

RSA Frequently-Asked Questions about Pre-Employment Transition Services (4.13.2016)

1. How must a State calculate the amount it must reserve for the provision of pre-employment transition services?

Section 110(d)(1) of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by the Workforce Innovation and Opportunity Act (WIOA), requires a State to reserve at least 15 percent of its State allotment, under the State Vocational Rehabilitation (VR) Services grant (CFDA 84.126A), for the provision of pre-employment transition services to students with disabilities under section 113 of the Rehabilitation Act. The mandate for a State to reserve funds for the sole purpose of providing, or arranging for the provision of, pre-employment transition services is reinforced at section 113(a):

SEC. 113. PROVISION OF PRE-EMPLOYMENT TRANSITION SERVICES.

(a) IN GENERAL. – From the funds reserved under section 110(d), and any funds made available from State, local, or private funding sources, each State shall ensure that the designated State unit, in collaboration with the local educational agencies involved, shall provide, or arrange for the provision of, pre-employment transition services for all students with disabilities in need of such services who are eligible or potentially eligible for services under this title.

The State allotment, which forms the basis for the reservation of funds requirement, refers to the Federal VR funds awarded pursuant to section 110(a) of the Rehabilitation Act. Section 110(b)(3) of the Rehabilitation Act makes clear that funds received during reallocation are considered an increase to the State's allotment. Consequently, receiving additional funds during reallocation will mean that the State will need to calculate a proportionate increase to the amount of funds it must reserve for the provision of pre-employment transition services. Similarly, funds relinquished during reallocation are considered a reduction to the State's allotment. Relinquishing funds during reallocation will mean that the State may calculate a proportionate decrease to the amount of funds it must reserve for the provision of pre-employment transition services.

In calculating the 15 percent minimum amount to be reserved, States must base the percentage on the total amount allotted to the State in the fiscal year. In other words, a State should use the amount listed on the State's Grant Award Notification (GAN) as the basis for ensuring that it has reserved at least 15 percent of that amount for the provision of pre-employment transition services. A State may choose to adjust its calculations with each GAN it receives during the fiscal year of appropriation, taking into account adjustments made throughout the fiscal year for continuing resolutions, allotment fund increases or decreases through the reallocation process, and penalties applied to resolve maintenance of effort deficits, for this purpose.

Following are examples of how a State may calculate the amount to be reserved for the provision of pre-employment transition services.

Example 1: A State receives only one GAN for the fiscal year for \$1 million. The State must reserve at least 15 percent of that amount, or \$150,000, for the provision of pre–employment transition services.

Example 2: A State receives two GANs – one at the beginning of the fiscal year for \$1 million and a second during the reallocation process for an additional \$1 million. The State must reserve 15 percent (\$300,000) of the total funds allotted (\$2 million) during that fiscal year. This means the amount to be reserved was adjusted upwards to account for the additional funds received during reallocation.

Example 3: The State receives a GAN for \$1 million, but relinquishes \$100,000 for reallocation to other States later in the year. At that time, the State receives a second GAN showing a total allotment for the year of \$900,000. This means that the State must reserve at least 15 percent of the \$900,000 in VR funds it received that year (\$135,000). In other words, the amount to be reserved was adjusted downward from the amount that would have been based on the initial allotment of \$1 million to take into account the amount of funds relinquished during the reallocation process.

Example 4: A State receives only one GAN for \$1 million. However, at the end of the year of the appropriation, the State left \$500,000 in its account, unexpended. The State did not relinquish these funds during the reallocation period in the year of appropriation. In this case, the GAN in the year of appropriation still reflects an allotment of \$1 million. The State must reserve the full 15 percent, or \$150,000, based on the total allotment to the State in the year of appropriation – not the amount of funds actually used.

2. Can a State relinquish funds during reallocation and have the returned funds reduce the pre–employment transition service requirement dollar for dollar?

No. The impact of relinquished funds is proportional (see FAQ 1 above). In accordance with section 110(d)(1), a State must reserve at least 15 percent of its State allotment, under the VR grant, for the provision of pre–employment transition services under section 113 of the Rehabilitation Act. Funds relinquished in the year of appropriation only reduce the amount of the State’s allotment upon which the reserved amount is based.

3. How must a VR agency account for the Federal VR funds it reserves for the provision of pre–employment transition services to students with disabilities?

Because both sections 110(d) and 113 of the Rehabilitation Act are clear that the State must reserve and use at least 15 percent of its total VR allotment for a specific purpose (pre–employment transition services) that benefits a specific population (students with disabilities), it will be critical that the designated State unit implement administrative methods and procedures that ensure proper data collection and financial accountability of these reserved funds, as required by 34 CFR 361.12. Moreover, the State’s accounting procedures must be such that the designated State unit will be 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 CFR 200.302.

