

January 3, 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

The Department has developed new policies on the use of appropriated funds for conferences and meeting space (Attachment 1), food (Attachment 2), extraneous promotional items (Attachment 3), and printing and publications (Attachment 4).

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 Office of Management and Budget 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 act in a fiscally responsible manner by minimizing our administrative costs to perform our mission critical functions in the most efficient, cost effective way.

The policies 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.).

We appreciate the comments that the Operating Division (OPDIV) and Staff Division (STAFFDIV) provided on the earlier drafts of these policies. The attached policies have been revised where possible based on your comments. Please share this transmittal memorandum and the attached policies with all appropriate officials within your OPDIV or STAFFDIV.

Attachments

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

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

1.1 General

It is the Department's policy that the conferences¹ 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.

The following policy rescinds and supersedes the October 27, 2011 memorandum from the Deputy Secretary "Eliminating Excess Conference Spending and Promoting Efficiency in Government," and is in addition to and is intended to complement the requirements and procedures set forth in the following policies, or any updates thereto:

- HHS Travel Manual, May 2008
- Memorandum from the General Counsel "Agency Gift Acceptance Authorities and the Co-Sponsorship of Events with Outside Non-Federal Entities," August 8, 2002

OPDIVs and STAFFDIVs shall make all appropriate efforts to conduct business, including meetings, and host or sponsor conferences in space controlled by the Federal Government, wherever practicable and cost effective.

1.2 Definitions

The following definitions apply in determining whether an event is a conference or a meeting:

- A conference is a symposium, seminar, workshop, advisory committee meeting or any other organized and formal meeting, whether conducted face-to-face or via the Internet, where individuals assemble (or meet virtually) to exchange information and views or explore or clarify a defined subject, problem, or area of knowledge, whether or not a published report results from such meeting.
- A meeting where a gathering discusses general matters as part of a normal course of doing business is not considered a conference.

1.3 Approval Requirements

Prior to the obligation of appropriated funds (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.), by any means such as contract or purchase order², purchase card, grant, cooperative agreement, inter- or intra- agency agreement, etc., to support a conference or to acquire meeting or conference space — whether for internal or external purposes (or a combination thereof) — the sponsoring office must obtain the approval of the appropriate OPDIV or STAFFDIV official, based on the thresholds below:

- Under \$100,000: the OPDIV or STAFFDIV Executive Officer, delegable to their direct reports without further redelegation.

¹ The HITS Acquisition Regulation provisions for Conference Funding and Sponsorship are found at: <http://www.hhs.gov/policies/hhsar/subpart370.html#Subpart370.6>. Relevant provisions for grants and cooperative agreement are found in MIS' Awarding Agency Grants Administration Manual at http://intranet.hhs.gov/administrative/grantsinfo/documents/AAGAM6_99_107.doc, and Grants Policy Statement at <http://www.hhs.gov/asfr/ogapa/grantinformation/hhsgps107.pdf> (pages 94-97).

- \$100,000 or over: the OPDIV or STAFFDIV Head, delegable to their direct reports without further redelegation.

This approval must be in writing, explain why the conference or meeting is critical to the mission and why the costs are considered reasonable, be granted prior to the obligation of funds, and be included in the associated administrative file, such as the purchase card request, contract file, or grant administration file. To avoid unnecessary effort associated with disapproval, approval should be sought prior to issuance of a solicitation or funding opportunity announcement.

1.6 Reporting Requirements

OPDIVs and STAFFDIVs shall submit a semi-annual report on all HHS funded conferences using the template provided at Attachment 1-A. This reporting requirement applies to any conference that HHS funds in whole or in part (except for conference registration fees obligated for employee training) and to any meeting space acquired during each reporting period³.

1.7 Exceptions for Grants and Cooperative Agreements

When a grantee conducts a conference as an ancillary effort under its grant or cooperative agreement, such grants and agreements are not subject to the above approval and reporting requirements. However, as a matter of Departmental policy, when the primary purpose of the grant or cooperative agreement is to conduct a conference, such as NUT s Support for Conferences and Scientific Meetings R13/U13 grants and other similar grants, the approval and reporting requirements apply. However, when a contract includes, in addition to other requirements, a requirement to conduct a conference, the approval and reporting requirements apply to that part of the contract.

