

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202-2800

TECHNICAL ASSISTANCE CIRCULAR

RSA-TAC-18-02

DATE: April 11, 2018

ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES
STATE REHABILITATION COUNCILS
TECHNICAL ASSISTANCE CENTERS

SUBJECT: Submission Procedures for Prior Written Approval Requests under
the State Vocational Rehabilitation (VR) Services Program

BACKGROUND AND PURPOSE:

The Education Department General Administrative Regulations (EDGAR), in 34 CFR §74.27 and §80.30(b), originally published in 59 FR 34724 (July 6, 1994) and 53 FR 8071 and 8087 (March 11, 1988), respectively, required prior approval from the Secretary of the U.S. Department of Education (Department) before various categories of otherwise allowable costs could be charged to any Department grant or subgrant. On April 21, 1995, the Office of Special Education and Rehabilitative Services (OSERS) published a notice in the Federal Register that prior approval was no longer required for certain categories of costs for formula grant programs (60 FR 9671 (April 21, 1995)).

The Department, at 2 CFR §3474.1, adopted – effective as of December 26, 2014 – the Office of Management and Budget’s (OMB’s) Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) codified at 2 CFR part 200 (79 FR 76091 (Dec. 19, 2014)). Once adopted by the Department, the Uniform Guidance superseded EDGAR parts 74 and 80, as well as the flexibilities provided by the 1995 Federal Register Notice. The Uniform Guidance requires prior written approval (prior approval) for various grant award activities and proposed obligations and expenditures. 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. The Rehabilitation Services Administration (RSA) intends to issue an informational document explaining how the Uniform Guidance applies to all grantees, but the major changes to streamline the prior approval process for the VR program are included in this technical assistance circular (TAC) document. The Uniform Guidance also provides Federal awarding agencies with the ability to determine the conditions under which the prior approval requirements have been met.

In this TAC, RSA discusses flexibilities available to reduce the burden on State VR agencies with respect to the prior approval requirements while ensuring program and fiscal accountability. Therefore, the purpose of this TAC is to explain flexibilities for State VR agencies within the parameters of the Uniform Guidance in the form of streamlined procedures for the submission of

prior approval requests for certain cost items, specifically those for certain general purpose equipment and participant support costs. The streamlined submission procedures described herein should significantly reduce the burden on State VR agencies with respect to prior approval requests for certain general purpose equipment purchases and participant support costs.

TECHNICAL ASSISTANCE:

RSA is streamlining and providing guidance on the submission process for two key specific types of prior approval requests: 1) Certain general purpose equipment purchases; and 2) participant support costs. We are prioritizing the streamlining of the process for addressing these costs for two primary reasons. First, these particular prior approval cost categories comprise the majority of requests for prior approval that RSA receives. Second, based on past experience, these costs represent a relatively low risk of harm to the Federal interest because these costs typically are: 1) low, relative to all other costs incurred by the VR agencies; and 2) they represent costs necessary to operate and administer the VR program or provide necessary services to consumers. In fact, many of these costs are required by the Rehabilitation Act of 1973 (Rehabilitation Act), such as the participant support costs incurred by State Rehabilitation Council (SRC) members to perform their statutorily required responsibilities and equipment needed by consumers to achieve their employment outcomes. For this reason, these expenditures rarely raise questions about allowability and allocability to the VR program and have not been the focus of recovery actions. Therefore, to balance the need for programmatic and fiscal accountability with the commitment to provide flexibility and to reduce unnecessary burden to the States and others involved in the process, RSA has determined it is reasonable to permit State VR agencies to submit certain prior approval requests in a streamlined manner for these two types of costs as described further in this TAC.

For all other cost categories that require prior approval, State VR agencies will continue to submit more specific and detailed prior approval requests, as required by the Uniform Guidance. As stated above, RSA receives only a relatively few prior approval requests for cost categories that do not relate to general purpose equipment and participant support costs. Of those other prior approval requests, most are for cost categories that involve relatively large amounts of money, as compared to other expenditures incurred by State VR agencies. Many of these costs, such as those for construction and renovation of State VR agency office space and community rehabilitation programs (CRPs), represent costs that should be allocated across multiple programs due to the populations of individuals with disabilities served by the CRPs or the multiple programs administered by the VR agency, rather than borne solely by the VR program. Furthermore, in the past State VR agencies have included costs for these projects that were not allowable, because they did not benefit the VR program. Instead, these costs benefitted the private landlord of the office space or the CRP's own production/manufacturing business. These are the types of costs that can be typically the focus of recovery actions, and for these reasons, many of the cost categories contained in the other prior approval requests RSA receives represent a relatively higher risk to the Federal interest.

