division, on specific language for such contracts on a case-by case basis.

E. Grant Funds

Reasonable and allocable travel costs may be charged to a grant by the grantee. See OMB Circulars A-87, App. B, ¶ 43; A-122, App. B, ¶ 51. Where authority exists, agencies may supplement terms and conditions of the grant to require grantees to use grant funds to travel to events. Sample term and condition: “The [Program] Administrator, or designee from the State or Territory [Program] Lead Agency, must attend and participate in HHS-sponsored national or regional in-person meetings and trainings, as directed by the [OPDIV]. This award may be used for allowable costs associated with travel, lodging, per diem, and other related expenses associated with the grantee meetings and trainings.”

Since OMB Memorandum M-12-12 does not require such travel reimbursements to be included in the cost of conferences held by the agency, OPDIVs/STAFFDIVs should exclude allowable travel costs charged to grant funds when determining the cost of an HHS Conference. (Ref. Memorandum M-12-12 footnote 5: “Conference expenses’ are defined 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. ...”

## **1.7 Contractor Support for Formal Conferences**

HHS is developing a toolkit and best practices guide to inform program and contracting officials of techniques to follow in planning for HHS hosted, formal conferences, and in acquiring and using any necessary contractor support. A formal conference typically involves topical matters of interest to, and the participation of, multiple agencies and/or nongovernmental participants. In addition, other indicators of a formal conference include registration, a published agenda, and scheduled speakers or discussion panels. This guide will be issued to the HHS Contracting Offices and Conference Representatives.

The NIH Conference Administrative and Travel Services Contracts (see NIH's website at: <http://nihcatsii.olao.od.nih.gov/>) are considered to be part of the Department's strategic sourcing efforts to leverage HHS-wide spend, reduce contract duplication, increase purchasing efficiencies, and reduce the total cost of formal conferences held by HHS. OPDIVs and STAFFDIVs are required to use these, or other multiple-award contracts that have been established by the OPDIV/STAFFDIV specifically for the logistical and administrative aspects of conference support, unless there is a sufficient justification to acquire these services through another acquisition strategy. For conference requests in excess of \$75,000, when applicable, such justification shall be attached to the request.

## **1.8 Implementation Requirements**

HHS OPDIVs and STAFFDIVs shall designate representatives to lead and coordinate the approval and reporting requirements of this policy within their agencies – representative names shall be provided to Clarence Randall at [clarence.randall@hhs.gov](mailto:clarence.randall@hhs.gov). Additionally, 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 and STAFFDIVs to submit joint requests for approval for conferences.
- Establish a process to ensure the applicable approval requirements are met prior to the obligation of funds.
- Determine the total expenses and verify the data to be reported in the bi-weekly reports to the OIG and annual conference reports for the OIG and for posting on HHS' website.

OPDIVs and STAFFDIVs policies and procedures to implement this policy may be more expansive than the requirements set forth herein.