1.8 Implementation Requirements

OPDIVs and STAFFDIVs shall implement internal policies and practices to: (1) ensure consistency across their organizations regarding the documentation and approval of requests to support a conference or acquire meeting/conference space when it requires the obligation of funds, and (2) meet the semi-annual reporting requirements addressed above.

1.9 Additional Information

This policy may be supplemented as appropriate through questions and answers published on the Office of Grants and Acquisition Policy and Accountability (OGAPA) website (<http://dhhs.gov/asfr/ogapa/index.html>), and may result in changes to the HHS Acquisition Regulation, Awarding Agency Grants Administration Manual, and Grants Policy Statement. Questions regarding this policy may be addressed to Nancy Gunderson, Deputy Assistant Secretary for the Office of Grants and Acquisition Policy, at Nancy.Gunderson@hhs.gov.

² Including but not limited to: orders under the NM Conference, Administrative, and Travel Services II (NIHCATS II) Contracts; other events management and logistics support services contracts; contracts made directly with hotels and conference centers, etc.

³ Based on the date of obligation of funds (such as the date of contract award, credit card transaction, notice of grant award, etc.).

Semi-Annual Report on Conference Sponsorship/Funding

Each report shall be approved by the OPDIV or STAFFDIV Head, be submitted to OGAPA@hhs.gov in the following format (adding enough columns for the number of conferences funded), and include the following information for each conference.

The first report and each subsequent semi-annual report shall cover the periods cited below, and be submitted by the dates specified:

- January 1, 2012 through March 31, 2012 — report due no later than April 30, 2012
- Period of April 1 through September 30 — report due no later than October 31 annually
- Period October 1 through March 31 — report due no later than April 30 annually

Conference Title/Topic:

Sponsoring Office(s):

Dates Held/To Be Held:

Location:

City –

State –

Country-

Audience:

Profession –

Number of Attendees –

Percentage of Federal vs. Percentage of Non-Federal -

Purpose of Conference:

Total Obligation⁴

Primary Method Used to Support the Conference (check one):

Government Staff –

Contractor

Grantee

Cooperative Agreement Awardee

Other (specify)

If not in Federal Space, an explanation why not

⁴ Excluding the government FTE salary and benefits costs associated with staff planning, supporting, or attending the conference or acquiring the meeting space.

HHS Policy on the Use of Appropriated Funds for Food

2.1 General

It is the Department's policy that OPDIVs and STAFFDIVs shall not use appropriated funds (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.) to purchase food (whether for conferences or meetings; for meals, light refreshments, or beverages; or for Federal or non-Federal participants) unless OPDIVs and STAFFDIVs document that the provision of food is a necessary expense⁵ and one of the established exceptions below applies.

This new policy rescinds the previous "food waiver" contained in the June 12, 2007 Departmental Policy in its entirety; and does not apply to the purchase of food for:

- patients;
- lab animals;
- animal and human test subjects; or
- nutritional/toxicology counseling, studies or samples.

The list of established exceptions remains unchanged. However, the exceptions have been further clarified and the former waiver process — which previously allowed for the purchase food using appropriated funds if the conditions expressed in the former policy were met and if approved by the OPDIV or STAFFDIV Head — has been rescinded.

2.2 Exceptions

The four exceptions to the general policy are as follows:

1. **Training Events:** OPDIVs and STAFFDIVs are authorized to pay for government employees' attendance at a non-HHS government or non-government conference (that constitutes an authorized employee training program) that includes food, if the registration fee includes the cost of food and the cost of food cannot be separated from the registration fee. However, OPDIVs and STAFFDIVs shall not purchase food and refreshments for HHS funded training events, such as conferences, workshops, symposia, and meeting, authorized under the Government Employee Training Act.
2. **Award Ceremonies:** The Government Employees' Incentive Awards Act authorizes the use of appropriated funds to provide light refreshments, such as snacks and beverages, at federal employees' awards ceremonies when it has been determined that such food would materially enhance the awards ceremony in furtherance of the objectives of the awards.

⁵ Necessary Expense Rule: See GAO's [Principles of Federal Appropriations Law, 4-19](#), for additional information. Additionally, when applying the necessary expense rule, an expenditure may be justified after meeting a three-part test:

1. The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available.
2. The expenditure must not be prohibited by law.
3. The expenditure must not be otherwise provided for, that is, it must not be an item that falls within the scope of some other appropriation or statutory funding scheme.

