

The "Expanded Authorities" Amendments

Pre-Award Costs

[74.25(e)(1) & 75.263]

- ✓ **No prior approval** is required for pre-award costs incurred up to 90 days before the budget period begins
- ✓ Includes both new and non-competing continuation awards
- ✓ Applicant should have some reasonable expectation that it will receive an ED grant
- ✓ Expenditures are incurred at the applicant's own risk
- ✓ ED funds are not available for drawdown until the budget period begins
- ✓ Cannot be used to pay for cost over-runs from the previous year
- ✓ Prior approval is required for pre-award costs incurred **more than 90 days** before start of the budget period

Time Extensions

[74.25(e)(2) & 75.261]

- ✓ One-time extension of the project period for up to one year without prior approval
- ✓ Grantee sends written notification of planned extension to assigned ED program officer no later than **10 days before end of project period**. Notice includes:
 - ⇐ Supporting reasons for extension
 - ⇐ Revised expiration date
- ✓ Cannot be merely for the purpose of exhausting unexpended funds
- ✓ Cannot require the need for additional Federal funds
- ✓ Cannot change the scope or objectives of the project

Budget Transfers

[74.25 & 75.264]

- ✓ Provisions in 34 CFR 74.25 regarding **budget transfers** apply to **all types** of grantees
- ✓ No prior approval is required for many budget transfers
- ✓ Check applicable **OMB Cost Principle Circulars** for specific expenditures requiring prior approval (**see attached list**)
- ✓ Changes in EDGAR **still** requiring prior approval:
 - ⇐ Changes in project scope or objectives;
 - ⇐ Changes in a key person specified in the award document;
 - ⇐ The absence for more than 3 months or a 25% reduction in time of the approved project director (**Part 74 grantees only**);
 - ⇐ In research projects, a change in project director or principal investigator (**Part 80 grantees only**);
 - ⇐ The need for additional Federal funds;
 - ⇐ The transfer of funds allotted for training allowances to other categories;
 - ⇐ Transfer or contracting out of any work (doesn't apply to supplies, material, equipment or general support services)

Carryover

[74.25(e)(3) & 75.253(c)(1)]

- ✓ Unexpended funds are carried over from one budget period to the next without prior approval
- ✓ Program Office may require a written statement describing how unexpended funds will be used
 - ⇐ When: At the time of funding decision
 - ⇐ New funds may be reduced under certain circumstances
- ✓ Unexpended funds may be used for **any** allowable cost that falls within the approved project scope
- ✓ Not just for finishing uncompleted activities from the previous budget period

Part 75 Amendments (Expanded Authorities)

Purpose

To provide U.S. Department of Education (ED) discretionary grant teams (teams) with updated guidance for implementing the requirements of the "Expanded Authorities" amendments to Part 75 of the Education Department General Administrative Regulations (EDGAR).

This bulletin was first issued on January 27, 1998. Since that time questions have arisen among grantees and teams about specific aspects of applying the provisions for carryover and preagreement costs. This updated version of the bulletin provides further clarification on those issues and also makes technical corrections.

Background

In 1994, ED published a revised Part 74 in EDGAR, which adopted for ED discretionary grants the provisions of the revamped Office of Management and Budget (OMB) Circular A-110 ("Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations"). One section of the revised Part 74, §74.25, contained provisions for expanding significantly the authority of discretionary grantees to undertake certain types of administrative actions on grants and cooperative agreements without prior ED approval. Specifically, this section permits grantees:

- To extend grants automatically at the end of a project period for a period of up to one year without prior approval (with certain exceptions);
- To carry funds over from one budget period to the next;
- To obligate funds up to 90 days before the effective date of a budget period without prior approval; and
- To make transfers of funds among budget categories without prior approval, except for a limited number of specified cases.

These expanded authorities in Part 74 became effective with the July 28, 1997 publication of a final rule, which amended Part 75 to remove procedural requirements that had the effect of voiding the expanded authorities of Part 74. The Part 75 amendments also extend the expanded authorities to States, local governments, and federally-recognized Indian tribal governments, which are otherwise covered by the provisions of Part 80 in EDGAR.

