



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OCTOBER 29, 2019

This document is non-binding and does not create or impose new legal requirements. The Department is issuing it in this document on an “interim” basis to provide grantees with immediate information to assist them in meeting their obligations under Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. We intend to publish this further and invite public comments.

Dear OSERS Grantee:

To ease burden on State grantees, the Office of Special Education and Rehabilitative Services (OSERS), within the U.S. Department of Education (Department), is granting prior approval for two direct cost categories under the Department’s authority in the Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), codified in 2 C.F.R. §§ 200.407(f) and (t), 200.439(b), and 200.456.

This prior approval applies to State formula grant programs administered by the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA) for two direct cost categories: participant support costs (PSCs) and equipment, as further described in the attached Frequently Asked Questions (FAQs). Please note that this document does not in any way diminish the responsibilities of pass-through entities, grantees, and, where applicable, subgrantees to monitor and ensure that the expenditure of program funds, including expenditures made on the basis of the prior approvals described in the FAQs, meet the requirements of program statutes and regulations, and the requirements set out in Subpart E of 2 C.F.R. Part 200 with regard to expenditures being reasonable, necessary, allowable, and properly documented.

This prior approval means that grantees no longer need to submit separate individual requests for prior approval for the costs described in the FAQs. This letter applies to the following programs administered by OSEP and RSA:

OSEP

1. Individuals with Disabilities Education Act (IDEA) Part B Section 611 Grants to States;
2. IDEA Section 619 Preschool Grants; and
3. IDEA Part C Grants for Infants and Families.

RSA

1. State Vocational Rehabilitation (VR) Services under the Rehabilitation Act of 1973 (Rehabilitation Act);
2. State Supported Employment (Supported Employment) Services;
3. Independent Living Services for Older Individuals Who Are Blind (OIB);

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The Department of Education’s mission is to promote student achievement and preparedness for global competitiveness by fostering educational excellence and ensuring equal access.

4. Protection and Advocacy of Individual Rights (PAIR); and
5. Client Assistance Program (CAP).

OSERS recognizes that the granting of flexibilities for prior approval reduces the burden on grantees and subgrantees and allows the use of Department grant funds for allowable purposes in a timely fashion. OSERS is also implementing this approval in conjunction with the Department's collaboration with OMB and to further the goals of Cross-Agency Priority Goal 8, Results-Oriented Accountability for Grants, of the President's Management Agenda.

OSERS is committed to helping States improve early childhood, educational, functional, and employment outcomes for individuals with disabilities, and we recognize our responsibility to ensure programmatic and fiscal accountability. We believe that the prior approvals described in the FAQs appropriately balance the desire for additional State flexibility with programmatic and fiscal accountability.

For further technical assistance regarding the accompanying FAQs, please contact Matthew Schmeer at Matthew.Schmeer@ed.gov for OSEP's IDEA programs and David Steele at David.Steele@ed.gov for RSA programs.

Sincerely,

/s/

Mark Schultz

Delegated the authority to perform the
functions and duties of the Assistant Secretary for the
Office of Special Education and Rehabilitative Services

Attachment

Attachment

Frequently Asked Questions (FAQs) Prior Approval — OSEP and RSA Formula Grants

1. What action is the Office of Special Education and Rehabilitative Services (OSERS) taking?

OSERS is granting prior approval to its State formula grantees for two categories of direct costs, certain participant support costs (PSCs) and certain general purpose equipment expenditures, consistent with 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.

OSERS recognizes the benefit of States being able to timely use Department grant funds for certain PSCs and general purpose equipment expenditures, particularly when used to implement requirements under the Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 (Rehabilitation Act), and is providing additional flexibility where appropriate. The specifics of OSERS' prior approval for each of these two cost categories will be described in more detail in subsequent FAQs.

2. What programs are covered by this prior approval?

The prior approval granted by OSERS will benefit State grantees implementing formula grant programs administered by the Office of Special Education Programs (OSEP) and the Rehabilitation Services Administration (RSA). Specifically, OSERS is granting prior approval for certain PSCs and general purpose equipment expenditures under the following OSEP and RSA programs:

OSEP

- IDEA Part B Section 611 Grants to States;
- IDEA Section 619 Preschool Grants; and
- IDEA Part C Grants for Infants and Families.

