

Amendments to Agreements

*" There is nothing wrong with change, if it is in
the right direction. "*

-Winston Churchill

Budgetary Changes that Require Prior Approval of Agency

States, Local Governments, Tribes

- Additional Funds
- Cumulative Transfers Among Direct Cost Categories (10% Federal Share > \$100K)
- Transfer for Funds Allotted for Training
- Liquidation of Obligations > 90 days

Budgetary Changes that Require Prior Approval of Agency

Educational Institutions & Non Profits

- Additional Funds
- Cumulative Transfers Among Direct Cost Categories (10% Federal Share > \$100K)
- Transfers for Funds Allotted for Training
- Direct Costs to Indirect Costs
- Indirect Costs to Direct Costs
- Liquidation of Obligations > 90 days

Requesting Budgetary Changes

Prior to making budget changes:

- Cooperator submits to APHIS revised SF-424, SF-424a, Detailed Financial Plan
- Additional forms may be required if change makes award > \$100K

Programmatic Changes that Require Prior Approval of Agency

- Change in Scope or Objectives
- Change in Key Person specified in award
- Transferring Substantive Programmatic Work
- Absence for 3 months or 25% of key person (does not apply to States, Local, Tribes)

Requesting Programmatic Changes

Prior to making programmatic changes:

Workplan is modified outlining changes,
agreed to by both parties

Actions which Amend the NOA

- Increase in funding
- Decrease/deobligate funding
- Change in ADODR (if designated in body of agreement)
- Change or add a term & condition
- No-cost Extension
- Change in Scope

No-Cost Extensions

APHIS Policy allows agreements to be granted a one-time extension if project delays have occurred which prevent the agreement from being completed, provided:

- The extension does not require additional Federal funds
- No change in approved objectives or scope
- It is not solely for the purpose of using unobligated balances

Scope of an Agreement

“The Scope of a grant grows out of grant purposes. These purposes must be referred to in order to identify those aspects of a grant that make up the substantial and material features of a particular grant which in turn fix the scope of the Government’s obligation.”

58 Comp. Gen. at 681

Change in Scope

An agency cannot approve a change in scope if the period of time for availability of obligating funding has expired.

Change in Scope

Change in project scope is equivalent to the deobligation of funds for the original project and their reobligation for a new project.

Not allowed after the statutory time available has lapsed because funds could not be initially obligated at that time.

Change in Scope

Two examples:

- Enlarging the area of service
- Adding or expanding activities/objectives originally described in the workplan

Scenario

APHIS awards a cooperative agreement on 6/1/09 with single year funds. The agreement period is 1 year.

Purpose: Surveillance efforts for 15 plant pests identified in the workplan

The number of and name of the pests and the surveillance areas are described in the workplan

Question 1

On 10/15/09, it is determined that additional plant pests need to be added to the agreement. No additional money is needed by the cooperator

Can we amend the workplan to add the pests?

Answer: No, because the pests were identified in the workplan, this would be equivalent to the deobligation of funds for the original project (surveillance for 15 plant pests) and their reobligation for a new project (adding additional pests.) This is not allowed after the statutory time available has lapsed because funds could not be initially obligated at that time.

Is this a change in scope?

Answer: Yes, because the pests were identified in the original workplan, adding additional pests would be viewed as a scope change.

Question 2

On 10/15/09 we want to change the pests with no additional funds needed by the cooperator. Surveillance is still conducted for 15 pests, but some of them are different pests than described in the original workplan.

Can we amend the workplan to change the pests?

Answer: No, because the pests were identified in the workplan, this would be equivalent to the deobligation of funds for the original project (surveillance for 15 identified plant pests) and their reobligation for a new project (surveillance for different pests.) This is not allowed after the statutory time available has lapsed because funds could not be initially obligated at that time.

Is this a change in scope?

Answer: Yes, because the pests were identified in the original workplan, changing the pests would be viewed as a scope change.

Question 3

On 10/15/09 it is determined that a change to the surveillance areas is needed with no additional funds requested by the cooperator. Surveillance will still be conducted for the original 15 pests identified in the workplan, but additional counties require surveillance that were not originally identified in the workplan.

Can we amend the workplan to add the additional counties?

Answer: No, because the surveillance areas were described in the workplan, this would be equivalent to the deobligation of funds for the original project (surveillance in certain counties) and their reobligation for a new project (adding additional counties to the surveillance area.) This is not allowed after the statutory time available has lapsed because funds could not be initially obligated at that time.

Is this a change in scope?

Answer: Yes, because the surveillance areas were identified in the original workplan, adding additional counties would be viewed as a scope change.

More on Scope Changes...

To avoid possible scope change problems, workplans should be written to allow for fluctuations that may occur during the course of the agreement.

Using the scenario described in this presentation, the workplan could state that the surveillance area is as described, but may be expanded for good cause with the approval of the awarding agency. In addition, it could identify the pests but state that additional pests may be added with prior approval.