UNITED STATES DEPARTMENT OF EDUCATION
Office of Special Education and Rehabilitative Services
Rehabilitation Services Administration

PRE-EMPLOYMENT TRANSITION SERVICES

Applicable Program:

- State Vocational Rehabilitation (VR) Services (ALN 84.126A)

Requirements:

A. Reservation and Expenditure of Funds

Section 110(d)(1) of the Rehabilitation Act of 1973 (Rehabilitation Act) requires States to reserve at least 15 percent of their Federal VR grant amount for the provision of pre-employment transition services to students with disabilities. This mandate for a State to reserve funds for the sole purpose of providing pre- employment transition services is reinforced at Section 113(a), which requires "from the funds reserved under section 110," the designated State unit for the VR program must provide, or arrange for the provision of, pre-employment transition services to students with disabilities.

B. Basis for the Amount to be Reserved and Expended

The State allotment, which forms the basis for the reservation and expenditure of these funds, refers to the Federal grant funds awarded pursuant to Section 110(a) of the Rehabilitation Act, as well as any Federal VR funds received during reallotment in accordance with Section 110(b) of the Rehabilitation Act. Section 110(b)(3) makes clear that funds received during reallotment are considered an increase to the State's allotment. Similarly, funds relinquished during reallotment are considered a reduction to the State's allotment. This means that the State— not RSA—must reserve and expend at least 15 percent of the State's total Federal VR allotment (taking into account additional funds received or funds relinquished during the reallotment process) for the provision of pre-employment transition services under Section 113. Therefore, States will not receive a separate grant award for the funds the State must reserve for the provision of pre-employment transition services.

For purposes of determining compliance with the percentage of funds required to be reserved for pre-employment transition services, the State's allotment is the lesser of – 1) the amount of the net Federal fiscal year (FFY) VR award (at the end of the period of performance); or 2) the maximum amount of Federal VR funds matched. This means States must monitor expenditures throughout the period of performance of the VR grant award since the 15 percent reserve is not a fixed number and may fluctuate based on a

State's ability to match and expend its VR funds. States must satisfy the requirements of Section 110(d) and 113(a) of the Rehabilitation Act by the end of the period of performance for each VR grant award; in other words, the requirement need not be satisfied by the end of the FFY of appropriation for the grant award.

The reservation and expenditure of funds for the provision of pre-employment transition services is a State matter that must be resolved at the State level when there are two State agencies receiving VR funding. For this reason, RSA encourages agencies to coordinate to ensure State compliance. While it may be helpful for each VR agency, particularly when a State has two VR agencies, to reserve and expend at least 15 percent of its allotment to facilitate tracking of State compliance of the reservation requirement, there is no statutory requirement that this be done. If one agency (when a State has two VR agencies) uses more of its funds for the provision of pre-employment transition services than the other, the State would be in compliance so long as the State's total of funds reserved and expended for the provision of pre-employment transition services is at least 15 percent of the State's total VR allotment, including any additional funds received during reallotment by one or both agencies.

C. Allowable Uses of Reserved Funds

It is important to note that none of the funds reserved in accordance with Section 110(d) may be used to pay for administrative costs (Section 110(d)(2) of the Rehabilitation Act). Rather, States must use these funds solely for the provision of pre-employment transition services described in Section 113 of the Rehabilitation Act. Section 113(b) describes the "required" pre-employment transition service activities that must be made available statewide and provided to students with disabilities; they may be provided individually or in group settings and must comply with applicable requirements if the VR agency is implementing an order of selection. Section 113(c) describes the "authorized" activities that the State may provide if reserved funds remain after students with disabilities have received the "required" activities; these "authorized" activities are systemic in nature. Furthermore, each local office of the VR agency must carry out certain "coordination" activities, as described in Section 113(d) of the Rehabilitation Act, related to the provision of pre-employment transition services; these "coordination" activities are typically not direct services to the student but rather the VR agency acting on behalf of the student.

