

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**UNIVERSITY OF
WISCONSIN—MADISON
CLAIMED ALLOWABLE COSTS
UNDER RECOVERY ACT GRANTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



**Sheri L. Fulcher
Regional Inspector General**

**September 2012
A-05-11-00102**

Office of Inspector General

<http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

The American Recovery and Reinvestment Act of 2009, P.L. No. 111-5 (Recovery Act), enacted on February 17, 2009, provided \$8.2 billion to the Office of the Director of the National Institutes of Health (NIH) to help stimulate the economy through the support and advancement of scientific research. Of the \$8.2 billion, NIH allocated \$445 million to the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK). NIDDK conducts and supports basic and clinical research on many of the most serious diseases affecting public health.

Recovery Act funds were used to award grants and cooperative agreements to research entities including nonprofit and for-profit organizations, universities, hospitals, research foundations, governments and their agencies, and occasionally individuals.

The University of Wisconsin–Madison (the grantee), founded in 1848, is Wisconsin’s comprehensive teaching and research university with a statewide, national, and international mission. NIH awarded the grantee Recovery Act grants in the amount of \$912,668 for *Quantitative Mitochondrial Proteomics of Healthy and Diabetic Mice* research. The grant project period was from September 25, 2009, through August 31, 2011 (with two budget periods: September 25, 2009 – August 31, 2010 and September 1, 2010 – August 31, 2011); as of June 30, 2011, the grantee had claimed \$755,616 (\$566,439 direct and \$189,177 indirect) under the NIH grants.

OBJECTIVE

Our objective was to determine whether Recovery Act costs claimed by the grantee were allowable costs under the terms of the grants and applicable Federal regulations.

SUMMARY OF FINDINGS

Of the \$412,105 in costs covered by our review, we determined that the claims were allowable under the terms of the grants and applicable Federal regulations. However, the grantee claimed Federal reimbursement for equipment costs that were significantly rebudgeted between budget categories and did not receive prior approval for equipment with a purchase price exceeding \$25,000.

RECOMMENDATION

We recommend that NIH work with the grantee to encourage prior approval from NIH for actions that could be considered a change in scope, including significant rebudgeting, and purchases of equipment with a unit cost of \$25,000 or more that were not included in the grantee’s approved budget.

GRANTEE COMMENTS

In written comments on our draft report, the grantee requested review and reconsideration of the requirements and recommendations in the report. The grantee believes that it properly handled the purchase of equipment and did not require prior approval. Grantee's comments are included in their entirety as Appendix A.

NATIONAL INSTITUTES OF HEALTH COMMENTS

In written comments on our draft report, NIH did not concur with the OIG's findings and recommendations. NIH concurs with the grantee that the purchase of equipment was not considered a change in scope and prior approval was not required. NIH's comments are included in their entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the grantee and NIH comments and the changes made by NIH to the definition of "change in scope" between its 2003 and 2011 NIH Grants Policy Statement, we revised our findings and recommendations regarding changes in the scope of the project. Findings and recommendations classifying amounts as unallowable were removed.

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INTRODUCTION

BACKGROUND

The American Recovery and Reinvestment Act of 2009, P.L. No. 111-5 (Recovery Act), enacted on February 17, 2009, provided \$8.2 billion to the Office of the Director of the National Institutes of Health (NIH) to help stimulate the economy through the support and advancement of scientific research. Of the \$8.2 billion, NIH allocated \$445 million to the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK). NIDDK conducts and supports basic and clinical research on many of the most serious diseases affecting public health.

Recovery Act funds were used to award grants and cooperative agreements to research entities including nonprofit and for-profit organizations, universities, hospitals, research foundations, governments and their agencies, and occasionally individuals.

Federal Requirements for National Institutes of Health Grantees

The allowability of costs incurred by institutions of higher education are determined in accordance with the cost principles contained in 2 CFR pt. 220 (Office of Management and Budget (OMB) Circular A-21), *Cost Principles for Educational Institutions*, as required by 45 CFR § 74.27.

