A Guide to Federal Prior Approvals

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OVERVIEW:
Prior Approvals & Expanded Authorities

In this session, we will discuss:

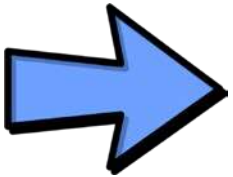
- Federal prior approval requirements
- Expanded authorities
- Communicating with federal sponsors
- Subrecipient prior approvals

3 Types of Agreements

GRANT	COOPERATIVE AGREEMENT	CONTRACT
Provides assistance with few restrictions; purpose is to transfer to carryout a public purpose	Provides assistance with substantial involvement between parties; same purpose as a grant.	Procures tangible goods and services that directly benefit the Government or Sponsor
Brief award notices with general conditions	Longer award notice, describes involvement, party relationships	Includes long, detailed specs, clauses and regulations
Flexible terms	Terms are typically flexible but not as flexible as a grant	Most restrictive; prior approval required for many post award actions
Reporting typically occurs on an annual basis	Reporting varies, may be on a quarterly basis or an annually basis	Typically more frequent and more detailed reporting required

Where do Prior Approval requirements come from?

Originates from Uniform Guidance, 2 CFR 200.407, “Prior Written Approval (prior approval)”



A requirement in Uniform Guidance to seek a Federal Awarding Agency’s **written** approval in **advance** of incurring a cost or occurrence

What are "Prior Approvals"?

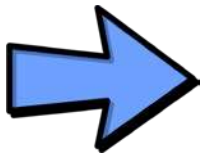
There are 25 circumstances that require prior approval in Uniform Guidance (see 2CFR 200.407).

Focus today is on §200.407(d), "Revision of budget and program plans," including:

- ✓ Change in scope or objectives
- ✓ Change of Key Personnel
- ✓ Disengagement of Key Personnel for more than 3 months, or reduction of Key Personnel effort of 25% or more
- ✓ Inclusion of costs that require prior approval, per UG Cost Principles
- ✓ Rebudgeting of participant support costs
- ✓ Subawards not in the approved budget
- ✓ Changes to amount of cost sharing/matching

What are “Expanded Authorities”?

- Created by the FDP (Federal Demonstration Partnership) to streamline federal award management
- Only used for changes that are necessary for the completion of the project within the original scope of work (SOW) and budget
- Only apply to grants and cooperative agreements
- Do not automatically apply to subawards
- Agencies that exercise Expanded Authorities: ONR, NASA, NSF, USDA-NIFA, OE, NIH (and other PHS agencies), NOAA, DOE, EPA, ARO, and DOT



Codified in 2 CFR § 200.308(d)

Principle Types of Expanded Authorities: *Pre-award Costs*

Agencies **may** waive prior approval of costs up to 90 days prior to the start date of an award. Pre-award costs must be necessary (not for convenience)

- Example: Purchasing equipment or animals 6 weeks in advance so when the items arrive, work can begin on the start date
- Pre-award costs > 90 days requires agency approval

Pre-award Spending:

Q: The award start date is June 1st. The PI wants to start her research in April. Should I start allocating effort in April?

A: No, Pre-award spending should not be used just to get started early. Pre-award costs must be *necessary*.

Principle Types of Expanded Authorities: *No-Cost Extensions*

Agencies **may** allow a one-time no-cost extension of up to one year beyond the original end date

- Examples:
  - Additional time is required to complete the SOW
  - A competing application is under review and work is continuing
  - To complete an orderly phase out of the project

Unspent funds is not a justification for a no-cost extension!

Research Administrator NCE Request:

Principle Types of Expanded Authorities: *Carry Forward*

Agencies **may** allow unobligated balances to be carried forward into subsequent years.

Always check the sponsor terms and conditions, as well as the award document for guidance and restrictions on carry forward!

Principle Types of Expanded Authorities: *Rebudgeting*

Agencies **may** restrict rebudgeting (if the award is over the Simplified Acquisition Threshold) among direct cost categories to 10% of the total cumulative budget.

NIH: Is this under Expanded Authorities or does it require Prior Approval?

