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Johnny Collett  
Assistant Secretary  
Office of Special Education and Rehabilitative Services (OSERS)  
Department of Education  
400 Maryland Avenue S.W.  
Washington, D.C. 20202

Dear Assistant Secretary Collett:

I am writing on behalf of the National Council of State Agencies for the Blind and our state agency members with an urgent plea for your assistance to address a situation that is creating a massive, time-consuming, and – most importantly - unproductive administrative workload for both Vocational Rehabilitation agencies and the Rehabilitation Services Administration: the requirement for individual federal prior written approval of expenditures that have already been evaluated by state program and fiscal staff. While NCSAB is grateful for the streamlined approval process now available under TAC 18-02, the burden of red tape and paperwork placed on states is still extreme. With full appreciation of our joint responsibility to steward Vocational Rehabilitation resources and manage taxpayer funds responsibly, we request a waiver of the prior written approval requirements found in the Uniform Guidance. Such a waiver would maintain appropriate financial safeguards; allow RSA fiscal staff to focus their time and resources on issues that represent a meaningful fiscal risk; and shift state resources from provision of detailed paperwork back to achieving their mission for blind consumers. Most of all, relief from this huge exercise in red tape will restore to states the flexibility to respond to the urgent and immediate needs of our customers as they train for or enter the workforce.

VR is expected to move at the speed of business. While TAC 18-02 and the subsequent sub-regulatory guidance of the RSA Webinars is of some benefit, many cost categories are not included in that relief. RSA has indicated that states should expect the federal prior written approval process to take at least 30 days; this could increase as more and more states submit prior written approval requests. The federal review and approval process, which is layered on top of long-standing, appropriate state review processes and periodic federal audits, typically requires multiple back-and-forth questions and responses between federal and state staff, with documentation in escalating levels of exhaustive detail. For your information, we have attached to this letter actual examples of the red tape state agencies must go through to receive federal prior written approval of purchases.

The federal prior written approval process needlessly imposes *federal* review of what constitutes appropriate purchases under the vocational rehabilitation program for *state* decision-making. Already, consumer purchases must be consistent with the Individualized Plan for Employment, state purchasing policies and regulations, and the Unified Audit, among other safeguards. We believe that selection of assistive technology and services should be made by the person who is closest to the consumer, with the most information about that consumer's needs, without the red tape and delays associated with federal prior written approval.

The impact of these delays, and the risk that they create for VR programs nation-wide, is evident. For example, blind entrepreneurs operating a business under the Business Enterprise Program don't have 30 days to wait when their freezer goes down. Retail sales are lost forever; customers may be permanently lost; the permit to operate the site as a location for the business enterprise program may be forfeited. What food service business tolerates a loss of sales and the inability to serve customers for even one day? When a state hires a new staff consistent with the business served by vocational rehabilitation, it may need to order equipment, or make reconfiguration accommodations due to the staff person's ergonomic assessment. The costs of delay exceed the very minor risks identified thus far in any federal prior approval or audit procedures.

NCSAB previously requested a waiver to the prior approval requirements in a letter sent December 19th to Secretary DeVos, and continues to believe that any possible benefit of prior approval is outweighed by the unreasonable burdens and costs that it imposes on the vocational rehabilitation program. We understand that the Department of Labor came to the same conclusion regarding its grantees, and has waived the federal prior approval requirements for its programs. As we co-locate, do joint outreach, and merge systems, the vocational rehabilitation programs are being held to a different standard that adds delay to the process and hinders state ability to respond timely with its WIOA core partners.

The prior approval waiver had been in place since April 21, 1995, and it worked well for over 20 years. Over that time period, there were few significant monitoring or audit findings related to the prior approval cost categories. Federal written prior approval is a "solution" to a problem that did not exist in Vocational Rehabilitation.

We believe that there is ample authority in current regulations to issue a waiver again. 2 CFR 200, Subpart E, grants states flexibility "...the application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity..." The cancellation of the prior re-approval waiver previously granted to states has created significant changes in the way states must conduct business, and experience has demonstrated that the burden of federal prior written approval is much greater than initially anticipated. In addition, the "unusual circumstances" associated with purchases under the VR program make a waiver appropriate under 2 CFR 200.102. If it is not possible to grant a waiver of all cost categories, than at minimum, we request a waiver for the following categories where timely responsiveness is particularly crucial to fulfilling our VR mission:

- General equipment for VR consumers;
- Randolph-Sheppard Act equipment;
- Equipment that is necessary to reasonably accommodate employees; and
- Participant costs for training conferences, State Rehabilitation Council travel and conference costs, independent commissions, and for vendor committees under the Randolph-Sheppard Act.

We understand and appreciate the concern around spending grant dollars appropriately and in alignment with fiscal requirements and safeguards. We also believe it is appropriate for us all to ask ourselves the following questions:

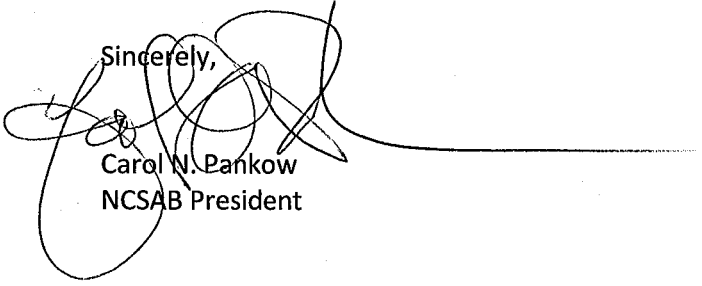
- 1) What is the problem that needs to be solved? How costly is the problem, and how much risk does it create?
- 2) What are the new costs and risks associated with the solution?
- 3) Do the costs and risks of the solution outweigh the costs and risks of the problem?

We believe the answer to the third question above is yes: the costs and risks of the federal prior written approval process outweigh the benefits. It hampers VR's flexibility to respond in a timely way to the needs of consumers, staff, WIOA partners, and business customers. The burden on state and RSA staff is extreme, with little, if any, benefit to the taxpayer. The end result, at both levels of government: a distraction from VR's core mission.

NCSAB respectfully requests a waiver from the federal prior written approval requirements that allows for the vocational rehabilitation program to provide seamless and timely services to our clients, vendors, and employees.

We appreciate your consideration of this request.

Sincerely,



Carol N. Pankow  
NCSAB President

Cc: Carol Dobak

Attachments