NIH provides additional guidance through the *National Institutes of Health Grants Policy Statement* (NIH Grants Policy Statement). The Grants Policy Statement provides NIH grantees, in a single document, the policy requirements that serve as the terms and conditions of NIH grant awards. The Grants Policy Statement provides general information, application information, and specifies the terms and conditions that apply to particular types of grants, grantees, and activities that differ from, supplement, or elaborate on the standard terms and conditions.

The University of Wisconsin—Madison

The University of Wisconsin—Madison (the grantee), founded in 1848, is Wisconsin's comprehensive teaching and research university with a statewide, national, and international mission. NIH awarded the grantee Recovery Act grants in the amount of \$912,668 for *Quantitative Mitochondrial Proteomics of Healthy and Diabetic Mice* research. The grant project period was from September 25, 2009, through August 31, 2011 (with two budget periods: September 25, 2009 – August 31, 2010 and September 1, 2010 – August 31, 2011); as of June 30, 2011, the grantee had claimed \$755,616 (\$566,439 direct and \$189,177 indirect) under the NIH grants.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether Recovery Act costs claimed by the grantee were allowable under the terms of the grants and applicable Federal regulations.

Scope

We did not perform an overall assessment of the grantee's internal control structure. Rather, we limited our evaluation of the grantee's accounting system to (1) obtaining an understanding of internal control as it relates to the specific objective and scope of the audit, and (2) reviewing the grantee's financial audits performed by an independent auditor.

We limited our review to costs the grantee claimed for NIH grants (1RC1DK086410-01 and 5RC1DK086410-02) during the period September 25, 2009, through June 30, 2011. During the review period, the grantee claimed \$755,616. We reviewed \$276,331 of the costs claimed by the grantee as of June 30, 2011. Separately, we reviewed \$135,774 in equipment costs claimed after June 30, 2011 but before August 31, 2011.

We performed field work at the grantee's administrative office in Madison, Wisconsin in August 2011.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and other guidance;
- reviewed grant announcements, grant applications, and notices of grant award;
- interviewed grantee officials;
- reviewed the grantee's independent auditor's reports and management letters for State fiscal year ended June 30, 2010;
- identified expended funds in the grantee's accounting records as of June 30, 2010;
- summarized costs by cost category from expenditure reports;
- verified mathematical accuracy of the expenditure reports;
- compared budgeted and actual expenditures; and
- reviewed selected costs claimed under the grants for allowability.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

FINDINGS AND RECOMMENDATION

Of the \$412,105 in costs covered by our review, we determined that the claims were allowable under the terms of the grants and applicable Federal regulations. However, the grantee claimed Federal reimbursement for equipment costs that were significantly rebudgeted between budget categories and did not receive prior approval for equipment with a purchase price exceeding \$25,000.

EQUIPMENT PURCHASES

Federal Requirements

Cost principles for Educational Institutions at 2 CFR 220, App. A, § J.18(b)(2) state that “[c]apital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of \$5000 or more have the prior approval of the awarding agency.” Pursuant to the NIH Grants Policy Statement (December 2003)¹, in general, the Program Director/Principal Investigator may make changes in the methodology, approach, or other aspects of the project objectives. However, the grantee must obtain prior approval from the NIH awarding Institute or Center for a change in scope. A change in scope is a change in the direction, aims, objectives, purposes, or type of research training, identified in the approved project. The grantee must make the initial determination of the significance of a change and should consult with the Grants Management Office (GMO) as necessary. Pursuant to the NIH Grants Policy Statement (December 2003), “[a]ctions likely to be considered a change in scope and, therefore, requiring NIH awarding office prior approval include” significant rebudgeting or the purchase of a unit of equipment exceeding \$25,000. Significant rebudgeting occurs when “expenditures in a single direct cost budget category deviate (increase or decrease) from the categorical commitment level established for the budget period by more than 25 percent of the total costs awarded.”

Pursuant to 2 CFR 220, App. A, § J.18(a)(3), “‘Special purpose equipment’ means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.”

Equipment Purchases Lacked National Institutes of Health Prior Approval

The grantee claimed \$171,330 for the purchase of a mass spectrometry instrument (\$135,774) and a centrifuge (\$35,556). The cost of these two items of special purpose equipment, each exceeding \$25,000, was not included in the grantee’s approved budget, and purchases exceeded the significant rebudgeting threshold for the grant’s second budget period. Therefore, this is an action likely to be considered a change in scope under the NIH Grants Policy Statement (December 2003) requiring the prior approval of the NIH awarding office. The grantee did not obtain NIH prior approval for the purchases because they did not believe the scope of the project changed.