RSA

- State Vocational Rehabilitation (VR) Services;
- State Supported Employment (Supported Employment) Services;
- Independent Living Services for Older Individuals Who Are Blind (OIB);
- Protection and Advocacy of Individual Rights (PAIR); and
- Client Assistance Program (CAP).

3. What effect does this prior approval have on previous action taken by OSERS?

This letter and accompanying FAQs replace RSA’s April 11, 2018, Technical Assistance Circular (18-02) and OSEP’s May 21, 2018, memos to State Educational Agencies (SEAs) and State Lead Agencies (LAs) under IDEA Parts B and C.

4. Why is OSERS taking this action?

Since the OMB Uniform Guidance became effective with Federal fiscal year (FFY) 2015 grants, OSEP and RSA have received a high volume of requests from State grantees to use grant funds awarded by the Department for PSCs and equipment costs.¹ To respond to the increased number of prior approval requests, OSERS previously issued technical assistance and guidance on this topic through RSA’s April 11, 2018, Technical Assistance Circular (18-02) and OSEP’s May 21, 2018, memos to SEAs and LAs. Additionally, OSEP revised its IDEA Part C FFY 2018 and 2019 applications to include a streamlined process for prior approval of PSCs and equipment expenditures. Despite OSERS’ streamlining efforts to date, both OSEP and RSA continue to receive a high volume of questions and prior approval requests from States for these two particular direct cost categories. Furthermore, OSERS has determined that the OSEP and RSA review has added limited value with respect to prior approval requests for PSCs and equipment costs, when those requests have been for costs related to specific statutory requirements in IDEA or the Rehabilitation Act and/or for costs under \$5,000.

OSERS is committed to assisting States to help them improve early childhood, educational, functional, and employment outcomes for individuals with disabilities, and we recognize our responsibility to ensure programmatic and fiscal accountability. We believe the prior approval approaches described herein appropriately balance the desire for additional State flexibility with necessary programmatic and fiscal accountability. Due to the distinct nature of the costs, we discuss PSCs and equipment expenditures, and their related prior approval processes, separately below.

Participant Support Costs or PSCs — As Applicable to OSEP and RSA Formula Grantees

5. What are Participant Support Costs or PSCs?

As defined by the OMB Uniform Guidance, PSCs are direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (State employees not included) in connection with conferences² or training projects (2 C.F.R. § 200.75). Under the OMB Uniform Guidance, PSCs are allowable with prior approval of the Federal awarding agency (2 C.F.R. §§ 200.407(t) and 200.456).

¹ The prior approval requirements for PSCs and equipment are set forth in the OMB Uniform Guidance, codified in 2 C.F.R. part 200, which consolidated requirements for Federal grant awards to reduce administrative burden and improve outcomes. Prior approval requirements set forth in 2 C.F.R. part 200, not specifically covered by this letter, still apply to OSERS’ grantees.

² “Conference” is defined in 2 C.F.R. § 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 the successful performance of the award.

6. What prior approval is OSERS granting for PSCs?

Consistent with the OMB Uniform Guidance, OSERS is granting prior approval for the following PSCs:

- A. PSCs for meetings (sub and related subcommittee meetings) required by IDEA or the Rehabilitation Act, including IDEA Part B State Advisory Panels, under IDEA Section 612(a)(21)(A) for SEAs, IDEA Part C State Interagency Coordinating Councils under IDEA Section 641 for State LAs, and State Rehabilitation Councils and independent commissions under Sections 101(a)(21) and 105(c) of the Rehabilitation Act;
- B. PSCs incurred during the provision of services to individuals with disabilities under IDEA and the Rehabilitation Act; this includes PSCs incurred for the provisions of VR services under individualized plans for employment (IPEs) for individuals with disabilities eligible for VR services, as well as PSCs incurred for the provision of special education and related services under individualized education programs (IEPs) for children and youth with disabilities and early intervention services under individualized family service plans (IFSPs) for infants and toddlers with disabilities and their families;
- C. Any other PSCs, not described specifically above, that do not exceed a total cost of \$5,000 per individual participant or trainee per conference training or event; and
- D. All PSCs incurred by local educational agencies (LEAs) under IDEA Part B given that the SEA has general supervision responsibilities under IDEA and the OMB Uniform Guidance to review such costs, including the requirement to ensure that all costs “[b]e necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.”³ SEAs are responsible for reviewing prior approval requests for their subgrantees (LEAs) for other areas, such as the use of funds for equipment. Given that SEAs often host or encourage LEA personnel to attend conferences as part of professional development, SEAs can similarly ensure that the use of IDEA funds by its LEAs for PSCs are for allowable purposes and conduct appropriate reviews.

