

Prior Written Approval

Presenters:

Julya Doyle, Financial Management Specialist
Rehabilitation Services Administration
U.S. Department of Education

Arseni Popov, Financial Management Specialist
Rehabilitation Services Administration
U.S. Department of Education



Prior Written Approval (Prior Approval)

Presentation Outline:

- Background and legal requirements
- What requires, and what does not require prior approval?
- Special areas of consideration (e.g., promotional items, administrative support staff, etc.)
- Processes for submission
- Lessons from RSA's review of prior approval submissions
- Best practices for timely approval
- Questions and answers

Prior Approval Background

The U.S. Department of Education (Department), effective as of December 26, 2014, adopted the Office of Management and Budget's (OMB's) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) codified at 2 C.F.R. part 200.

The Federal Register Notice was superseded by the Uniform Guidance adopted by all Federal agencies in 2014 that provided overarching new Federal regulations applicable across Federal agencies.



Prior Approval Background

The Department's information regarding implementation of the Uniform Guidance is located at <https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.htm>

RSA has issued a Technical Assistance Circular (TAC 18-02) to provide flexibilities related to prior approval requests for certain costs that may be submitted in aggregate, and has conducted webinars detailing the prior approval requirements.

For requests that may be submitted in the aggregate (detailed in TAC-18-02), RSA has developed a spreadsheet that may assist grantees, if requested.

Prior Approval Requirements – 2 C.F.R. § 200.407

- Cost categories that require prior approval can be found in 2 C.F.R. § 200.407.
- The details under each cost category requiring prior approval in 2 C.F.R. § 200.407 are included throughout the Uniform Administrative Requirements.
- Prior written approval (2 C.F.R. § 200.407) (prior approval) is written approval from an official of the Department who is authorized to grant such approval to assign a proposed expenditure to a Federal program.

Prior Approval Requirements – 2 C.F.R. § 200.407

Below are some of the items in 2 C.F.R. § 200.407 requiring prior approval (not exhaustive):

- b) Cost Sharing or Matching (2 C.F.R. § 200.306);
- c) Program Income (2 C.F.R. § 200.307);
- e) Real Property (2 C.F.R. § 200.311);
- f) Equipment (2 C.F.R. § 200.313);
- h) Direct Costs (2 C.F.R. § 200.413(c));
- j) Compensation – fringe benefits (2 C.F.R. § 200.431);
- l) Equipment and Other Capital Expenditures (2 C.F.R. § 200.439);
- n) Fines, Penalties, Damages and Other Settlements (2 C.F.R. § 200.441);

Prior Approval Requirements – 2 C.F.R. § 200.407 (cont.)

Below are some of the items in 2 C.F.R. § 200.407 requiring prior approval (not exhaustive):

- o) Fund Raising and Investment Management Costs (2 C.F.R. § 200.442)
- p) Goods or Services for Personal Use (2 C.F.R. § 200.445);
- r) Memberships, Subscriptions, and Professional Activity Costs (2 C.F.R. § 200.454(c));
- s) Organization Costs (2 C.F.R. § 200.455);
- t) Participant Support Costs (2 C.F.R. § 200.456);
- v) Rearrangement and Reconversion Costs (2 C.F.R. § 200.462; and
- w) Selling and Marketing Costs (2 C.F.R. § 200.467).

What Requires Prior Approval?

- Prior approval is mentioned in 25 sections of Uniform Guidance. Not all of the prior approval requirements are applicable to RSA's formula grant awards.
- It is important to read each referenced section of the requirements to know what item of cost requires prior approval and if it is applicable to the program.
- In certain circumstances, prior approval may also be required for:
 - The direct charging of a cost otherwise normally charge to indirect;
 - The cost to be charged indirectly, but is unallowable as a direct charge.

What Requires Prior Approval? (cont.)

How do grantees know which items of cost require prior approval? You have to know what the regulations state.

Example 1:

- The requirements in 2 C.F.R. § 200.407(t) for participant support costs states the following:
 - 2 C.F.R. § 200.407(t) - § 200.456 Participant Support Costs
- 2 C.F.R. § 200.456 states the following:
 - Participant support costs as defined in 2 C.F.R. § 200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.
- 2 C.F.R. § 200.75 defines Participant Support costs when in connection with conferences or training projects.
- 2 C.F.R. § 200.432 defines Conferences.

What Requires Prior Approval? (cont.)

Example 2:

- The requirements in 2 C.F.R. § 200.407 for Membership, subscriptions, and professional activity costs states the following:
 - 2 C.F.R. § 200.407(r) - § 200.454 Memberships, subscriptions, and professional activity costs; paragraph (c)
- 2 C.F.R. § 200.454(c) states the following:
 - Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency.

In order to understand the applicability, grantees should read the entire section in 2 C.F.R. § 200.454 which lists allowable costs, those that require prior approval, and unallowable costs. Grantees should also refer to TAC 18-02.

