



Fact Sheet Regarding Contracted Services Not Performed Due to COVID-19

Updated August 2020

QUESTION: Can grant funds be used to cover the cost of approved contracted services that were not performed by a contractor because of the COVID-19 pandemic?

ANSWER: Yes, in some limited circumstances, grant funds may be used to cover the costs of contracted services that were cancelled or otherwise not performed due to the COVID-19 pandemic if the contractor was ready and able to perform such services at the time. In determining whether grant funds may be used, the grantee or subgrantee should follow the steps set forth below.

Check on alternative arrangements first: If the contracted services are necessary to carry out the Federal award, the Department encourages grantees and subgrantees to work with their third-party contractors to, first, devise alternative ways to provide those services (e.g., teleconferencing, training via webinars, and other virtual or remote strategies for service delivery) to carry out the intent and purpose of the contracts, to the greatest extent practicable. In so doing, the grantee or subgrantee should demonstrate its best efforts to ensure continuity of needed services under the Federal award during the pandemic. The provision of services through an alternative means may require modification of the contract in order to enable payment for the services rendered via alternative or virtual means. Any such modification of the contract should be negotiated so that the costs paid are reasonable and necessary.

Steps if services cannot be provided in an alternative manner: If the services cannot be provided in an alternative manner and funds were already paid to the contractor, as we also discussed, in the guidance on travel and conferences,¹ the grantee or subgrantee must first seek to recover refundable and nonrefundable costs from the relevant entity that was paid (i.e., the contractor). Some entities and businesses are offering flexibility regarding refunds, credits, and other remedies for losses due to the COVID-19 pandemic. Moreover, many agreements or contracts for conferences, training, or other activities related to a grant contain emergency or “act of God” or “force majeure” provisions, and the grantee and its subgrantees must seek to enforce such provisions to the maximum extent possible in light of the COVID-19 pandemic.

If a grantee or subgrantee is unable to recover funds paid, and the contractor was prevented from performing under the contract, but was ready and able to perform such services at the time, due to

¹See the fact sheet on travel and conferences at: <https://www2.ed.gov/documents/coronavirus/factsheet-fiscal-questions.pdf>.

the grantee's or subgrantee's closure or other inability to accept the services, caused by the pandemic, the grantee or subgrantee should try to negotiate a reasonable compromise amount.

However, if no compromise can be negotiated, the grantee or subgrantee may charge the appropriate grant for the costs of cancelling the contract, provided the contract costs were reasonable and incurred in order to carry out an allowable activity under the grant, consistent with the Federal cost principles described in [2 CFR Part 200 Subpart E](#) of the Uniform Guidance (Federal cost principles).

If the grantee or subgrantee was ready and able to accept the contracted services, but the contractor could not provide the contracted services due to the pandemic, the grantee or subgrantee must not pay for the services because such costs would not satisfy the requirements of the Federal cost principles.

If there are State or local laws, regulations, or executive orders directly addressing a specific cost item or items during this emergency situation as affected by COVID-19, their effect on the grant will be reviewed on a case-by-case basis to determine allowability and allocability under the Federal cost principles.

Grantees and subgrantees should not assume additional funds will be available to cover any shortage in funds that may occur as a result of payments for services that were not provided and/or received. Grantees and subgrantees must maintain appropriate records and cost documentation as required by [2 CFR § 200.302](#) (financial management) and [2 CFR § 200.333](#) (retention requirements for records) to substantiate the charging of any cancellation or other fees related to interruption of operations or services.