General Technical Assistance:

When considering whether the Uniform Guidance requires prior approval for a particular activity or expenditure, it is important that State VR agencies understand the relevant Uniform Guidance provisions associated with the particular activity or expenditure. For example, “equipment” refers to tangible personal property costing more than an applicable capitalization threshold (a certain dollar amount) and, as such, requires prior approval. However, tangible personal property costing less than that particular dollar amount meets the definition of “supplies” at 2 CFR §200.94, which do not require prior approval. As another example, under the Uniform Guidance, the term “participant support costs” refers to travel and subsistence for individuals other than State VR agency employees to attend a conference or training, and prior approval is required. On the other hand, the term does not refer to costs associated with consumers traveling to and from a CRP or vendor in receipt of a VR service, so prior approval is not required for those expenditures. Therefore, it is important to understand the distinctions for each activity or expenditure at issue, as described in the Uniform Guidance, in order to know when a State VR agency must submit a prior approval request.

The prior approval requirements set forth in the Uniform Guidance apply to certain specified activities and expenditures, regardless of the funds used to pay for that activity or expenditure. This means that State VR agencies must obtain prior approval for expenditures requiring a request, regardless of whether the agency plans to use Federal VR funds, non-Federal funds for match purposes, program income earned under the VR program, or any combination of these three sources of funds.

Technical Assistance for Streamlined Submission Process for Certain Cost Categories:

For only two cost categories (specifically, certain general purpose equipment and participant support costs), a streamlined prior approval process discussed in more detail below applies. State VR agencies may request prior approval in the aggregate based on reasonable budget estimates (i.e., projections of obligations and expenditures) for an entire Federal fiscal year (FFY), rather than submitting separate prior approval requests for each proposed expenditure. Budget estimates in the aggregate, for the two cost categories specifically identified in this TAC, must be based on reliable cost estimates (e.g., recent general purpose equipment purchases, recent participant support costs, current bids, or reasonable cost research) expected to be incurred in a given FFY. For example, if a State VR agency uses the previous FFY’s expenditures for general purpose equipment purchased under individualized plans for employment (IPEs) to develop a budget estimate for the current FFY’s projected IPE equipment expenditure needs, the State VR agency may submit the proposed equipment budget estimate in the aggregate for the current FFY in its prior approval request to RSA for review and approval. Thus, in this example, there is no need for the State VR agency to submit a prior approval request for each piece of general purpose equipment that will be purchased for a VR consumer under an approved IPE.

Technical Assistance for Non-Streamlined Submission Process for All Other Cost Categories:

Of all prior approval requests RSA receives that are not related to general purpose equipment or participant support costs, most involve proposed capital expenditures for construction and

renovation projects for the VR agency's own office space or those for the establishment, development, or improvement of a CRP facility (hereinafter referred to as establishment of a CRP). These expenditures typically pose a higher risk to the Federal interest with respect to the allowability and allocability of the costs as described above. For these and all other remaining cost categories not included in the streamlined submission process described in this TAC, but still requiring prior approval, RSA has determined it necessary for State VR agencies to submit separate prior approval requests for each projected activity in accordance with the Uniform Guidance requirements, in order to protect the Federal interest and ensure programmatic and fiscal accountability. For example, if a State VR agency plans to incur capital expenditures related to three different establishment of a CRP projects in an FFY, the State VR agency must submit a separate prior approval request for each proposed project to RSA for review and approval. The prior approval request should project the costs based on the accepted contractor's bid or some other method of calculating actual proposed costs that supports the reasonableness of the proposed expenditures, rather than on an aggregate estimate based on capital expenditures incurred by the agency in a prior FFY.