What Requires Prior Approval? (cont.)

In some instances, prior approval is required before the obligation of the cost (as defined in 2 CFR § 200.71).

Example:

- Equipment and other capital expenditures (2 C.F.R. § 200.439) require approval before the equipment is obligated;
- The direct charging of administrative and clerical salaries normally treated as indirect costs (2 C.F.R. § 200.413(c)); and
- Participant support costs paid to or on behalf of participants or trainees, but not employees, in accordance with 2 C.F.R. § 200.75.

What Requires Prior Approval? (cont.)

If the source of funds is Federal, non-Federal share, or program income, the prior approval requirements apply.

Example:

In other words, VR agencies must obtain prior approval, if required by 2 C.F.R. part 200, regardless of the specific types of equipment (e.g., wheelchairs, assistive technology, office computers, case management systems) or the individual who uses the equipment or who will be incurring participant support costs. Such unique factors of any given situation are not a factor in determining if prior approval is required.

What Requires Prior Approval? (cont.)

Grantees **MUST** know how State policies interact or can be implemented in light of prior approval requirements, including, but not limited to:

- Travel policies;
- State procurement policies;
- State capitalization level threshold and acquisition requirements; and
- Lease agreements.

What Requires Prior Approval? (cont.)

Why you need to know State policies:

Example 1:

The VR agency wishes to reimburse a SRC member for travel allowances in connection with a conference. The cost of the hotel at the conference is \$230 per night. The grantees wishes to submit a request for the cost of \$230 per night, but the State travel policy allows for reimbursement at the GSA rate of \$100. Therefore, consistent with the requirements of 2 C.F.R. part 200, the State may request prior approval only for \$100 per night since that is the maximum allowed under State policies.

What Requires Prior Approval? (cont.)

Example 2:

The VR agency wishes to purchase equipment to be used for BEP Randolph-Sheppard purposes. The agency submits a request for the purchase of the equipment via sole source. However, the State procurement policy does not allow sole source purchases for this particular item of equipment. Therefore, this prior approval request could not be approved given that the grantee has not complied with its procurement policies, as also required by 2 C.F.R. part 200.

What Does Not Require Prior Approval?

Prior approval is not required for all items of cost. If it's not covered in 2 C.F.R. § 200.407, it does not require prior approval. A few examples include:

- Charging the cost to indirect expenditures if prior approval is required for the direct charge;
- Travel for employees of the VR agency; and
- Paying for a service for a VR consumer that does not fall under prior approval requirements.

What Does Not Require Prior Approval? (cont.)

Example:

The VR agency wishes to purchase a mail vehicle for the office. The cost of the vehicle is greater than the State's capitalization threshold of \$3,500. Since the vehicle benefits multiple Federal awards (cost objectives), the grantee is paying for the vehicle with indirect costs.

2 C.F.R. §§ 200.313 and 200.439 are only applicable to the direct charge of equipment. The Uniform Guidance does not require grantees to obtain prior approval when paying for equipment with indirect costs.

Prior Approval is Not...

- A mechanism to circumvent the agency's indirect cost rate or cost allocation plan
- An exemption to the State's or agency's policies and procedures
- Agreement from RSA that the costs are allowable or allocable because those determinations are based on the unique facts and legal requirements applicable to those facts, many of which the Department is not privy to; the grantee must make these determinations when incurring the costs.
- A manner to circumvent the possible recovery of funds or additional enforcement action

Special Areas of Consideration

There are specific costs of prior approval where the applicability is unique in relation to the VR program. This includes, but is not limited to:

1. Direct charging of administrative or clerical staff (2 C.F.R. § 200.413(c));
2. Capital expenditures to land and buildings that may fall under the definitions related to the establishment, development, or improvement of a public or non-profit community rehabilitation program in 34 C.F.R. § 361.49(a)(1);
3. Costs of selling and marketing any products or services of the VR agency (2 C.F.R. § 200.467).

Grantees should know the Uniform Guidance requirements regarding all items of cost, and the allowability of those costs within the VR program.

Processes for Submission

What to submit in prior approval requests will differ depending upon the type of activity for which prior approval is being requested; however, most prior approval requests need to include some or all of the information below:

- Grantee contact information
- Amount of the cost to be incurred with supporting documentation (e.g., provider or contractor estimate)
- Reason for the prior approval request, including Uniform Guidance citation under which prior approval is being requested

Processes for Submission (cont.)

- Grant award number to which the expenditures will be charged
- Information regarding whether other programs/grants will benefit from the expenditure
- Assurance that the agency is following the State and Federal purchasing requirements (e.g., obtaining bids as required by State procurement procedures)

Processes for Submission (cont.)

In order to provide flexibility to State VR agencies within the scope of the requirement, through the issuance of TAC 18-02 RSA is allowing certain items of cost to be submitted via a streamlined approach as an aggregate cost.