Expanded Authority*	Requires Prior Approval
Carryover of an unobligated balance (excludes P, U, T, R43/R41, clinical trials, awards to individuals, or if in NOA)	NCEs beyond 12 months or late notifications of initial no-cost extension
Initial Grantee-Approved NCE	Alterations & Renovations (that exceed 25% of total budget for a budget period, results in a change of scope, or exceeds $500,000)
Transfer of substantive programmatic work to a 3rd party (unless foreign or change of SOW)	Change of SOW
Direct charge for Admin Salaries if in compliance with 2 CFR 200.413(c)	Change of PI/Key personnel (named in NOA) status: withdrawal from the project, absence for 3+ months, reduction of effort by 25%+
Rebudgeting among direct costs (unless it results in a change of SOW)	Adding a foreign component, issuing fixed price subawards, need for additional NIH funding, organization transfer
	Rebudgeting funds from trainee costs

*Expanded Authorities may be overridden by a special term or condition of the award. Always review your NOA!

NIH: Change of Scope Considerations

NIH defines a change of scope as, “a change in direction, aims, objectives, purpose, or type of research training, identified in the approved project.”

Potential changes of scope:

- Change of approved specific aims
- Substitution of one animal model for another
- Change in human subjects research that results in increased risk (i.e. exempt to non-exempt)
- Adding a subcontract (unless the subcontract is foreign, which always requires approval)
- Change in other sr/key personnel not specifically named in the NOA
- Significant rebudgeting*: Expenditures in a single cost category increase/decrease from the categorical commitment level by 25% or more of total award costs. *Note: this doesn’t apply to modular grants.
- Rebudgeting patient care costs
- Purchase of equipment > $25,000

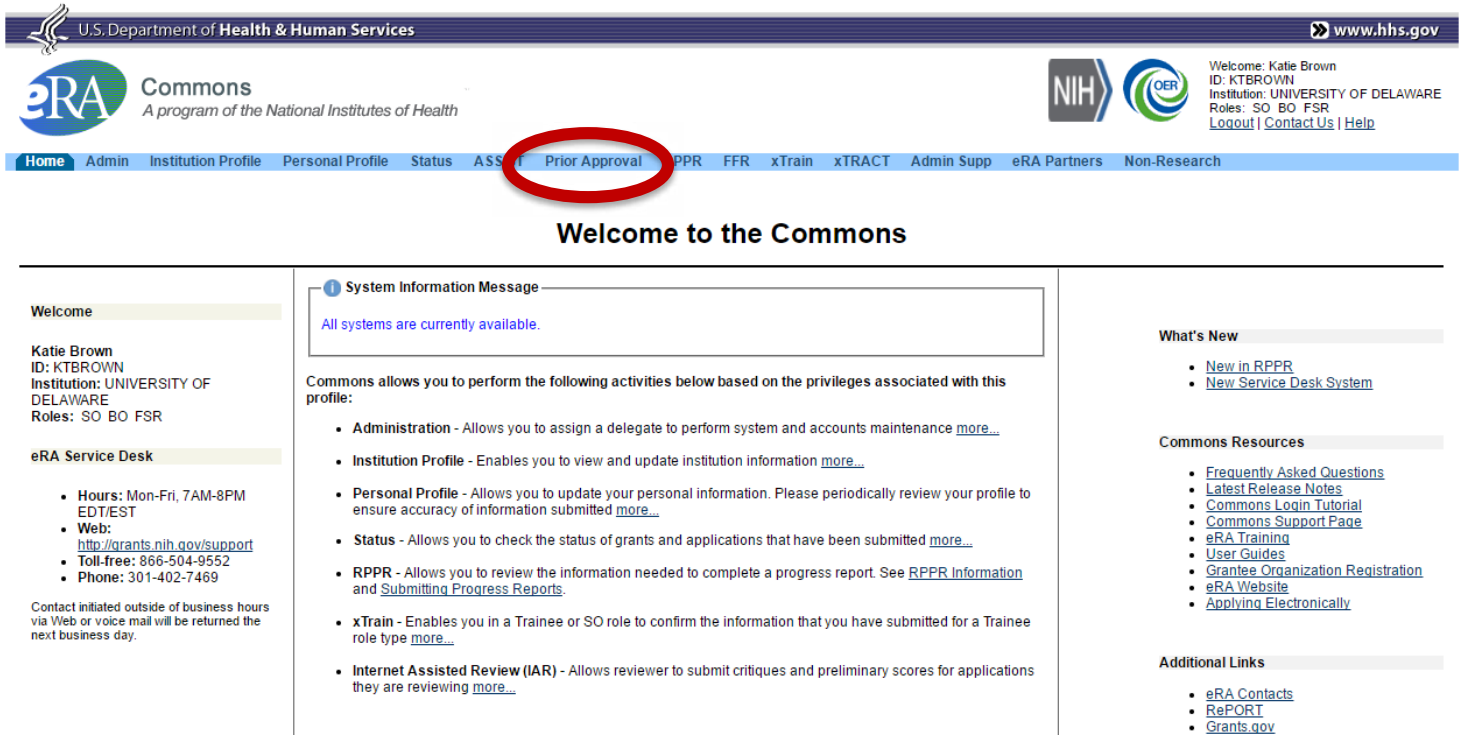
How do I request prior approval on my NIH award?

