



EXECUTIVE CHAMBERS

HONOLULU

DAVID Y. IGE
GOVERNOR

September 22, 2017

EXECUTIVE MEMORANDUM

MEMO NO. 17-05

TO: All Department Heads

SUBJECT: Administration of Operating Grants Pursuant to Chapter 42F, Hawaii Revised Statutes

The following guidelines will apply to **operating** grants appropriated pursuant to Chapter 42F, HRS.

1. All Chapter 42F, HRS, **operating** grant funds are subject to the allotment system and applicable current budget execution policies and policy directives regarding Chapter 42F grants. The department head of the designated State expending agency (STATE) is delegated the authority to approve the expenditure of the respective Chapter 42F **operating** grant funds.
2. All contracts for operating grants shall utilize the attached Form 42F Contract (see Attachment 1, AGREEMENT FOR GRANTS) and shall be executed in a timely manner following the date of the legislation awarding the grant or allocation of operating grant funds in the STATE's respective fiscal year budget allocation or as appropriate pursuant to current budget execution policies and policy directives regarding Chapter 42F grants. (Note: the attachments referred to in the AGREEMENT FOR GRANTS do not refer to the attachments to this memorandum.)
3. Section 42F-104, HRS, provides that contracts for grants are to be effective as of the first day of the fiscal year for which the funds are appropriated. Thus, grant recipients who have met the legal requirements of Sections 42F-103 and 42F-104, HRS, are eligible to receive reimbursement for expenditures incurred after July 1st of the appropriate fiscal year but prior to the execution of the contract with the STATE. The grant recipient must submit proof of expenditures to the STATE and the expenditures must be related to the scope of work set forth in the grant application.

An exception to Comptroller's Memorandum No. 2009-14, dated June 24, 2009, *Contract Execution Date* (see Attachment 2), shall be made to allow all Chapter 42F operating grant contracts to be effective July 1st of the appropriate fiscal year and for the advance disbursement to accommodate the provisions of Section 42F-104, HRS.

4. Section 42F-104, HRS, provides that up to one-fourth (25%) of the amount appropriated for a Chapter 42F grant may be disbursed prior to the execution of a contract where the STATE has determined that there is good reason to do so. The statute thus provides for partial payments to grant recipients in advance of an executed contract. The following guidelines will apply to the advancement of Chapter 42F operating grant funds prior to execution of a contract.
 - a. On an exception basis, the STATE may disburse up to one-fourth (25%) of the total grant amount to the grantee prior to contract execution, if the grant recipient offers proof that they lack sufficient funds to proceed and will be unable to complete the scope of work stated in their grant application without such disbursement.
 - b. Where the STATE has determined that there is good reason to advance operating grant funds pursuant to Section 42F-104, HRS, the grantee must sign the AGREEMENT REGARDING ADVANCEMENT OF HAWAII REVISED STATUTES CHAPTER 42F OPERATING GRANT FUNDS (see Attachment 3).
 - c. In exchange for the advancement of operating grant funds, the grantee must agree to provide the STATE with a full and complete accounting of all operating grant funds disbursed in advance of the executed contract, as may be determined by the STATE.
 - d. Grantee must agree that if, for any reason, a contract is not approved or executed, the full amount of the operating grant funds advanced shall be reimbursed to the STATE within 45 days of written notification that the contract has not been approved or will not be executed.
 - e. Any advance disbursement to the grantee must be detailed in the COMPENSATION AND PAYMENT SCHEDULE of the attached Chapter 42F, HRS, contract form (see Attachment 1). A contract for the grant executed by all of the parties is not needed prior to the advance disbursement and should not delay DAGS' processing of the advanced disbursement to the grantee.
5. Section 42F-107, HRS, requires the Governor to notify grant recipients within 90 days of the effective date of the legislation awarding a grant if the grant is not allocated or released or is still pending. Thus, departments are to report on the status of the Chapter 42F operating grants for which they are designated as the expending agency to the Department of Budget and Finance (B&F) on a monthly basis using the format provided (see Attachment 4).