Technical Assistance for State VR Agencies' Responsibilities Post-Approval:

In granting any prior approval, RSA will approve the expenditure of program funds up to the amount proposed in the prior approval request submitted by the State VR agency. This means the State VR agency will be approved to spend up to that amount. If actual costs indicate the need for an increase in the approved proposed amount during the FFY, the agency must submit an amendment to the prior approval request for the anticipated additional costs. For example, if the cost of airfare for an approved participant support cost request increases during a FFY, thereby increasing the projected aggregate participant support costs proposed in a prior approval request, the State VR agency must submit an amended prior approval request reflecting the increased proposed aggregate participant support cost. As another example, if a contractor needs to amend its bid for a particular establishment of a CRP project because the cost of steel increased during the FFY, the State VR agency must submit an amended prior approval request that reflects the increased cost for that particular proposed establishment of a CRP project.

With any prior approval request, State VR agencies remain responsible for ensuring that all expenditures are allowable and allocable to the VR program in accordance with the Uniform Guidance and Federal program requirements (2 CFR §§200.403 through 200.405). It is also the State VR agency's responsibility to ensure that the funds used to pay for the projected costs are funds available for use and obligation in the period of performance for that FFY and reported on the appropriate financial report. Additionally, the State VR agency must maintain appropriate documentation for all approved streamlined and non-streamlined prior approval requests, since the documentation may be the subject of audits or monitoring activities.

A. Equipment Purchases

Most prior approval requests received by RSA involve the obligation and purchase of general purpose equipment. Given the nature of some of these purchases, namely general purpose equipment purchased for the needs of VR consumers or for the State VR agency's own use, these particular general purpose equipment expenditures have rarely raised questions of allowability

and allocability under the VR program, because they are specifically authorized under the statute and they are purchased for the sole benefit of the VR program. For this reason, RSA has determined it reasonable to streamline the process, as described above, for certain general purpose equipment obligations and expenditures.

Under 2 CFR §§200.407(f), 200.439(b) and 200.313(a)(2), State VR agencies must obtain RSA's prior approval before purchasing or incurring obligations for equipment, as defined in 2 CFR §200.33. In determining whether prior approval is required for any kind of equipment obligations and purchases, State VR agencies must first determine whether the tangible personal property meets the definition of "equipment" at 2 CFR §200.33, which requires prior approval, or the definition of "supplies" at 2 CFR §200.94, which does not require prior approval. In making this determination, State VR agencies must consider these three factors: (1) the property's useful life; (2) the property's per unit acquisition cost¹ as defined at 2 CFR §200.2; and (3) whether the State uses the Uniform Guidance's equipment capitalization level of \$5,000 or a lower amount². Only in considering these three factors will a State VR agency be able to determine whether the needed tangible personal property constitutes "equipment" and, thus, requires prior approval from RSA before the agency incurs the obligation.

Once the State VR agency determines whether prior approval is required, it must then determine whether the general purpose equipment fits the criteria for the streamlined submission process described above. RSA will permit the streamlined submission process only for prior approval requests for "general purpose equipment," as defined at 2 CFR §200.48, purchased for the following purposes:

1. General purpose equipment purchased for VR recipients under an approved IPE;
2. General purpose equipment purchased for State VR agency use (i.e., vehicles, copiers, office furniture)³; and,

¹ The per unit equipment acquisition cost includes the net invoice price of the equipment, plus the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the allowable grant-related purpose for which it is acquired. For example, if a State VR agency plans to purchase a vehicle that would need to be modified to make it ready for its intended use, the per unit equipment acquisition cost would include the cost of the vehicle plus the cost for the modifications. In this example, the State VR agency would include the entire cost of the vehicle, including modifications, in its prior approval request.

² For purposes of determining whether the tangible personal property meets the definition of "equipment" at 2 CFR §200.33 and, thus, requires prior approval, the State VR agency must make this determination on the basis of the State's capitalization threshold level or the Uniform Guidance's capitalization threshold level of \$5,000, whichever is lower. For example, if a State designates purchases at or above \$1,000 as "equipment," the State VR agency must use the State's threshold (\$1,000) in determining when a purchase meets the definition of "equipment" under the Uniform Guidance and, thus, requires prior approval.

³ Does not include equipment purchased for the establishment, development, or improvement of a facility for a public or nonprofit CRP at 34 CFR §361.5(c)(17), the construction of a facility for a public or nonprofit CRP at 34 CFR §361.5(c)(10), or for the construction or renovation/alteration of a State VR agency facility. These expenditures still require individual submissions for prior approval that are based on contract bids or some other method that project actual proposed costs, rather than on projected aggregate estimates.