In 2017, NIH has issued a Prior Approval module in the eRA Commons:

1. No-Cost Extension (second)
2. Carryover
3. Withdrawal of an application
4. Request approval to submit an application for $500k or more in direct costs/year
5. Change of PI/PD requests

NIH Tutorials for each of the above types of Prior Approval requests: https://era.nih.gov/era_training/era_videos.cfm#eracommons

NIH eRA Commons Prior Approval Screen



NSF: Is this under Expanded Authorities or does it require Prior Approval?

Requires Prior Approval and/or Notification	
Change of Scope	Pre-award costs > 90 days
Change of Key Personnel or Institution	Administrative/Clerical Salaries
Long-term disengagement of PI/PD or Co-PI/PD, or reduction of effort 25% or more	Construction/Renovations >$25k
Adding a Subaward	Adjustment to cost sharing commitments
No Cost-Extensions	Reallocating funds from participant support costs
Conflicts of Interest	Adding participant support costs other than included in 2 CFR 200.75 (i.e., gifts, souvenirs, t-shirts, etc.)

How do I request prior approval on my NSF award?

Requests for prior approval are submitted through Research.gov

- "Notifications & Requests" module
- Prepared by PI or Department and released to RO/SPO for review and submission

No Cost Extensions

- 1st Request: Grantee-Approved NCE (notification)
- 2nd Request: NSF-Approved NCE Request

NSF Research.gov Notifications & Requests Screen

Prior Approval Matrix

- ✓ Applies to Federal research awards
- ✓ Posted on NSF Website
  - Research Terms & Conditions
- ✓ Published in March 2017
  - NSF, NIH, DOE
- ✓ Will be updated to include additional federal sponsors:
  - OE, ONR, USDA, NASA, etc.

Prior Approvals at Proposal Stage

- If a cost requiring prior approval is known at proposal stage, costs should be written into the budget and justified.
- The following statement must be included in all budget justifications to cover prior approval at the proposal stage:

"The University of Delaware will consider the costs and requests in the justification approved if an award is made and no contrary guidance from the agency is included in the award notice."

Prior Approval Requests from Subrecipients

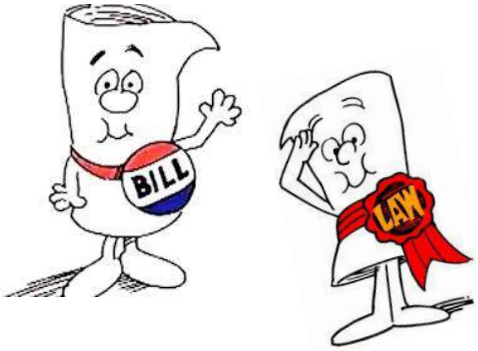
things to know:

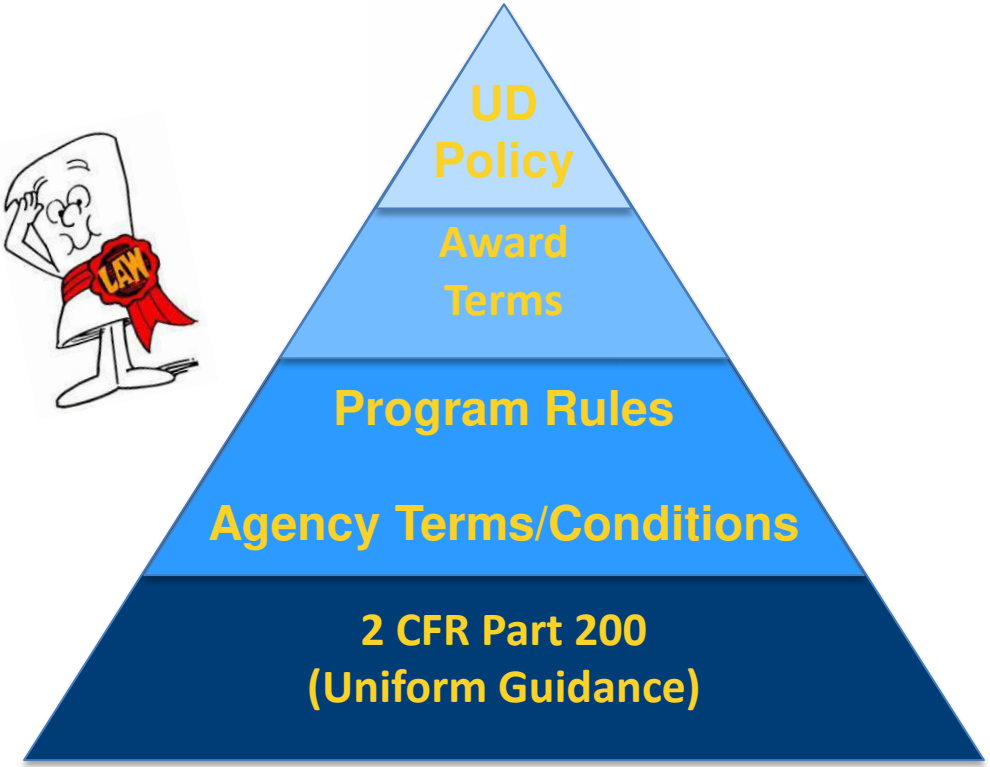
1. Subrecipients should always submit their prior approval requests to the pass through entity (i.e. University of Delaware)
2. Only an Authorized Organizational Representative (AOR) can approve the request (if it falls under Expanded Authorities)
3. An amendment will be issued to the Subrecipient documenting the change
4. Prior approval requirements DO flow down to subrecipients
5. Expanded authorities DO NOT automatically flow down to subs (i.e. pre-award or NCE)

IMPORTANT

ALL PRIOR APPROVAL REQUESTS MUST GO THROUGH THE RESEARCH OFFICE/SPO

Always keep the “Order of Precedence” in mind





Rule of Thumb for Prior Approvals

- Change in Scope of Work
- Change of Key Personnel
- Key Personnel disengagement of 3 or more consecutive months, or decrease in effort of 25% or more
- Transfer of award to another institution
- Pre-award costs over 90 days
- No Cost Extensions

Rule of Thumb for Prior Approvals (cont.)

- Adding to the award budget:
  - ✓ Equipment
  - ✓ Land acquisition
  - ✓ Construction/renovation
  - ✓ Administrative/clerical salaries
- Rebudgeting participant support costs
- Changing or adding a sub
- Issuing a subaward as fixed price
- Certain use of program income (additive)
- Adjustments to cost share/match commitment
- Rebudgeting between construction and non-construction costs

Now let's test your memory to win fabulous prizes!

Expanded Authorities permits which of the following without prior approval?

a) Rebudgeting funds from travel to personnel salaries

b) Rebudgeting funds to purchase equipment not included in the budget

c) Rebudgeting funds from construction to non-construction costs

d) Rebudgeting funds from participant support to participant incentives

When granted Expanded Authorities, pre-award costs may be incurred by an institution within a MAXIMUM of how many days prior to the official start date?

a) 30 days

b) 60 days

c) 90 days

d) 120 days

NSF requires prior approval on all of the following EXCEPT:

a) Change in Scope of Work

b) First No-Cost Extension

c) Reducing PI or Co-PI effort by 25% or more

d) Incur pre-award costs 120 days prior to start date

Expanded Authority was created by:

a) COGR

b) FDP

c) COFAR

d) IRS

Notification to NIH for the first no-cost extension must be made:

a) By including a request in the RPPR (annual progress report)

b) Via electronic submission through eRA Commons

c) Via email to the Grants Management Specialist

d) Via email to the Contracting Officer

Notification to NSF for the second no-cost extension must be submitted:

a) Via the Final Financial Report (FFR)

b) Via a Sponsor-Approved NCE prior approval request on FastLane

c) Via a Sponsor-Approved NCE prior approval request on Research.gov

d) Via email to the Program Officer

Resources

- Uniform Guidance (2 CFR 200.308)
  - https://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1#se2.1.200_1308
- Prior Approval Matrix (published by NSF)
  - https://www.nsf.gov/bfa/dias/policy/fedrtc/appa_april17.pdf