Please contact your assigned B&F budget analyst to obtain an electronic file (Excel format) that includes the Chapter 42F operating grants for which your department has been designated as the STATE. Chapter 42F operating grant status reports are due to B&F five working days after the close of each month and shall be emailed in Excel format to DBF.BPPM.HI@hawaii.gov.

This memorandum supersedes the Executive Memorandum (E.M.) No. 16-05, dated December 30, 2016, *Administration of Operating Grant Pursuant to Hawaii Revised Statutes (HRS) Chapter 42F*, and E.M. No. 16-06, dated December 30, 2016, *Advancement of Hawaii Revised Statutes Chapter 42F Operating Grant Funds*.

Should you have any questions about this memorandum, please contact your assigned B&F budget analyst.



DAVID Y. IGE
Governor, State of Hawaii

Attachments

STATE OF HAWAI'I
AGREEMENT FOR GRANTS

THIS AGREEMENT, effective July 1, 20____, is entered into between the _____, State of Hawai'i (hereinafter "STATE"), by _____, its Director (hereinafter "DIRECTOR"), whose address is _____ and _____ (hereinafter "GRANTEE"), a person whose residence address is _____ or a corporation () for profit or () non-profit, organized under the laws of the State of Hawai'i, whose business address is _____ and whose Federal ID No. is _____.

RECITALS

- A. Chapter 42F, Hawai'i Revised Statutes (HRS), establishes standards for disbursing public funds to individuals or organizations to fulfill specified public purposes.
- B. The GRANTEE has requested funding from the STATE for the project or program described in Attachment 1 of this Agreement.
- C. The STATE finds that GRANTEE's performance, as described in Attachment 1 of this Agreement, will fulfill the public purpose set forth herein.
- D. The Legislature has determined that the GRANTEE's project provides direct benefits to the public and accomplishes a public purpose.
- E. The STATE desires to contract with the GRANTEE to fulfill the specific public purpose and the GRANTEE is agreeable to perform under the Agreement.

F. The Legislature has appropriated and made available moneys to fund this Agreement in the amount of _____.

G. Pursuant to Chapter 42F, HRS, the STATE is authorized to enter into this Agreement.

NOW, THEREFORE, in consideration of the promises contained in this Agreement, the STATE and GRANTEE agree as follows:

1. Scope of Performance. The GRANTEE shall perform, in a proper and satisfactory manner as determined by the STATE, the project as described in "Scope of Performance" set forth in Attachment 1, which is hereby made a part of this Agreement.

2. Time of Performance. The performance required of the GRANTEE under this Agreement shall be completed in accordance with the "Time Schedule" set forth in Attachment 2, which is hereby made a part of this Agreement.

3. Compensation. The GRANTEE shall be compensated for performance and costs incurred under this Agreement in accordance with the "Compensation and Payment Schedule" set forth in Attachment 3, which is hereby made a part of this Agreement.

4. Conditions. GRANTEE confirms that:

A. GRANTEE is licensed or accredited, in accordance with federal, state or county statutes, rules, or ordinances, to conduct the activities or provide the services for which a grant is awarded.

B. GRANTEE complies with all applicable federal and state laws prohibiting discrimination against any person on the basis of race, national origin, religion, creed, sex, age, sexual orientation, or disability.

C. GRANTEE agrees not to use state funds for entertainment or lobbying activities.

D. GRANTEE agrees to allow the STATE, any State legislative committee and their staff, and the State Auditor full access to their records, reports, files, and other related documents and information for

purposes of monitoring, measuring the effectiveness, and ensuring the proper expenditure of the grant.

E. If GRANTEE is an organization, that GRANTEE is incorporated under the laws of the State of Hawai'i.

F. If GRANTEE is an organization, that GRANTEE has bylaws or policies that describe the manner in which the activities or services for which a grant is awarded shall be conducted or provided.

G. If GRANTEE is a non-profit corporation, that GRANTEE has been determined and designated to be a non-profit organization by the Internal Revenue Service.