¹This version of the NIH Grants Policy Statement was effective for all NIH grants and cooperative agreements with budget periods beginning on or after December 1, 2003 through September 30, 2010.

RECOMMENDATION

We recommend that NIH work with the grantee to encourage prior approval from NIH for actions that could be considered a change in scope, including significant rebudgeting, and purchases of equipment with a unit cost of \$25,000 or more that were not included in the grantee's approved budget.

GRANTEE COMMENTS

In written comments on our draft report, the grantee requested review and reconsideration of the requirements and recommendations in the report. The grantee believes that it properly handled the purchase of equipment under the "Expanded Authorities" provisions of the NIH Grants Policy Statement (December 2003). In addition, the grantee believes that the Principal Investigator did not require prior approval for changes to the scope of work as described in the "Change in Scope" provisions of the NIH Grants Policy Statement. The grantee's comments are included in their entirety as Appendix A.

NATIONAL INSTITUTES OF HEALTH COMMENTS

In written comments on our draft report, NIH did not concur with the OIG's findings and recommendations. NIH does not concur with the requirements that the grantee refund \$171,330 or obtain NIH prior approval. Even though NIH requires its grantees comply with the terms and conditions provided in the NIH Grants Policy Statement, it allows grantees a certain degree of latitude to rebudget within and between budget categories to meet unanticipated needs. Since the National Institute of Diabetes and Digestive and Kidney Disease grants management staff concurs with the grantee that the purchase of equipment was not considered a change in scope, NIH officials have determined that prior approval was not required. NIH's comments are included in their entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the grantee and NIH comments and the changes made by NIH to the definition of "change in scope" between its 2003 and 2011 NIH Grants Policy Statement, we revised our findings and recommendations regarding changes in the scope of the project. Findings and recommendations classifying amounts as unallowable were removed. The 2003 version of the NIH Grants Policy Statement, which is applicable to this grant award, states that grantee actions such as those described in our findings are "likely to be considered a change in scope." However, the current NIH Grants Policy Statement, effective for all awards with budget periods beginning on or after October 1, 2011, describes "potential indicators of a change in scope" which include both significant rebudgeting and the purchase of a unit of equipment exceeding \$25,000. Given this subtle, but significant, shift in NIH's thinking on this topic, we have modified our recommendation.

APPENDIXES

APPENDIX A: GRANTEE COMMENTS



OFFICE OF RESEARCH AND SPONSORED PROGRAMS

March 14, 2012

Ms. Sheri Fulcher
Regional Inspector General for Audit Services
DHHS Office of Inspector General
Office of Audit Services, Region V
233 North Michigan Avenue, Suite 1360
Chicago, IL 60601

Subject: OIG Report A-05-11-00102 (UW reference: MSN127126)

Dear Ms. Fulcher:

Thank you for the opportunity to comment on the above-referenced draft report entitled "University of Wisconsin-Madison Claimed Unallowable Costs to a Recovery Act Grant." After reading the material with great care, we request review and reconsideration of the requirements and recommendations in this report.

The report includes the following recommendation:

We recommend that NIH require the grantee to:

- Refund \$171,330 to the Federal Government for the cost of equipment purchased without prior approval by NIH and
- Obtain prior approval from NIH for all changes to the scope of the project, including purchases of equipment with a unit cost of \$25,000 or more that were not included in the grantee's approved budget.¹

The University of Wisconsin-Madison believes that we properly handled the purchase of equipment under the "Expanded Authorities" provisions of the *National Institutes of Health Grants Policy Statement* (December 2003). In addition, we believe that Dr. David Pagliarini, the Principal Investigator, did not require prior approval for changes to the scope of work as described in the "Change in Scope" provisions of the *Grants Policy Statement*.

Our response is centered on two assumptions outlined in the report:

- Per the *Cost Principles for Educational Institutions* (2 CFR 220, App. A J.18 (b) (2)), prior approval is required for purchase of equipment with a unit cost of \$5,000 or more.

