

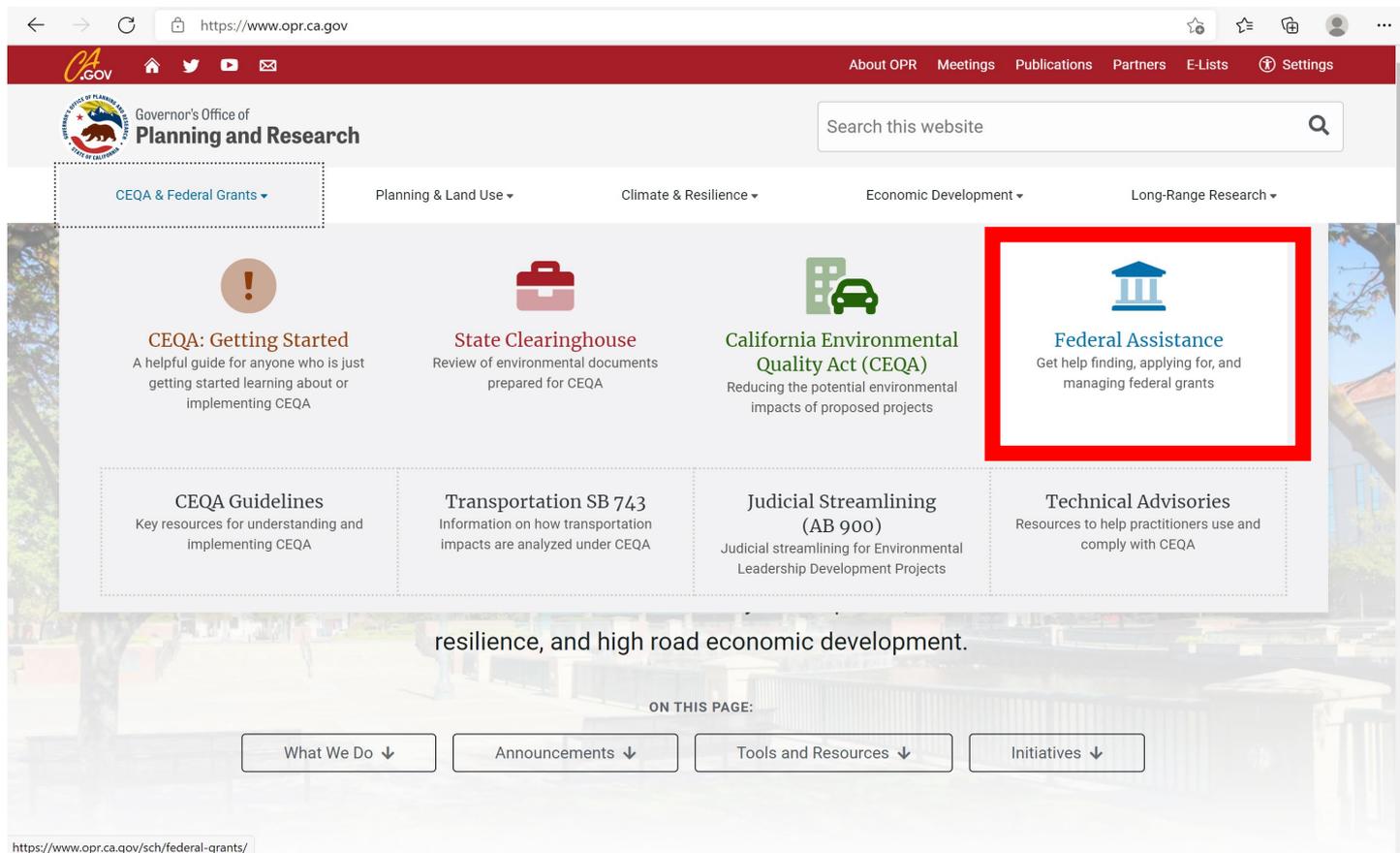


When Plans Change, Amendments Offer Solutions

*By Karen Norris, Principal
Kanoco Consulting*

*Prepared for
Governor's Office of Planning and Research
State of California*





The screenshot shows the website <https://www.opr.ca.gov>. The navigation bar includes links for About OPR, Meetings, Publications, Partners, E-Lists, and Settings. The main header identifies the Governor's Office of Planning and Research. A search bar is present. The main content area features several tiles: CEQA & Federal Grants (highlighted with a dashed box), Planning & Land Use, Climate & Resilience, Economic Development, and Long-Range Research. The Federal Assistance tile is highlighted with a red border and contains the text: "Federal Assistance: Get help finding, applying for, and managing federal grants". Below this are tiles for CEQA Guidelines, Transportation SB 743, Judicial Streamlining (AB 900), and Technical Advisories. A text block at the bottom reads "resilience, and high road economic development." and a section titled "ON THIS PAGE:" contains buttons for "What We Do", "Announcements", "Tools and Resources", and "Initiatives". The URL at the bottom of the browser window is <https://www.opr.ca.gov/sch/federal-grants/>.