As discussed in FAQ 25, OSEP reserves the right to review through its monitoring or audit processes, as determined appropriate, PSCs and equipment costs to ensure compliance with applicable Federal requirements. This may include reviewing policies of, and monitoring by, grantees for subgrantee/subrecipient compliance with Federal requirements.

³ As the grantee, SEAs must monitor LEAs to ensure compliance with applicable Federal requirements. See, IDEA provisions in 20 U.S.C. 1412(a)(11) and 34 C.F.R. § 300.149; and OMB Uniform Guidance provisions in 2 C.F.R. §§ 200.328(a) and 200.403(a). See also 2 C.F.R. § 200.331(d).

7. Will grantees still have to submit prior approval requests for PSCs?

OSEP and RSA formula grantees will not have to submit prior approval requests for the PSCs expenditures identified above. Through this letter and FAQs, OSERS is granting prior approval for these expenditures, thereby eliminating the need for grantees to submit requests for these particular expenditures from now on.

8. What if a grantee needs to incur PSCs that fall outside the scope of OSERS' prior approval?

If OSEP and RSA formula grantees need to incur PSCs that fall outside the scope of this prior approval, they will need to submit detailed requests for prior approval to OSEP or RSA, as applicable, as they have in the past.

9. Is OSERS granting prior approval for OSEP grantees who need to make budget revisions to transfer funds budgeted for PSCs?

Yes. In addition to the prior approval described above related to PSCs, which is applicable to both OSEP and RSA formula grantees, OSERS is granting prior approval under 2 C.F.R. § 200.308(b) to OSEP grantees, meaning that these IDEA Parts B and C grantees no longer have to submit prior approval requests for budget revisions for the transfer of funds [budgeted](#) for [PSCs](#) if an OSEP grantee wishes to no longer charge PSCs to their Federal award after the initial approval (as required by 2 C.F.R. § 200.308(c)(v)). This prior approval is applicable only to OSEP's formula grantees under IDEA Parts B and C.

Equipment — General Requirements

10. What is equipment?

“Equipment” is defined in the OMB Uniform Guidance in 2 C.F.R. § 200.33 as an article of tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.

“General purpose equipment” is defined in 2 C.F.R. § 200.48 as equipment which is not limited to research, medical, scientific or other technical activities. Examples include information technology hardware and software, office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles.

“Special purpose equipment” means equipment that is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers.

These OMB Uniform Guidance definitions apply to the OSEP and RSA programs referenced in FAQ 2. Capital expenditures for general purpose equipment are unallowable except with the

prior written approval of the Federal awarding agency or pass-through entity, and capital expenditures for special purpose equipment with a unit cost of \$5,000 or more are unallowable except with the prior written approval of the Federal awarding agency or pass-through entity (2 C.F.R. § 200.439(b)).

11. Why is OSERS treating prior approval differently for OSEP and RSA formula grantees?

Due to the different statutory requirements of both IDEA and the Rehabilitation Act, as well as the varied types of equipment purchased by grantees under each of OSERS' formula grant programs, OSERS has determined it necessary to address prior approval for equipment separately for OSEP and RSA formula grant programs. Having said this, the prior approval granted herein is consistent for all of OSERS' formula grantees.

OSEP — Prior Approval for Equipment under IDEA

12. Does the IDEA define “equipment” beyond the definition in the OMB Uniform Guidance?

Yes. Under IDEA Parts B and C, in 20 U.S.C. 1404(a) and corresponding implementing regulations in 34 C.F.R. §§ 300.718(a) and 303.104(a) —

If the Secretary determines that a program authorized under this chapter will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

Under IDEA in 20 U.S.C. 1401(7) and the implementing Part B regulations in 34 C.F.R. § 300.14, the term “equipment” also is defined to include —

- (a.) Machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and
- (b.) All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

13. May SEAs continue to review the prior approval requests for LEAs under Part B of the IDEA?

For the IDEA Part B program, SEAs have reviewed prior approval requests from LEAs regarding the use of IDEA Part B funds. Under the OMB Uniform Guidance in 2 C.F.R. § 200.439(b) (1)–(3), SEAs continue to have the authority, as the pass-through entity, to review and approve LEA requests to use IDEA Part B funds for the purchase of equipment, using the same criteria described in FAQ 12.