21 N. Park Street, Suite 6401
Madison, WI 53715-1218

Phone 608/262-3822
Fax 608/262-5111
<http://www.rsp.wisc.edu>

¹ Office of Inspector General Note — The report recommendations were revised based on grantee and NIH comments.

- A change in scope occurred and as such, required prior approval.

Equipment Purchased Without Prior Approval

The Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (2 CFR 215.25(e) indicates that “Federal awarding agencies are authorized, at their option, to waive cost-related and administrative prior written approvals required by 2 CFR parts 220 and 230 (OMB Circulars A–21 and A–122).” To that purpose, the *Grants Policy Statement* section on “Expanded Authorities” (Part II: Terms and Conditions of NIH Grant Awards, Subpart A: General, Administrative Requirements) states that “NIH has waived cost-related and other prior-approval requirements for many activities and expenditures, and provided authority for these activities and expenditures to the grantee. These operating authorities are termed ‘expanded authorities.’” Exhibit 3 in this section states that grantees may exercise as expanded authority “cost-related prior approvals, including research patient care costs and equipment (emphasis added).”

Based on this Federal guidance, the University of Wisconsin-Madison does not believe that the provision for prior approval in the *Cost Principles for Educational Institutions* is applicable for this award. The University also believes that the costs are allowable, allocable, reasonable and necessary for the award. In our interpretation of the “Expanded Authorities” provisions, we believe that we exercised appropriate stewardship over the use of the Federal funds and that the purchases were allowable.

Change in Scope

The University of Wisconsin-Madison does recognize that a change in the scope of an award does require prior approval from the Federal agency as outlined in 2 CFR 215.25,(c).(1) and in the *Grants Policy Statement* section on “Change in Scope” (Part II: Terms and Conditions of NIH Grant Awards, Subpart A: General, Administrative Requirements). The University also recognizes that the use of expanded authorities is not allowed if there is a change in scope.

The *Grants Policy Statement*’s section on “Change in Scope” states “In general, the PI may make changes in the methodology, approach, or other aspects of the project objectives. However, the grantee must obtain prior approval from the NIH awarding office for a change in the direction, type of research or training, or other areas that constitute a significant change from the aims, objectives, or purposes of the approved project (hereafter “change in scope”). The grantee must make the initial determination of the significance of a change and should consult with the GMO as necessary.”

This provision recognizes that the PI has the ability to make changes to the project without the need for prior approval, provided that there was not a change in the direction or significant changes from the aims and purposes of the project. In addition, it is the responsibility of the grantee to determine the significance of the change (emphasis added).

In reviewing the possible indicators of a change in scope as outlined in the *Grants Policy Statement*, the University acknowledges that there was a purchase of equipment with the cost exceeding \$25,000 and that the purchase exceeded the budget category by greater than 25% of the total project costs. However, these conditions are not mandatorily required to obtain prior approval. They are “actions likely to be considered a change in scope” but not absolute indicators that the aims, objectives, and purposes of the project have changed.

The award provided funds for a project entitled “Quantitative Mitochondrial Proteomics of Healthy and Diabetic Mice”. This project was divided into two specific aims each with two sub-aims. During the project period and within the parameters of the data obtained during the course of the project, Dr. David

Pagliarini, the PI, performed the scope of work as outlined in the original proposal's project summary and narrative. Dr. Pagliarini also submitted the required progress reports documenting his work. In response to inquiries from the auditors, Dr. Pagliarini confirmed the work performed corresponded to the original scope of work.

The NIH Office of Extramural Research's "Glossary and Acronym List" defines a "Change of Scope" as "An activity whereby the objectives or specific aims identified in the approved grant application are significantly changed by the grantee after award." Since the work performed on this project was in accordance with the objectives and specific aims identified in the approved grant application, the University of Wisconsin-Madison does not believe a request for change in scope was required. Because there was not a change in scope, the University also believes that it was appropriate to purchase the questioned equipment items under the "Expanded Authority" provisions. As a result, we do not believe that there were any unallowable equipment purchases on this award.

Please feel free to contact me with any questions at randresen@rsp.wisc.edu or call me at 608-262-2896. Thank you for your cooperation.