The screenshot shows a web browser window with the URL <https://www.opr.ca.gov/sch/federal-grants/>. The page header includes the CA.GOV logo, navigation icons, and a menu with links for About OPR, Meetings, Publications, Partners, E-Lists, and Settings. Below the header is the OPR logo and a search bar. A navigation bar contains links for CEQA & Federal Grants, Planning & Land Use, Climate & Resilience, Economic Development, and Long-Range Research. The main content area features a large image of the California State Capitol building with the title "Federal Grants" and a paragraph: "OPR provides technical assistance to state agencies, local governments, institutions of higher learning, and nonprofit organizations, on how to find, apply and manage federal grants." Below this is a section titled "ON THIS PAGE:" with three buttons: "Links and Resources", "Review of Federal Programs", and "For More Info". At the bottom, there are navigation links for Home, State Clearinghouse, and Federal Grants.



Links and Resources



Applying for Federal Grants

Submit notice of your application for federal funding (Executive Order 12372)

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Home

The State Clearinghouse (SCH) serves as the state's Single Point of Contact for the submission of Federal assistance applications pursuant to [Presidential Executive Order No. 12372](#) and [SAM Section 0912](#). With the signing of [Assembly Bill 1348](#) the State Clearinghouse is responsible for reporting on all federal grants applied for and received in California regardless if they fall under Executive Order 12372. We have developed the new on-line database to assist with that reporting.

These applications must be provided to the SCH, which in turn publishes this information for review by State and local elected officials. The SCH does not administer grant programs or offer any grant funding. Please visit [Grants.gov](#) for funding opportunities.

Federal Assistance Application

To apply for a federal assistance program, please upload a copy of your application cover form (Standard Form 424) to the SCH. DO NOT send your full application package or any other supplemental information.

In the appropriate box on Form 424, mark that the federal assistance application was made available for state review under the Executive Order 12372 process before submitting your federal assistance application to the federal funding agency.

*** Organization Name**

*** Email Address**

*** Catalogue of Federal Domestic Assistance (CFDA)**



Browser address bar: <https://www.opr.ca.gov/sch/federal-grants/>

Navigation: CA.GOV, Home, Twitter, YouTube, Email, About OPR, Meetings, Publications, Partners, E-Lists, Settings

Logo: Governor's Office of Planning and Research

Search: Search this website

Menu: CEQA & Federal Grants, Planning & Land Use, Climate & Resilience, Economic Development, Long-Range Research

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Learning Objectives

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- Raise awareness about the legal obligations of an amendment.
- Identify different types of amendments.
- Recognize the steps to take for an amendment.
- Distinguish between prior and retroactive approvals.
- Apply common formats to varied amendments.

A Few Words

A Few Words

There are several processes that are common among all grants and cooperative agreements that challenge nonfederal entities.

This includes the amendment process.

A Few Words

Unexpected circumstances create needs that are outside the original terms and conditions of the award.

What happens if plans change?

A Few Words

It is possible to amend the award agreement to better reflect current requirements.

Amendments are one of the best ways to improve the efficiency of project implementation.

Legal Obligations

A Legal Document

- Every funding award is based upon the details described in the proposal and approved in the award agreement.
- The award agreement is a legally binding document that enforces the terms and conditions of the award.

What Is an Amendment?

- An amendment is a legal act modifying the original commitments defined in the award agreement.



What Is an Amendment?

- Amendments, or modifications, can occur at any time during the project period.
- Because the agreement is a legal document and an amendment is a legal act, certain requirements apply.



Amendment Requirements

- Consent to the change must be clearly demonstrated.
 - Authorized signatures.
 - Amended award agreement.
- Amendments are not generally used to request additional funds.
- Amendments must not change the original intent/scope of the award agreement.

Types of Amendments

Revisions of Budget and Program Plans (§ 200.308)

- The uniform guidance provides for amendments.
 - Revisions to budget and/or program.
 - Different types of amendments.
- Most amendments require prior approval from the awarding agency, unless the agency provides waivers.

Modifications to Period of Performance (§ 200.309)

- When an amendment is approved to extend the end of the period of performance, the award agreement would be amended.
- It is a best practice to amend the award agreement for most revisions or modifications.
 - Budget revisions.
 - Carryovers.
 - Revisions to Program/deliverables.