However, awards ceremonies must emphasize public recognition of the employees' performance and allow other employees to honor and congratulate their colleagues. Therefore, the ceremonies cannot be limited to the employees receiving the awards.

3. Representation Fund: HHS and OPDIV Representation Funds are budget allocations that are specifically authorized by appropriation to facilitate official reception and representation activities that further the interests of the Department. The funds may be used to purchase food for official reception and representation activities.
4. Emergencies: There is a limited exception for extreme emergencies involving imminent danger to human life or the destruction of federal property. This exception, however, is available only in rare situations and is heavily dependent on the facts presented in a particular situation.

2.3 Additional Exceptions and Clarifications

1. Grants and Cooperative Agreements: When a grantee conducts a conference as an ancillary effort under its grantor cooperative agreement, food-related costs may be considered allowable as prescribed in OMB Circular A-21 (cost principles applicable to educational institutions), OMB Circular A-122 (cost principles applicable to non-profits), HHS' Awarding Agency Grants Administration Manual, and MIS' Grants Policy Statement. Such grants and cooperative agreements are not subject to the approval requirements below. However, as a matter of Departmental policy, when the primary purpose of the grant or cooperative agreement is to conduct a conference, such as NIH's Support for Conferences and Scientific Meetings R13/U13 grants and other similar grants, the requirements in Section 2.4 below apply.
2. Gift Funds. Some OPDIVs and STAFFDIVs have been granted statutory authority to accept, retain, and use gifts. In that event, such OPDIV or STAFFDIV may use all or a portion of the gift to purchase food if the appropriate OPDIV or STAFFDIV official determines that the purchase of food: (a) carries out the mission of HHS or one of its OPDIVs or STAFFDIVs or otherwise meets the statutory criteria; (b) satisfies the conditions of the gift; (c) is consistent with HHS' or the OPDIV's or STAFFDIV's policy on gifts; and (d) is a necessary expense. The OPDIV or STAFFDIV should consult HHS attorneys if there are questions regarding either the conditions of the gift or the legal criteria for the OPDIV's or STAFFDIV's gift acceptance authority.
3. 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 in this topic should be address to the HHS Office of General Counsel, General Law Division.

2.4 Conference Services and Meeting Space

Given the policy set forth above, and unless one of the exceptions applies, HHS' solicitations, funding opportunity announcements, contracts (such as events management and logistical support contracts), purchase orders, grants, and agreements for conferences or meeting space must specifically prohibit the inclusion of food and meals and state that food and meals are not to be provided and are an unallowable expense. In effect, when acquiring space to conduct conferences or meetings, OPDIVs and STAFFDIVs may not accept food if offered at the same price as without food.

2.5 Approval Requirements

Regarding the Training Events exception, approval of attendance at a non-HHS, other government, or non-government conference, where food is included within and cannot be separated from the registration fee, shall follow the OPDIV's or STAFFDIV's standard practice for approving training, such as approval of the SF-182, Authorization, Agreement and Certification of Training, by the appropriate training official. OPDIVs and STAFFDIVs shall refer to the HHS travel manual with respect to the applicable requirements for reduced per diem allowance when meals are provided as part of a conference or training event.

Before food may be purchased under the remaining exceptions or through gift funds or conference fees, the OPDIV or STAFFDIV project officer shall submit to the cognizant HHS contracting officer, grants management officer, or purchase card holder a memorandum:

- justifying that the provision of food is a necessary expense;
- identifying the applicable exception; and
- indicating the name and location of the event, the number of employees attending the event, and the estimated cost of the food.

Approval of such justifications shall be made by the OPDIV or STAFFDIV Head or one of their direct reports.

2.6 Record Retention

The contracting officer, grants management officer, and/or purchase card holder must retain the approved memorandum in the associated administrative file (e.g. contract file, etc.). OPDIVs and STAFFDIVs are also encouraged to maintain a central file of all approved memorandums for reporting or other purposes

2.7 Implementation Requirements

OPDIVs and STAFFDIVs shall implement internal policies and practices to: (1) ensure consistency across their organizations regarding the documentation and approval of requests to purchase food, and (2) meet the record retention requirements addressed above.

2.8 Additional Information

This policy may be supplemented as appropriate through questions and answers published on the OGAPA website (<http://dhhs.gov/asfr/ogapa/index.html>) and may result in changes to the HHS Acquisition Regulation, Awarding Agency Grants Administration Manual, and Grants Policy Statement. Questions regarding this policy may be addressed to Nancy Gunderson, Deputy Assistant Secretary for the Office of Grants and Acquisition Policy, at Nancy.Gunderson@hhs.gov.