3. Initial purchase, maintenance, repair and replacement of Business Enterprise Program (BEP) vending facility equipment (i.e., vending facilities operated by blind vendors under the Randolph-Sheppard Act program).⁴

As described in more detail above, State VR agencies may submit prior approval requests using a streamlined approach for proposed purchases of general purpose equipment for the above three reasons. When doing so, the State VR agency should submit a prior approval request based on a reasonable aggregate estimate of the amount they expect to spend in the above three particular general purpose equipment categories for an entire FFY, rather than submitting a separate request for each piece of equipment that meets the threshold for prior approval. For example, a State VR agency could submit a prior approval request for \$500,000 for replacement of vending facility equipment that it anticipates will be needed throughout a FFY, rather than submitting prior approval requests for a specific piece of equipment each time one is needed. In addition, if a State VR agency anticipates the need to purchase equipment in more than one of the categories described above, the State VR agency may submit a prior approval request that projects an aggregate estimate for all equipment purchases in one prior approval request. For example, a State VR agency could submit one prior approval request, using the streamlined approach, proposing that it anticipates it will need to spend an aggregate of \$200,000 for general purpose equipment for VR consumers under approved IPEs, \$650,000 for general purpose equipment for the agency's own use, and \$500,000 for BEP vending facility equipment. There is no need for a State VR agency to submit a separate prior approval request for each projected aggregate general purpose equipment needed for each of the three categories described above.

Example 1:

A State has established a capitalization threshold level of \$1,000 for purposes of determining whether tangible personal property meets the definition of "equipment." Even though the State's threshold level is less than the Uniform Guidance's threshold level of \$5,000, the State must submit a prior approval request for general purpose equipment that exceeds the State's lower threshold level of \$1,000 pursuant to the Uniform Guidance. Using the streamlined approach, if the agency projects it will need 50 laptops for VR consumers under approved IPEs at a cost of \$1,000 each, it could submit a prior approval request projecting an aggregate estimate of \$50,000 for all 50 laptops.

⁴ For purposes of submitting a prior approval request for BEP, or Randolph-Sheppard program vending facility equipment, the State VR agency may include in its projected aggregate estimate for an FFY those costs associated with the purchase price of the vending facility equipment itself, plus delivery charges for the equipment itself. It does not include renovating or modifying vending facilities even if such costs are related to the installation or replacement of equipment approved as a result of the agency's prior approval request that outlined budgeted estimates for the acquisition of BEP equipment. Costs associated with the renovation or modification of vending facilities, when allowable, must be submitted in separate prior approval requests that are based on contract bids or some other method that projects the actual proposed costs.

Example 2:

If the State has established a capitalization threshold level equal to the Uniform Guidance's threshold level of \$5,000, the State would need to submit a prior approval request only if the per unit cost of the tangible personal property exceeds the \$5,000 threshold. If the State VR agency needs 50 laptops at a cost of \$1,000 each for VR consumers under approved IPEs, the State VR agency would not be required to submit a prior approval request because each laptop costs less than the threshold level of \$5,000. The determination of whether prior approval is required is made on the basis of the per unit cost of the property, not the aggregate estimated cost.

B. Participant Support Costs

RSA has received, and continues to receive, a significant number of prior approval requests for participant support costs. As with the specific general purpose equipment described above, participant support costs have represented a low risk of harm to the Federal interest with respect to concerns about the allowability and allocability of the proposed costs under the VR program for the reasons described above. Moreover, prior approval requests for participant support costs typically rank among the lowest in terms of the projected expenditure of program funds. For this reason, RSA has determined it is reasonable to permit State VR agencies to use a streamlined approach when submitting prior approval requests for most participant support costs. RSA believes this approach balances the need for programmatic and fiscal accountability with the commitment to provide flexibility and the need to reduce unnecessary burden to the State VR agencies.

“Participant support costs” means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences or training projects (2 CFR §200.75). Conference is defined in 2 CFR §200.432 as a meeting, retreat, seminar, symposium, workshop, or event whose primary purpose is disseminating technical information beyond the non-Federal entity and is reasonable for successful performance of the award.