Unexpected Circumstances

- Key personnel may change.
- A bid may come in over or under cost.
- A planned conference, event, or activity may be delayed or canceled.
- More time may be needed to complete the project.
- A specialized piece of equipment may no longer be available, or may be on back-order.

Types of Amendments

- No cost extension.
- Carryover request.
- Change in key personnel.
- Change in budget.
- Change in program plans.
- Change in scope (challenging).



No Cost Extension

- Need more time to complete activities.
- No additional cost.
- Most common amendment, and therefore, prior approval is sometimes waived.
- Generally approved up to an additional 12 months.
- Longer extensions may be considered.

No Cost Extension - Justification

- Do say you need more time to complete project activities, with justification:
 - Personnel – late hire.
 - Scheduling issues.
 - Consultant availability.
 - Bid process.
 - Manufacturing delays.
- Don't say you need more time to spend funds (200.308(e)(2)).

Carryover Request

- The need to modify a budget generally follows other changes to an award.
 - A extension of the project end date, usually requires a request to extend the unexpended funds into the new project period.
 - The extension of the budget is a carryover request.

Change in Key Personnel

- Key personnel (Project Director/Principal Investigator) may leave the project.
 - Accepts new position elsewhere.
 - Retirement.
 - Long-term leave.
 - Spouse is transferred out of state.

Change in Key Personnel

- Not all staff changes require an amendment and grantor approval.
- The funding agency will want to approve a change in key personnel.



Change in Budget

- The most common budget amendment, other than a carryover request, is to transfer or reallocate funds from one budget category to another.
 - Unused salary and FB to materials.
 - Equipment to travel/conferences.
 - Other.

Reallocation

- When transferring funds from one budget category to another, it is important that both categories exist in the approved budget.
- It is sometimes possible to create a new budget category, but some agencies consider that an unallowable change of scope.

Additional Budget Tips

- A small transfer of funds (10% of a line item), may not require prior federal approval.
- Work with the federal agency for guidance.
- Work with the federal agency for a revised award agreement, as appropriate.
- Budget transfers should not impact the total amount of the award, just a reallocation of funds.

Budget Amendment (200.308(c)(8))

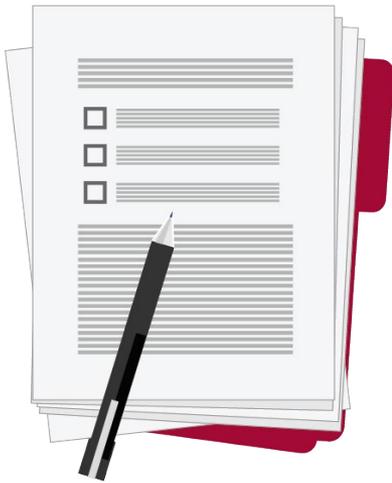
- It is not customary to request additional funds with a budget amendment.
- For non-construction programs, if the need arises for additional federal funds to complete the project, recipients must request prior approval in writing for the awarding agency to evaluate, as appropriate.

Program Amendment/Change in Scope

- A program activity may be added or revised.
 - A consultant may not be available.
 - Planned conference may need to be rescheduled.
 - Other changes.
- When modifying program plans, it is important not to change original scope or absolute priorities.
- It is possible to amend the program within scope, but very difficult, and sometimes impossible, to amend out of scope.

Steps To Take

Submitting a Request



- Written request, in advance.
- Authorized signature(s).
- Justification.
- Revised budget, if applicable.
- Required form, if applicable.
- Acceptance of change.
 - Authorized signatures.
 - Amended award agreement.

Initiating an Amendment

- While either party may do so, it matters which party initiates the amendment.
 - A funding agency amendment is usually a formal notification, such as a new award period.
 - A recipient amendment is usually a request for a modification.

Initiating an Amendment

- In either case, the award agreement should be amended to reflect the modification.
- Consent to the change must be clearly demonstrated.
 - Modified award agreement.
 - Granting agency signature.
 - Recipient/subrecipient signature.

Recipient Amendment Request

- Grant managers should start with two conversations.
 - Funding agency program officer.
 - Internal office – finance, budget, grants
- Gain insight into the receptiveness for the modification.



Recipient Amendment

- Preliminary conversations would reveal likelihood of approval.
- Prepare written request, with justification.
- Clear with internal offices, as appropriate.
- Submit to awarding agency for review and approval.
- Obtain authorized signature(s).
- Obtain revised award agreement, as appropriate.

Some Changes Do Not Require an Amendment



- Small transfer of funds.
- Changes in staff other than key personnel.
- Substitutions of procurement purchases.