3 HHS Policy on the Use of Appropriated Funds for Promotional Items

3.1 General

It is the Department's policy that OPDIVs and STAFFDIVs shall not use appropriated funds (whether from an annual appropriation, multi-year appropriation, appropriated user fee, mandatory appropriation, gift funds, or reimbursements from such appropriations, etc.) to purchase promotional items when they are not a necessary expense⁶.

Promotional items include, but are not limited to: clothing and commemorative items such as pens, mugs/cups, folders/folios, lanyards, and conference bags that are sometimes provided to visitors, employees, grantees, or conference attendees. Typically, items or tokens to be given to individuals are considered personal gifts for which appropriated funds may not be expended. Only in rare cases — that is, where the OPDIV or STAFFDIV can demonstrate that the promotional items are necessary expenses that directly further its mission — may such items be purchased.

3.2 Approval Requirements

Any such necessary expense justification must be in writing, explain why the purchase is a necessary expense that is critical to the mission and why the costs are considered reasonable, and be included in the associated administrative file, such as the purchase card request or contract file.

Approval of such justifications shall be made by an appropriate OPDIV or STAFFDIV official as determined and designated the OPDIV or STAFFDIV Head.

3.3 Implementation Requirements

OPDIVs and STAFFDIVs shall implement internal policies and practices to ensure consistency across their organizations regarding the documentation and approval of requests to purchase promotional items.

3.4 Additional Information

This policy may be supplemented as appropriate through questions and answers published on the OGAPA website (<http://dhhs.gov/asfr/ogapa/index.html>). Questions regarding this policy may be addressed to Angela Billups, Associate Deputy Assistant Secretary for Acquisition, at Angela.Billups@hhs.gov.

⁶ Necessary Expense Rule: See GAO's *Principles of Federal Appropriations Law*, 4-19, for additional information. Additionally, when applying the necessary expense rule, an expenditure may be justified after meeting a three-part test:

1. The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available.
2. The expenditure must not be prohibited by law.
3. The expenditure must not be otherwise provided for, that is, it must not be an item that falls within the scope of some other appropriation or statutory funding scheme.

HHS Policy on Printing and Publications

4.1 General

It is the Department's policy that printing and publication of hard copy materials be consistent with HHS missions, objectives and existing policies; represent the efficient and effective use of taxpayer funds; and withstand public scrutiny, while not creating barriers for the public in obtaining our information. Information should now be presumed to be provided in an electronic form, whenever practicable, permitted by law, and consistent with applicable records and retention requirements. OPDIVs and STAFFDIVs should therefore limit the publication and printing of hard copy documents for internal and external use. This policy is in addition to existing statutory and regulatory requirements for Printing and Publications.

4.2 Policy on General Printing, Copying, or Scanning for Internal Use

Regarding the general printing, copying, and scanning of routine documents, HHS personnel are expected to use sustainable practices to meet their needs, such as:

- double-sided printing;
- black and white printing vs. color;
- use of 'draft' quality rather than 'high' quality printing;
- use of sleep mode when printers and copies are not in use
- use of toner-efficient fonts;
- narrow margins on network printers; and
- limit use of desktop printers and shift to network printers unless an exception is granted.

4.3 Use of Strategic Sourcing Acquisition Vehicles

The acquisition vehicles developed for Print Management under OMB's Federal Strategic Sourcing Initiative (FSSI) (<http://www.gsa.gov/portal/content/111983>), and the NTH Government Wide Acquisition Contract for Electronic Computer Store III (ECS III) should be utilized when acquiring printing and copy devices and services. If acquiring printers, copiers and multi-functional devices without using the FSSI Print Management Blanket Purchase Agreements (BPAs) or the NIH ECS III, the approval document must detail why using another acquisition approach represents a lower total cost of ownership over the FSSI BPAs or the NIH ECS III.

4.4 Implementation Requirements

OPDIVs and STAFFDIVs shall implement internal policies and practices to ensure consistency across their organizations regarding the documentation and approval of requests to support printing and publication items.

4.5 Additional Information

Questions regarding this policy may be addressed to Angela Billups, Associate Deputy Assistant Secretary for Acquisition, at Angela.Billups@hhs.gov.