H. If GRANTEE is a non-profit corporation, that GRANTEE has a governing board whose members have no material conflict of interest and serve without compensation.

5. Standards of Conduct Declaration. The Standards of Conduct Declaration by GRANTEE, set forth in Attachments 4 is hereby incorporated herein and made a part of this Agreement.

6. Other Terms and Conditions. The General Conditions and the Special Conditions (if any), set forth in Attachments 5 and 6 are hereby incorporated herein and made a part of this Agreement. In the event of a conflict among the documents, the order of precedence shall be as follows: (1) Agreement, including attachments and addenda; (2) GRANTEE's approved application for grant.

7. Availability of Funds. This Agreement is subject to the availability of funds and restrictions that may be imposed by the Department of Budget and Finance and the Governor.

IN WITNESS WHEREOF, the STATE and the GRANTEE have executed this Agreement effective as of the date first above written,

STATE

Agency name

By _____

Its _____

GRANTEE

By _____

Print name _____

Its _____

APPROVED AS TO FORM:

Deputy Attorney General

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

BARBARA A. ANNIS
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

JUN 24 2009

COMPTROLLER'S MEMORANDUM NO. 2009-14

TO: Department Heads

SUBJECT: Contract Execution Date

We have received contracts which have been executed (signed and dated) subsequent to the effective date of the agreement. Because the effective date is the date on which the parties agree to start the contract, the effective date should not be prior to the date on which the parties sign off on and fully execute the agreement.

Effective July 1, 2009, DAGS will return all contracts with an effective date prior to the contract execution date to the originating department. Because the State's Attorney General has sole responsibility to determine whether any agreement is a valid agreement, the department must obtain approval of the returned contract as a retroactive contract by the Deputy Attorney General assigned to the department. Upon receipt of this approval, DAGS will process the contract documents and payments. A sample of the memorandum has been attached.

If you have any questions, please call Wayne Horie, Accounting Division Chief, at 586-0600 or Sheila Walters of the Pre-Audit Branch at 586-0650.

A handwritten signature in black ink, appearing to read "Russ K. Saito".

RUSS K. SAITO
State Comptroller

Attachment

DEPARTMENT LETTER HEAD

Date

MEMORANDUM

TO: Name of Deputy Attorney General
Department of the Attorney General

THROUGH: _____, Director

FROM: _____
Business Management Officer/Fiscal Officer

SUBJECT: Retroactive Contract Approval

We request your approval to execute this agreement with _____
_____ (contractor) as a "retroactive contract" for the following
reason:

- The agreement is for services that could not be interrupted or delayed.
Provision of services by the department is required by statute.

- The delay between the effective date and the signing of the agreement by
me was due to _____

Approved

Disapproved

Deputy Attorney General

Date

AGREEMENT REGARDING ADVANCEMENT OF
HAWAII REVISED STATUTES CHAPTER 42F OPERATING GRANT FUNDS

THIS AGREEMENT, EFFECTIVE _____ 20____ between the _____, State of Hawai'i (hereinafter "STATE"), by _____, its Director (hereinafter "DIRECTOR"), whose address is _____, and _____ (hereinafter "GRANTEE"), a person whose residence address is _____ or a corporation () for profit or () non-profit, organized under the laws of the State of Hawai'i, whose business address is _____ and whose Federal ID No. is _____.

WHEREAS, the DIRECTOR has good reason to allow the advanced disbursement of up to 25% of appropriated funds pursuant to Haw. Rev. Stat. § 42F-104, in exchange for the advancement of funds.

GRANTEE hereby agrees to provide the STATE with a full and complete accounting of all of the funds disbursed in advance of the executed contract and if, for any reason, a contract is not approved, the full amount of the funds disbursed shall be reimbursed to the STATE within 45 days of written notification that the contract has not been approved or will not be executed.

Dated: Honolulu, Hawai'i _____.

GRANTEE
By _____
Print Name _____
Its _____

STATE
By _____
Print Name _____
Its _____

APPROVED AS TO FORM:

Deputy Attorney General