It may be advisable to notify the awarding agency of changes, even if formal prior approval is not necessary.

Prior and Retroactive Approvals

Prior Approvals

- Amendments require a written request, approved by the awarding agency, *in advance*.
- The prior approval results in the approved modification and a revised award agreement.
- If the request is not approved, there is often good reason.
 - Saves the recipient from making an error.
 - Avoids a possible audit finding.
 - Avoids disallowance of funds.

Missing Prior Approval

- Sometimes, the awarding agency discovers a change has occurred, after-the-fact.
 - Progress report.
 - Financial report.
- To protect allowable costs, the awarding agency may consider a retroactive approval.



Retroactive Approvals

- The retroactive approval will provide the necessary paper trail for the modification or change.
 - Avoids an audit finding.
 - Avoids possible disallowance of funds.
- The recipient can submit a request to the awarding agency for a retroactive approval of the change.



When Retroactive Approval Is Possible

- Example:
 - The proposal included a need for equipment.
 - The approved budget included funds for the equipment.
 - Equipment is listed at 200.407, requiring prior approval.
 - Nonfederal entity forgot prior approval and purchased the equipment, as described in the proposal and budget.
 - Awarding agency could approve the purchase retroactively.

Another Retroactive Request

- Example:
 - The awarded budget included funds for local travel.
 - An unanticipated opportunity developed to attend a conference related to the program, but out of state.
 - The Project Director allowed two staff members to attend, and included the positive outcomes in the next progress report.
 - Awarding agency could approve the out of state travel and conference retroactively.

Another Retroactive Request

- Example:
 - A school system received an early childhood grant to provide diagnostic and medical services, as needed, for children Ages 0-3, per program statute.
 - Not many families with children Ages 0-3 requested services, but many families with children Ages 3-5 requested services.
 - The school district decided to make good use of the funds, serve those families, and reported the progress.
 - Can the awarding agency approve the change retroactively?

When Retroactive Approval Is Not Possible

- Response:
 - No, the change cannot be approved.
 - Change in scope – outside defined eligibility (0-3 yrs).
 - The award could fund the children Age 3, not 4-5.
 - The school district had a disallowance for children Ages 4-5, and had to pay for those services with local funds.

If the school district had submitted an amendment request in advance, the awarding agency would not have approved it, saving the district from a disallowance of funds.

Amendment Formats

Different Formats for Types of Amendments

- No cost extension.
- Change in key personnel.
- Budget amendments.



Sample 1 – No Cost Extension

No Cost Extension Request	
Program Name	Technology Challenge Grant
Program Title	Community Technology Centers in Action
Principal Investigator	Dr. John Smith
Institution	ABCDEFGH Community College
Award Number	ED-21-12345678-1
Current Start Date	10/1/19
Current End Date	9/30/20
New End Date	9/30/21
Justification: Extension of time (12 months) at no cost to complete training activities, engage the consultant who was previously unavailable, complete evaluation, submit final reports.	
Signature (recipient):	
Signature (awarding agency):	

Sample 2: Change in Key Personnel

- XYZ University is currently implementing the 5678 Program, under Grant Award #123456789-1 and requests authorization to change the Principal Investigator, Dr. John Smith, to Dr. Susan Jones, through this amendment request. Dr. Smith has accepted a new position with another agency out of state. Dr. Jones has been an exemplary member of the leadership team throughout the project period and would continue to support the project in her expanded role, anticipated 7/1/xx. Her resume is attached for your review and approval.
- Authorization/signatures:
 - _____, Recipient, Date
 - _____, Grantor, Date

Sample 3: Budget Amendment – Narrative Style

- Applicant name, project name
 - Traveling art exhibit
- Award #
- Enter the information required and sign the form:
 - Please describe in detail the change(s) being proposed.
 - We propose to reallocate funds from salaries and fringe benefits, originally planned for the Project Coordinator, to maintenance and upkeep of the portrait collection.
 - Why is this change necessary?
 - The funding agency awarded the project but disallowed faculty salary. The transfer of funds will help support the portrait collection. Faculty time will be provided at no cost to the project.

Sample 3: Budget Amendment (cont)

- Continued Justification
 - In addition, three panels in the exhibit have been damaged during transport and need to be replaced. Panel covers have become worn and don't adequately protect the panels. The proposed revised budget, below, allocates \$990 for maintenance of the exhibit. The project manager expects to be able to purchase one or two panels, or one panel and a new set of panel covers with this amount.

