

## **PRIOR WRITTEN APPROVAL REQUESTS**

### **For Administrative Use**

#### **Purpose:**

Federal regulation 2 CFR 200 requires the Division of Vocational Rehabilitation (DVR) obtain federal agency prior approval for certain cost categories and is intended to prevent unallowable expenditures before they occur and to avoid subsequent disallowances/loss of federal funds.

Prior approval requirement is applicable to:

- Vocational Rehabilitation (VR)
- Business Enterprise Program (BEP)
- Older Individuals who are Blind (OIB)
- Independent Living (IL)
- Supported Employment (SE)
- Social Security Reimbursement Funds (Program Income)

**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 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.**

The following is derived from the list in 2 CFR 200.407 that is applicable to the VR agency for all Federal awards received by the Department of Education:

- **2 CFR 200.306(c) - cost sharing or matching**, *“Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of the cost sharing or matching only with the prior approval of the Federal awarding agency.”*
  - If the VR agency wants to count indirect costs as part of their match for any of their Federal awards that require match (VR, SE and OIB), they must obtain prior approval from the Rehabilitation Services Administration (RSA).

- **2 CFR 200.311(c) – Real property**, *“Disposition. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity.”* Real property is defined in 2 CFR 200.85 as, *“land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.”*
  - If the VR agency has property that was purchased with Federal funds or renovated with Federal funds, this regulation is applicable. Disposition instructions must be approved when/if the property is no longer needed.
- **2 CFR 200.313(a)(2) – Equipment**, the non-Federal entity may *“Not encumber the property without approval of the Federal awarding agency or pass-through entity.”* Equipment is defined in 2 CFR 200.33 as *“Equipment means 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.”*
  - The acquisition threshold for the State of North Dakota is the same as the federal level of \$5,000 and is per item.
- Services on an Individualized Plan for Employment (IPE) are exempt from this requirement. **2 CFR 200.430(i)(5) – Compensation Personnel services, (substitute time systems)**, *“For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost.”*
  - If the VR agency is not using a system to account for personnel time in accordance with 2 CFR 200.430(i)(1), they must receive prior approval. VR utilizes the Workforce system so prior approval is not required.
- **2 CFR 200.431(i)(2)(ii) – Compensation Personnel services, fringe, (severance payments)**, *“(1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-Federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part, or (d) circumstances of the particular employment.*
  - VR Federal funds cannot contribute directly to buyouts or severance payments. Consult with RSA on the specifics.

- **2 CFR 200.438 – Entertainment costs**, “Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.”

- **2 CFR 200.439(b) – Equipment and Other Capital Expenditures**,

“The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment... (This is not applicable as VR agencies do not utilize special purpose equipment as defined in 2 CFR 200.89).

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See §200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also §200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

(7) Equipment and other capital expenditures are unallowable as indirect costs. See §200.436 Depreciation.”

Capital assets are defined in 2 CFR 200.12 and Capital expenditures are the expenditures related to capital assets. 2 CFR 200.12 states,

*“Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:*

*(a) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and*

*(b) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).”*

- If the VR agency purchases land or facilities this requires prior approval if the cost is over \$5,000 or the State level, whichever is lower.
- If the VR agency pays for any additions, improvements or modifications to property or equipment and it increases the value or useful life it would require prior approval, if the cost is over \$5,000 or the State level, whichever is lower.
- **2 CFR 200.441 – Fines, penalties, damages, and other settlements**, *“Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency. See also §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.”*
- **2 CFR 200.445(b) – Goods or services for personal use**, *“Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.”*
  - This includes relocation expenses for new hires.
- **2 CFR 200.454(c) – Memberships, subscriptions, and professional activity costs**, *“Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.”*
  - This would not be applicable to the Council of State Administrators of Vocational Rehabilitation (CSAVR) or other similar organizations that fall within the definition of 2 CFR 200.454(a) and (b).
- **2 CFR 200.455 – Organization costs**, *“Costs such as incorporation fees, brokers’ fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization of an*

*organization, are unallowable except with prior approval of the Federal awarding agency.”*

- If the VR agency wanted to work on reorganizing their agency or restructuring the agency and hired an attorney, consultant or accountant, this would require prior approval.
- **2 CFR 200.456 – Participant Support costs**, *“Participant support costs as defined in §200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.”* Participant support costs are defined in 2 CFR 200.75 as, *“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.”*
  - The key point is this is not required for VR agency staff. Exemption provided for all SRC member activities. For all other participant support costs, prior approval is required if the amount is equal to or greater than \$5,000 per individual per event. This is per RSA FAQ October 29, 2019.
  - All participant support costs must be consistent with State agency travel policies. VR agencies need to ensure proposed costs are within State policy regarding travel costs and reimbursements.
- **2 CFR 200.462(a) – Rearrangement and reconversion costs**, *“Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.”*
  - Costs incurred for ordinary and normal rearrangement and alterations of facilities are allowable as indirect costs. If an agency wants to pay for these expenditures (which could include things like rearrangement of cubicle walls) the costs are allowable as direct costs, with prior approval from the Federal awarding agency.
- **2 CFR 200.467 – Selling and Marketing costs**, *“Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under §200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.”*
- **2 CFR 200.474(a) – Travel costs**, *“General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.”*
  - General costs of government are defined in 2 CFR 200.444. In general, RSA would not approve these costs as they are costs not associated with the VR

agency or the provision of such services but costs that should be covered by the State.

Authority: 2 CFR 200.306(c) / 2 CFR 200.311(c) / 2 CFR 200.313(a)(2) / 2 CFR 200.430(i)(5) / 2 CFR 200.431(i)(2)(ii) / 2 CFR 200.438 / 2 CFR 200.439(b) / 2 CFR 200.441 / 2 CFR 200.445(b) / 2 CFR 200.454(c) / 2 CFR 200.455 / 2 CFR 200.456 / 2 CFR 200.462(a) / 2 CFR 200.467 / 2 CFR 200.474(a)