14. What prior approval is OSERS granting to OSEP formula grantees related to equipment expenditures?

Consistent with the OMB Uniform Guidance, OSERS and OSEP are granting prior approval for equipment (as defined above) that is to be charged to Federal IDEA Part B and C funds for the delivery of services to eligible children with disabilities to ensure the timely delivery of those services. This means that grantees no longer must submit prior approval requests to OSEP for equipment (defined generally as \$5,000 or more per item of equipment) that is to be charged to IDEA funds and which is identified on, or directly related to the implementation of, either IEPs for children and youth with disabilities or IFSPs for infants and toddlers with disabilities and their families. This includes services such as assistive technology devices listed on the IEP or IFSP as well as equipment needed to provide IEP or IFSP services.

15. Will OSEP grantees still need to submit prior approval requests for equipment?

No, as long as the equipment expenditures fall within the scope of this prior approval. However, if a grantee must purchase equipment that goes beyond the scope of this prior approval, then the grantee must submit a detailed prior approval request to OSEP as it has done in the past.

RSA — Tri-Level Prior Approval Process for Equipment Expenditures

16. Does the Rehabilitation Act define “equipment” beyond the definition in the OMB Uniform Guidance?

No. The OMB Uniform Guidance definition of equipment (including the threshold amount of \$5,000) applies to grants administered by RSA; the IDEA definition of equipment is not applicable to RSA’s formula grants.

17. Why is OSERS developing a tri-level prior approval approach for equipment expenditures incurred by RSA formula grantees?

Given the varied nature of equipment purchases under the RSA formula grant programs identified in these FAQs, OSERS has determined it necessary to establish a tri-level prior approval process. In so doing, OSERS believes this approach strikes the necessary balance between flexibility needed by the States to ensure grantees can purchase equipment that is necessary to satisfy requirements under the Rehabilitation Act, while also ensuring accountability for those equipment expenditures that pose higher risks to the Federal interest.

18. Is OSERS granting prior approval for equipment expenditures to RSA formula grantees?

Yes. The first level, of OSERS’ tri-level approach, grants prior approval for certain equipment expenditures. See FAQ 19 for more detailed information.

19. What prior approval is OSERS granting to RSA formula grantees for equipment expenditures?

Consistent with the OMB Uniform Guidance, OSERS and RSA are approving equipment purchases under the VR program that are necessary for eligible individuals with disabilities to achieve employment outcomes, thereby ensuring the timely delivery of those services. This means that VR program grantees no longer must submit prior approval requests to RSA for equipment (defined generally as \$5,000 or more per item of equipment) that is to be charged to the VR program for delivery of services to eligible individuals with disabilities provided under IPEs (e.g., rehabilitation technology, or home or vehicle modifications).

20. Does this mean that the above-described prior approval for equipment is limited to the VR program?

Yes. The reason for the OSERS prior approval, with respect to these equipment expenditures, is that section 103(a) of the Rehabilitation Act requires the VR agencies to provide any VR service identified on an eligible individual's IPE that is necessary for him or her to achieve an employment outcome. These services could include the purchase of equipment. Because of this statutory mandate and the lack of audit and monitoring findings of non-compliance with respect to the allowability and allocability of these expenditures, OSERS has determined that, in this limited circumstance, granting prior approval is necessary to ensure the timely delivery of services to eligible individuals. There is no similar statutory mandate to purchase equipment under the other RSA-administered formula grant programs.

21. What do RSA formula grantees need to do regarding other general purpose equipment that is not purchased under the VR program in accordance with an eligible individual's IPE?