Sincerely,

Robert Andresen
Assistant Director

Cc: Barton, Mike—DHHS OIG

APPENDIX B: NATIONAL INSTITUTES OF HEALTH COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

National Institutes of Health
Bethesda, Maryland 20892

JUN 20 2012

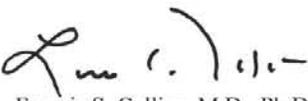
TO: Sheri L. Fulcher
Regional Inspector General for Audit Services

FROM: Director, NIH

SUBJECT: General Comments on Draft Report, *University of Wisconsin-Madison Claimed Unallowable Costs to a Recovery Act Grant (A-05-11-00102)*

Enclosed are the National Institutes of Health's agency comments on the draft report, *University of Wisconsin- Madison Claimed Unallowable Costs to a Recovery Act Grant (A-05-11-00102)*.

We appreciate the opportunity to review and comment on the draft report. Should you have questions or concerns regarding our comments, please contact Meredith Stein in the Office of Management Assessment at 301-402-8482.

For 
Francis S. Collins, M.D., Ph.D.

Attachment

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON OFFICE OF INSPECTOR GENERAL DRAFT REPORT, ENTITLED UNIVERSITY OF WISCONSIN- MADISON CLAIMED UNALLOWABLE COSTS TO A RECOVERY ACT GRANT (A-05-11-00102)

The National Institutes of Health (NIH) appreciates the review conducted by the Office of Inspector General (OIG) and the opportunity to provide clarifications on this draft report. The NIH respectfully submits the following general comments.

OIG Finding 1: The OIG recommends that NIH require the grantee to refund \$171,330 to the Federal Government for the cost of equipment purchased without prior approval by NIH (page 4).

The NIH does not concur with the OIG's finding and corresponding recommendation regarding the requirement that the grantee refund \$171,330.²

The grantee purchased two pieces of equipment for work to be performed on the proposed project RC1DK086410 (a Mass Spectrometer for \$135,774 and a centrifuge for \$35,556). The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) grants management staff confirmed with the NIH Program Official that both of these instruments were used for performing the tasks and aims described in the proposed project RC1DK086410. These items of equipment were used and needed to conduct experiments that were part of the approved aims for this grant. NIDDK staff agree with the grantee that the purchase of equipment was not considered a change in scope.

OIG Finding 2: The OIG recommends that NIH require the grantee to obtain prior approval from NIH for all changes to the scope of the project, including purchases of equipment with a unit cost of \$25,000 or more that were not included in the grantee's approved budget (page 4).

The NIH does not concur with the OIG's finding and corresponding recommendation regarding the requirement that the grantee obtain NIH prior approval.

NIH requires its grantees to comply with the terms and conditions provided in the NIH Grants Policy Statement (GPS). The applicable NIH GPS (dated 12/2003) allows grantees a certain degree of latitude to rebudget within and between budget categories to meet unanticipated needs and to make other types of post-award changes. Part II, Subpart A, "Administrative Requirements, addresses "Prior Approval Requirements." This section describes the activities and/or expenditures that require NIH prior approval. NIH prior approval is required for all instances involving a change in scope. The NIH GPS provides a list of those actions "likely to be considered a change in scope" and, thereby, requiring NIH prior approval. Therefore, unless the purchase of a unit of equipment costing in excess of \$25,000 or a significant rebudgeting action is considered a change in scope, NIH prior approval is not required. In addition, the section under "Change in Scope" states that the "...grantee must make the initial determination of the significance of a change in scope and should consult with the Grants Management Officer as necessary...." Furthermore, as stated above, since the NIDDK staff concurs with the grantee's determination that the purchase of the equipment did not represent a change in scope

² Office of Inspector General Note — The report recommendations were revised based on grantee and NIH comments.

GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON OFFICE OF INSPECTOR GENERAL DRAFT REPORT, ENTITLED *UNIVERSITY OF WISCONSIN- MADISON CLAIMED UNALLOWABLE COSTS TO A RECOVERY ACT GRANT (A-05-11-00102)*

(i.e., change in the direction, type of research or training, or other areas that constitute a significant change from the aims, objectives, or purposes of the approved project), NIH officials have determined that prior approval was not required.