Participant support costs are allowable with prior approval of the Federal awarding agency (2 CFR §§200.407(t) and 200.456). In the context of the Uniform Guidance requirements governing prior approval, a participant is a non-employee of the State VR agency who is attending the meeting, workshop, conference, seminar, symposium, or other instructional or information sharing activity.

For purposes of the prior approval requirements for participant support costs under the VR program, travel costs incurred by SRC and independent commission members to attend required meetings, including SRC and independent commission subcommittee meetings, to perform their statutorily mandated responsibilities under sections 101(a)(21) and 105(c) of the Rehabilitation Act would constitute participant support costs as defined by the Uniform Guidance. As such, these costs would require prior approval. However, RSA recognizes that some members of the SRCs and independent commissions are individuals with disabilities or family members of individuals with disabilities who depend on reimbursements for travel costs in order to participate in these required meetings. RSA is hereby granting prior approval through this TAC

for all participant support costs State VR agencies will incur with respect to SRC and independent commission members attending required meetings to fulfill their statutorily mandated functions under sections 101(a)(21) and 105(c) of the Rehabilitation Act. Therefore, State VR agencies are no longer required to submit prior approval requests for these particular participant support costs because RSA is granting prior approval at this time. In so doing, RSA believes this will make it easier for these individuals to fulfill their statutorily mandated responsibilities.

For purposes of the prior approval requirements under the VR program, participant support costs also include travel costs incurred by:

1. VR consumers attending conferences, such as those presented in connection with the provision of pre-employment transition services;
2. SRC and independent commission members attending conferences, such as those hosted by the Council for State Administrators of Vocational Rehabilitation (CSAVR) and the National Council on Independent Living (NCIL); and
3. BEP/Randolph-Sheppard vendors attending BEP/Randolph-Sheppard trainings.

As such, these participant support costs would require prior approval before being incurred by the VR agency. Participant support costs do not include conference support costs such as facility or audio/visual equipment rental and, therefore, such costs would not require prior approval from RSA before a State VR agency incurs the expense because the Uniform Guidance does not require such prior approval.

As described in more detail above, State VR agencies may submit prior approval requests using a streamlined approach for proposed participant support costs associated with any of the three above-described categories of participant support costs. When doing so, the State VR agency should submit a prior approval request based on a reasonable aggregate estimate of the amount it expects to spend for this purpose for an entire FFY, rather than submitting a separate request for each conference or training. For example, a State VR agency could submit a prior approval request for an aggregate estimate of \$20,000 to cover the participant support costs of five SRC members to attend the CSAVR conference during a FFY. In addition, if a State VR agency anticipates it will send SRC members to both the CSAVR and NCIL conferences in a FFY, as well as students with disabilities to a pre-employment transition services conference and BEP vendors to a BEP training, the State VR agency may submit a prior approval request that projects an aggregate estimate for all participant support costs in one prior approval request. For example, a State VR agency could submit one prior approval request, using the streamlined approach, proposing that it anticipates it will need to spend an aggregate of \$500,000 in participant support costs to send 500 students with disabilities to a Statewide conference on pre-employment transition services, \$50,000 in participant support costs to send five SRC members to the CSAVR conference and five independent commission members to the NCIL conference, and \$10,000 in participant support costs to send three BEP vendors to a BEP training during a FFY. There is no need for a State VR agency to submit a separate prior approval request for each projected aggregate participant support cost associated with each conference or training.

Example 1:

The SRC meets quarterly and members who are not State employees are eligible to receive a per diem amount and reimbursement for transportation costs in accordance with the State's travel policies. State VR agencies are no longer required to submit prior approval requests for these participant support costs because RSA is hereby granting prior approval for these costs through this TAC.

Example 2:

The State VR agency projects that it will send two SRC members to the spring CSAVR conference and two SRC members to the fall CSAVR conference. The State VR agency may submit one prior approval request in which it projects an aggregate estimate that is reasonable and consistent with the State's per diem and travel policies, to cover the participant support costs it anticipates it will incur for these conferences for the entire FFY.

Requests for prior approval, and questions regarding the content of this TAC should be sent to the RSA Financial Management Specialist assigned to the State VR agency.

/s/

Carol L. Dobak
Acting Deputy Commissioner,
delegated the authority to perform
the functions and duties of the Commissioner

cc: Council of State Administrators of Vocational Rehabilitation
National Council of State Agencies for the Blind