This is applicable to:

- General purpose equipment (as defined in 2 C.F.R. § 200.48) requiring prior approval in 2 C.F.R. §§ 200.313 and 200.439; and
- Participant support costs (as defined in 2 C.F.R. § 200.75) requiring prior approval in 2 C.F.R. § 200.456.

Applicability of TAC 18-02

The flexibility for submission of aggregate costs for general purpose equipment is applicable for:

- Agency equipment;
- Consumer equipment; and
- Randolph-Sheppard/BEP equipment.

The flexibility of submission of aggregate costs for participant support costs is applicable for travel costs associated with:

- VR consumers attending conferences;
- SRC and independent commission members attending conferences, such as those hosted by CSAVR and the National Council on Independent Living (NCIL); and
- BEP/Randolph-Sheppard vendors attending BEP/Randolph-Sheppard trainings.

Applicability of TAC 18-02 (cont.)

- Even with prior approval, grantees are still required to ensure costs are allowable and allocable. Grantee internal controls must ensure that only allowable and allocable costs are charged to the award. For example, VR agency internal controls should provide for a review of conference topics and a determination of what portions are directly related to VR services. This is necessary in order for VR agencies to assess the portion of the conference costs allocable to the VR program.

Applicability of TAC 18-02 (cont.)

- Prior approval for general purpose equipment and participant support costs may be submitted in the aggregate based on *reliable* cost estimates for an entire FFY.
- Grantees should take into account prior FFY obligations and expenditures under each category; minor inflationary adjustments that may be needed; and potential changes in service delivery that may affect equipment requests/expenditures.

Applicability of TAC 18-02 (cont.)

If an agency has an approved prior approval aggregate request, the agency may obligate or expend up to the total amount for any allowable activities within the approved category of prior expenditures. An agency is not limited to spending the funds only for items specifically included in an initial request.

Example:

- As an agency approaches the maximum amount of the approved prior approval request, the agency must resubmit an amended prior approval aggregate request to include additional expenditures over the approved amount it may be anticipating before the end of the FFY.

Applicability of TAC 18-02 (cont.)

- Aggregate requests are NOT required to be itemized; however, RSA recommends this approach because agencies will need to follow a systematic approach to determine the reasonableness of the prior approval request.
- Agencies should maintain documentation regarding the basis for this request for RSA monitoring purposes. Such documentation must be made available upon request.
- Agencies are required to disaggregate Administrative and Clerical staff by position categories when submitting prior approval requests.

Lessons from RSA's Review of Prior Approval Submissions

1. Know your State policies and the legal documents applicable to the request.
2. Know if the request is to directly charge the entire cost to the award, charge the cost as an indirect cost, or charge the cost directly to multiple cost objectives.
3. Know under what Federal authority the proposed expenditure is classified.
4. Determine if the proposed costs are allowable, allocable, necessary and reasonable (2 C.F.R. §§ 200.403 – 200.405).

Lessons from RSA's Review of Prior Approval Submissions (cont.)

Example 1:

A VR agency requests prior approval to charge the costs for new waiting room furniture for a leased office space directly to the VR award. In reviewing this request, RSA would need to know:

- Are any other program services or Federal award activities provided by agency staff at the site?
- Will only VR Federal program consumers use the waiting area ?
- What does the lease say about responsibility for furniture in common areas?
- Who will retain ownership of the furniture?

Lessons from RSA's Review of Prior Approval Submissions (cont.)

Example 2:

The VR agency wishes to purchase 1 piece of equipment that costs \$10,000, which is more than the capitalization threshold of \$5,000. However, the agency submits a request for the total acquisition at \$17,000. Since the total acquisition is higher than the equipment cost, please include a breakdown of the items included within the acquisition.

Best Practices for Timely Approval

1. Know the applicable State policies or procedures and ensure what is being submitted is in compliance with them;
2. Read and submit any applicable legal documents that might assist RSA in determining the allowability of the request, such as the lease agreement;
3. If the request is to direct charge a cost that is generally considered an indirect cost, include a statement in the request verifying the cost will not also be charged through an indirect cost rate or plan.

Best Practices for Timely Approval (cont.)

4. If the cost is to be charged directly to a Federal award, determine if a portion of the cost benefits multiple programs (such as equipment, or travel costs to a conference), and maintain documentation supporting the cost distribution determination;
5. As with all expenditures, determine if the cost is allowable, allocable, necessary and reasonable (2 C.F.R. §§ 200.403 – 200.405); and
6. If the request is time sensitive, submit to RSA as early as possible in case RSA has any questions or additional documentation is needed.

Approval!

- RSA typically responds in three weeks, and continues to work with States to ensure their work is not impeded.
- Agencies will receive an email from RSA once a decision has been made regarding the prior approval request.
- Prior approval must be given in writing. It will not be given via phone calls.

Questions



If you have any additional questions after the presentation, please email them to RSAfiscal@ed.gov.

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