Sample 3: Budget Amendment (cont)

- Revised budget:
 - \$4,737 moving expenses.
 - \$563 Printing and publication.
 - \$1,840 Contracted services (storage and handling).
 - \$150 Local travel.
 - \$480 Honoraria to speakers.
 - \$990 One or two replacement panels or one panel and two panel covers.

Sample 3: Budget Amendment (cont)

- What impact will these changes have on the final outcomes of the project?
 - Wear and tear on the portrait panels were an unanticipated outcome of the traveling exhibit. The budget change will provide for repair and maintenance of the exhibit so that it can continue to be used throughout the county for the historic event.
- Recipient signatures:
 - _____, Program Manager
 - _____, Authorized Representative

Sample 3: Budget Amendment (cont)

- Grantor Approval
- Authorization/signatures:
 - _____, Approved/Not approved
 - _____, Authorized Representative
 - Amended award agreement will be forwarded _____

Sample 4 - Budget Amendment Form

Budget Categories	Column A Approved Budget	Column B Prior Amended	Column C Amendment Req	Column D Revised Budget
Salaries	\$65,000		(\$15,000)	\$50,000
Fringe Benefits	18,200		(\$4,200)	\$14,000
Travel	\$500		2,200	2,700
Equipment	0		0	0
Supplies	1,200		3,000	4,200
Contractual	1,000		14,000	15,000
Construction	0		0	0
Other	0		0	0
Total Direct	\$85,900			\$85,900
Indirect	\$6,872			\$6,872
TOTAL	\$92,772		0	\$92,772

Sample 4 - Budget Amendment Form (cont)

Justification

Funds of \$15,000 for salaries and \$4,200 for associated fringe benefits may be reduced due to delays in the hiring process for the program manager, with a concurrent increase in travel for \$2,200, supplies for \$3,000, and printing services for brochures for \$14,000 to expand dissemination activities, reflecting a total transfer of \$19,200 funds.

Signatures

Recipient authorized representative _____ Date _____

Granting agency authorized representative _____ Date _____

Sample 5 - Budget Amendment Form

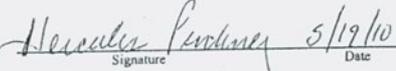
Categories	Approved Budget	Requested Change (+/-)	Revised Budget	Rationale
Salaries	\$65,000	(\$15,000)	\$50,000	Reduce funds, hiring delay
Fringe Benefits	18,200	(\$4,200)	\$14,000	Reduce funds, hiring delay
Travel	\$500	2,200	2,700	Add conference dissemination
Equipment	0	0	0	
Supplies	1,200	3,000	4,200	Increase mat'ls for dissem.
Contractual	1,000	14,000	15,000	Increase printing services
Construction	0	0	0	
Other	0	0	0	
Total Direct	\$85,900		\$85,900	
Indirect	\$6,872		\$6,872	
TOTAL	\$92,772	0	\$92,772	No change in total budget

Signatures, Date:

Approval or Rejection

- The funding agency will review the amendment request, and send a written response, and an amended award agreement, once approved.
- While it is possible the amendment could be rejected, the preliminary conversation with the awarding agency should promote concurrence.
 - If rejected, there is usually sound reason.

Amendment Approval from Federal Agency

NSF Subaward Amendment	
Prime Awardee	Subawardee
Institution/Organization ("University") Name: University of Maryland, College Park Address: Office of Research Admin. and Advancement 3112 Lee Building College Park, MD 20742-5141	Institution/Organization ("Collaborator") Name: Montgomery College Address: Office of Business Development and Grants 900 Hungerford Drive, Suite 254 Rockville, MD 20850
Prime Award No. DUE0736975	Subaward No. Z300701
Effective Date of Amendment January 25, 2010	Amendment No. A
Amendment(s) to Original Terms and Conditions	
Modification :	
1. Extends the period of performance through December 31, 2010.	
All other terms and conditions remain the same.	
By an Authorized Official of University	By an Authorized Official of Collaborator
 Signature Date 1/25/10	 Signature Date 5/19/10
Name: <u>Katie Petrone</u>	Name: <u>Hercules Pinkney</u>
Title: <u>Senior Contract Manager</u>	Title: <u>Interim President</u>

In Summary

- The award agreement is a legal document.
- An amendment is a formal process to modify the terms and conditions of the award.
- Proper procedures and approvals are required.



Q & A

Friendly Disclaimer

Please be reminded:

This presentation is intended to provide general information and does not constitute legal or financial advice. Please consult with your legal and financial advisors. I hope, however, that the information helps provide some insights as you further pursue your work in the grants community.

Prepared For



- Governor's Office of Planning and Research.
- State of California.
- www.opr.ca.gov
- Amy Miller, Federal Grant Administrator, at amy.miller@opr.ca.gov.

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