Policy

General

The expanded authorities represent a significant change in ED business practice. They reflect a consensus among OMB and the various federal departments and agencies that many years of administering federal discretionary grants has given grantees the capability

- expenditures after the obligation authority for the appropriation has lapsed under the account closing provisions of the National Defense Authorization Act of FY 1991 [Pub. L. 101-510].

(NOTE: the preamble in the attached regulatory document provides a further discussion of the issues surrounding Pub. L. 101-510.)

Team members need to handle such situations on a case-by-case basis, by informing the grantee in writing of ED non-concurrence with the extension and instructing the grantee not to continue project activities or expend grant funds after the date of the ED notification to the grantee. *As a rule, however, the closer monitoring envisioned under the redesigned grant process should pre-empt the likelihood of such conditions evolving with any frequency.*

Since few grantees will need prior ED approval for time extensions, teams will almost never need to issue a revised Grant Award Notification when they update GAPS with the new project period end date. Team members should urge grantees whose internal procedures require some form of verification of the time extension to use their access to GAPS to verify that ED has changed the end date.

Budget Transfers

The Part 75 amendments establish a new section, §75.264, which applies the provisions of §74.25 to all grants, whether they are administered according to Part 74 or Part 80. Several paragraphs within §74.25 address budget transfers and, when read together, give grantees significantly greater latitude than before to make budget transfers within grant projects without prior ED approval.

In general, grantees no longer need to seek ED approval for budget transfers in non-construction projects. The only exceptions are:

- the specific requirements of §74.25(c);
- cases where the ED has imposed a 10% limitation on budget transfers for grants over \$100,000, as discussed at §74.25(f); or
- any specific requirements in OMB circulars for federal approval of certain types of budget changes

Moving funds among categories in a project budget could involve shifting dollars from direct cost categories not covered by the indirect cost rate to those that are. Such budget changes would automatically require a corresponding increase in the indirect cost category, taken from the direct cost line items. Or, a grantee might move funds from direct cost categories covered by the indirect cost rate to those that are not. This type of transfer would require adjusting the indirect cost category downward, resulting in a surplus of funds available for use by the project.

Requiring approval for such transfers would defeat the purpose of the greater budget flexibility of the regulations. It is ED policy that such transfers do not require the

Finally, these changes in regulation and policy with regard to carryover have certain administrative consequences. Grantees will never again have to make a carryover request, and it is no longer necessary for team members to send to grantees a modified award document showing carryover amounts, even in those rare cases where ED might require a statement about the grantee's intended use of unexpended funds. The amount of new funds awarded for the subsequent budget period will reveal ED stance on a particular grantee's use of unexpended funds. Nonetheless, team members are urged in such cases to give grantees notice by phone or in writing of ED intent to reduce new funds, before the award is made.

In addition, grant funds from any budget period are paid out from GAPS on a first-in, first-out (FIFO) basis, with the result that any funds remaining from one budget period are paid in the next budget period *before* newly awarded funds are made available to the grantee. Thus, carryover funds are never available for payment or use beyond an immediately following budget period and will never be moved across budget periods (e.g., from Year 1 to Year 3 of a grant project period, etc.).

Preaward Costs

The Part 75 amendments establish another new section, §75.263, which makes effective for *all* grantees--whether subject to Part 74 or Part 80 of EDGAR--the provisions of §74.25(e)(1). This latter paragraph permits grantees to incur expenditures for allowable items and activities of a project up to 90 days before the beginning of *either a new award or a noncompeting continuation award* without prior ED approval.

For preaward expenditures that would occur during a period longer than 90 days before the budget period begins, ED approval is required. In such cases, using Attachment E on Grant Award Notifications remains the appropriate procedure (see GPOS Bulletin #6, *Preagreement (Preaward) Costs*).