

TDH  
Texas Department of Health

Executive Deputy Commissioner

Bureau of HIV and STD Prevention  
1100 West 49th Street  
Austin, Texas 78756-3199

HIV/STD Clinical Resources Division

HIV/STD Epidemiology Division

HIV/STD Health Resources Division

February 12, 2001

ATTN: PL 106-107 Comments  
Department of Health and Human Services  
200 Independence Avenue, SW  
Room 517-D  
Washington, DC 20201

Subject: Equipment Purchases by Subgrantees

Dear Sirs:

We received guidance from the Health Resources and Services Administration (HRSA) on May 31, 2000, regarding the purchase of general purpose equipment with Ryan White CARE Act funds. The letter states that expenditures for general purpose equipment are unallowable as a direct cost except with prior approval of the awarding agency, and provides a list of governing documents. According to the letter, we were to provide 12 documents on each item of equipment in order to obtain prior approval. Further, in a subsequent conversation and e-mail from the grants management office, we were instructed to obtain the approval on subgrantee equipment purchases, as well as on grantee purchases.

We have reviewed the PHS Policy Statement; CFR, Part 445, Sections 74 and 92; and all the pertinent Federal circulars. We find no requirement of Federal grantor approval regarding subgrantee purchases. While it is clear to us that subgrantees must follow procurement guidelines found in the Federal circulars according to the type of agency, we also find in CRF Part 45. 74.102(b), that "Grantees shall be responsible for reviewing requests from their subgrantees for approvals required by this subpart and for giving or denying the approval."

Further, OMB Circular A- 102, Section 1.b states that "No additional procurement requirements or subordinate regulations shall be imposed upon grantees by Executive agencies unless specifically required by Federal law or Executive orders or authorized by the Administrator for Federal Procurement Policy." This statement is reiterated in multiple documents.

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The requirement of Federal grantor approval for subgrantee purchases is unnecessarily burdensome to the grantee and subgrantee and creates a barrier to the provision of services to people with HIV.

The Texas Department of Health is responsible for the application of all Federal circulars regarding procurement for all our grant programs and is competent to administer equipment approvals and management requirements for subcontractors at the state level, as required by law.

We know of no other case of a Federal agency requiring approval of subgrantee purchases. We request that these guidances be reviewed and clarified, and that the State of Texas be relieved from the requirement by HRSA to obtain prior approval for subgrantee purchases.

Thank you for your consideration.

Sincerely,

Director  
HIV/STD Health Resources Division

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