As the second level of its tri-level process, OSERS has established a streamlined submission process for all prior approval requests to be used by RSA formula grantees administering the VR, Supported Employment, CAP, PAIR, and OIB programs when they need to purchase general purpose equipment (other than that just described above). Using the streamlined approach, RSA formula grantees may request prior approval in the aggregate⁴ based on reasonable budget

⁴ For purposes of submitting an aggregate prior approval request for Business Enterprise Program (BEP), or Randolph-Sheppard program vending facility equipment, the State VR agency may include in its projected aggregate estimate for a FFY the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired plus delivery charges for the equipment itself. However, the aggregate request should not include costs related to the renovation or alteration of facilities in connection with the installation of BEP equipment approved as a result of the agency's budgeted prior approval request for the acquisition of that equipment. Costs associated with the renovation or alteration of facility space, whether in connection with the installation of the vending equipment or the acquisition of the vending facility itself, may be allowable but must be submitted in separate prior approval requests that are based on contract bids or other methods that project the actual proposed costs so their allowability may be assessed separately.

estimates (i.e., projections of obligations and expenditures) for an entire FFY, rather than submitting separate prior approval requests for each proposed expenditure. Budget estimates in the aggregate must be based on reliable cost estimates (e.g., recent general -purpose equipment purchases, prior FFY emergency equipment costs, current bids, or reasonable cost research) expected to be incurred in a given FFY. While an agency must submit these aggregate prior approval requests, as applicable, for each program, they may include different types of equipment purchases in the same request.

22. Do RSA formula grantees ever have to submit detailed prior approval requests for equipment?

Yes. Due to the nature of the capital expenditures, namely the large dollar amounts involved and the potential risk to the Federal interest that the costs may not be allowable or allocable to the program charged, OSERS will continue to require grantees to submit itemized, project-specific prior approval requests to RSA that are based on contract bids or other actual cost estimates. For example, grantees must submit itemized, project-specific prior approval requests for equipment purchases for:

- the establishment, development, or improvement of a facility for a public or nonprofit community rehabilitation program (CRP) at 34 C.F.R. § 361.5(c)(17);
- the construction of a facility for a public or nonprofit CRP at 34 C.F.R. § 361.5(c)(10);
- the construction or renovation/alteration of a State facility or American Job Center for purposes allocable to the VR program; and
- the renovation or alteration of facilities in connection with the acquisition of a BEP vending facility or the installation of BEP equipment in accordance with section 103(b)(1) of the Rehabilitation Act.

23. Must RSA grantees submit prior approval requests if non-Federal funds will be used to pay for the equipment that is not purchased under the VR program in accordance with an eligible individual’s IPE?

Yes. With respect to the VR, Supported Employment, and OIB programs, which have a non-Federal share requirement, grantees must submit prior approval requests, if required by this letter and accompanying FAQs — whether in the aggregate or for specific projects — even if the grantee plans to use only non-Federal funds to pay for the costs. The OMB Uniform Guidance at 2 C.F.R. § 200.407 refers to costs under a “Federal award,” which would include both Federal and non-Federal expenditures incurred under the program.

OSEP and RSA – Other related questions

24. When OSEP or RSA approve an expenditure, does this mean the cost is allowable and allocable?

No. When OSEP and RSA grant prior approval, they do so based on the information provided by the grantee. Neither OSEP nor RSA can be responsible for knowing the underlying facts of the expenditure. Therefore, grantees remain responsible for ensuring that all expenditures from

Department-funded grants, even those for which prior approval has been granted, are allowable and allocable to the grant program in accordance with the OMB Uniform Guidance and program requirements (2 C.F.R. §§ 200.403 through 200.405) and such costs may be reviewed by State auditors. This means that grantees must determine that such direct costs are reasonable and necessary under the Federal award and must maintain appropriate documentation for such costs. Additionally, grantees must ensure such expenditures are in accordance with State and agency policies and procedures, as applicable.

25. What overall (or general) responsibilities do SEAs or other pass-through entities have?

SEAs or other pass-through entities retain the responsibility to monitor and ensure that the expenditure of program funds, including expenditures made on the basis of the prior approvals described in these FAQs, meet the requirements of program statutes and regulations, and the requirements set out in Subpart E of 2 C.F.R. Part 200 with regard to expenditures being reasonable, necessary, allowable, and properly documented.

26. Will OSEP and RSA monitor PSCs and equipment expenditures for which prior approval has been granted?

Yes. OSEP and RSA may review through their monitoring or audit processes, as determined appropriate, State policies, procedures, and monitoring of the review of PSCs and equipment costs to ensure grantee compliance with applicable Federal requirements.