In addition, State VR agencies also may use funds reserved pursuant to Section 110(d)(1) of the Rehabilitation Act to pay for –

- Auxiliary aids and services needed by any student with a disability who needs such services to benefit from the receipt of pre-employment transition services; and
- Other VR services needed by an eligible student with a disability who needs such other VR services to benefit from the receipt of pre-employment transition services in accordance with an Individualized Plan for Employment. See Notice of

Interpretation at 85 FR 11848 (Feb. 28, 2020).

It is important to note that only students with disabilities may receive pre-employment transition services under Section 113. A student with a disability is defined at Section 7(37) of the Rehabilitation Act as a student who is: (1) generally between 14 and 21 years old (or the age in the State for the receipt of transition and related services under the Individuals with Disabilities Act (IDEA) or younger if the State VR agency(ies) agree(s) to a younger age); and (2) is eligible for and receiving special education and related services under IDEA or is an individual with a disability for purposes of Section 504 of the Rehabilitation Act.

D. Match

All Federal VR funds drawn down for use, including the amount reserved for the provision of pre-employment transition services, must be matched in an amount equivalent to at least 21.3 percent of the total amount expended under the VR program (e.g., both Federal and non-Federal shares). There is no requirement that non-Federal funds used for match purposes must be expended specifically for the provision of pre-employment transition services.

E. Carryover

Section 19(a)(1) of the Rehabilitation Act permits a State to carry over into the subsequent Federal fiscal year (FFY) any grant funds that remain available at the end of the FFY in which the funds were awarded so long as the State provided the requisite match for those funds by the end of the FFY in which the funds were awarded (year of appropriation). Funds reserved for the provision of pre-employment transition services represent a percentage of the State's VR allotment and therefore, these funds must comply with all requirements governing the allotment, including requirements related to carry over of funds. This means that unobligated funds reserved for the provision of pre-employment transition services that have been matched by the end of the fourth quarter (9/30) of the year of appropriation may be carried over for obligation and expenditure during the subsequent FFY.

F. Tracking and Reporting Expenditures

Because both Sections 110(d) and 113 of the Rehabilitation Act are clear that the State must reserve and expend at least 15 percent of its Federal VR grant award (State allotment) for a specific purpose (pre-employment transition services) that benefits a specific population (students with disabilities), it is critical that the VR agency implement administrative methods and procedures that ensure proper data collection, internal controls, and financial accountability of these reserved funds, as required by 34 C.F.R. § 361.12, and 2 C.F.R. §§ 200.302 and 200.303, thereby ensuring that the State spends these reserved funds solely on the provision of pre-employment transition services and not on any other VR service. Moreover, the State's internal controls must be such that the VR

agency is able to accurately complete all required forms, including financial reports, that show the reservation and use of these funds for this purpose, as required by 2 C.F.R. § 200.302.

This requires that VR agencies track and report all Federal expenditures for pre-employment transition services even if that amount exceeds the 15 percent minimum. Failure to reserve at least 15 percent of the State's allotment and expend those reserved funds solely for the provision of pre-employment transition services could result in RSA taking enforcement action against the State pursuant to 34 C.F.R. Part 81.

Because of the restriction against charging administrative costs to funds reserved for the provision of pre-employment transition services to students with disabilities, VR staff time spent providing pre-employment transition services must be positively reported. Positive time reporting requires employees to submit reports documenting the time they spent on the direct provision of the five required activities, as well as authorized and coordination activities, as applicable. The use of time estimates, random sampling, etc., do not provide the internal controls necessary to ensure that administrative or other costs, not assignable to the funds reserved for pre-employment transition services, are being excluded. Therefore, the only manner to ensure funds reserved for pre-employment transition services are not spent for unallowable purposes, including other VR services, is through the positive reporting of actual time staff spend on the provision of pre-employment transition services, in accordance with Uniform Guidance provisions at 2 C.F.R. § 200.430(g).

When using a fee-for-service arrangement for the provision of pre-employment transition services, the VR agency must ensure the rate includes only allowable pre-employment transition service activities (34 C.F.R. § 361.48(a)).