In order to track and account for the proper expenditure of funds for the provision of pre–employment transition services, it may be helpful for agencies to consider those services as a cost objective. The Uniform Guidance at 2 CFR 200.28 defines a cost objective as:

a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non–Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity.

4. Does RSA have to approve the methodology VR agencies use to allocate costs to the funds reserved for the provision of pre–employment transition services?

No. Federal regulations at 34 CFR 361.12 and 2 CFR 200.302 require each agency to implement processes necessary to ensure the proper accounting and reporting of expenditures, including expenditures incurred with funds reserved for the provision of pre–employment transition services in order to ensure the funds spent were only for allowable and allocable purposes. As is true with all VR expenditures, cost allocation methodologies are reviewed during RSA’s routine monitoring and review activities.

5. Can VR agencies use estimates of the amount of time they believe VR counselors will spend providing pre–employment transition services to students with disabilities as a basis for allocating expenditures to the reserved funds?

While an agency may choose to use interim estimates of anticipated staff time that will be spent providing pre–employment transition services to budget anticipated personnel time and expenditures allocated to the reserved funds, the estimates must be based upon a realistic assessment of the anticipated personnel effort, as would be true for budgeting any expenditure of VR funds. Additionally, in order to ensure the proper accounting and reporting of Federal VR funds, as required by 34 CFR 361.12 and the Uniform Guidance at 2 CFR 200.302, such interim estimates must be reconciled against the actual time personnel spent providing pre–employment transition services during the same period, after the time was worked. As would be true for the proper accounting and reporting of any VR expenditure, adjustments to the actual expenditures must be made if discrepancies are identified as a result of the reconciliation between the amount estimated (or budgeted) and the amount actually expended. In so doing, the VR agency ensures that only actual personnel effort for the provision of pre–employment transition services is counted toward the funds reserved for this purpose. As a reminder, 34 CFR 75.707 states that personnel services by employees of a grantee are considered obligated when the services are performed. Therefore, these employee costs are not considered obligated when they are budgeted.

6. Can a VR agency assign personnel to provide pre–employment transition services to students with disabilities as a single cost objective, thereby allocating 100 percent of the employee’s salary and fringe benefits to the funds reserved for the provision of pre–employment transition services?

If the agency can document that the staff member is providing only services identified as pre–employment transition services to students with disabilities, then 100 percent of the employee’s salary and fringe benefits may be allocated to the funds reserved for the provision of pre–employment transition services. Such cost allocation of personnel time is no different than is required of a VR agency when personnel work on one or more cost objectives.

When considering whether the staff is only providing pre–employment transition services to students with disabilities, it is important to consider that a student receiving pre–employment transition services may also be receiving other VR services (other than pre–employment transition services) and, therefore, would be under a different cost objective and such costs would not be permissible with the funds reserved for the provision of pre–employment transition services. Pre–employment transition services required and/or authorized under section 113 include:

(b) REQUIRED ACTIVITIES.—Funds available under subsection (a) shall be used to make available to students with disabilities described in subsection (a)—

(1) job exploration counseling;

(2) work–based learning experiences, which may include in–school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment to the maximum extent possible;

(3) counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

(4) workplace readiness training to develop social skills and independent living; and

(5) instruction in self–advocacy, which may include peer mentoring.

(c) AUTHORIZED ACTIVITIES.—Funds available under subsection (a) and remaining after the provision of the required activities described in subsection (b) may be used to improve the transition of students with disabilities described in subsection (a) from school to postsecondary education or an employment outcome by—

(1) implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

(2) developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently, participate in postsecondary education experiences, and obtain and retain competitive integrated employment;

- (3) providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;
- (4) disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;
- (5) coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);
- (6) applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;
- (7) developing model transition demonstration projects;
- (8) establishing or supporting multistate or regional partnerships involving States, local educational agencies, designated State units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and
- (9) disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved populations.

A VR agency must be sure to distinguish between service costs versus administrative costs since administrative expenditures are not permissible with funds reserved for the provision of pre-employment transition services (section 110(d)(2)). A VR agency must refer to the definition of “administrative costs” in 34 CFR 361.5(b)(2) to determine which personnel-related and other expenditures would not be permissible with the reserved funds because they constitute “administrative costs.”

7. Can a State expend more than 15 percent of its VR Federal funds for the provision of pre-employment transition services to students with disabilities?

Yes. Section 110(d)(1) of the Rehabilitation Act requires a State to reserve “at least” 15 percent of its VR allotment for the provision of pre-employment transition services. The statute makes clear that 15 percent is a minimum, not a maximum, amount.

8. Can funds reserved for the provision of pre-employment transition services be carried over for obligation or liquidation in the subsequent Federal fiscal year?

Yes. Section 19(a)(1) of the Rehabilitation Act permits a State to carry over into the subsequent Federal fiscal year any grant funds that remain available at the end of the Federal fiscal year in which the funds were awarded so long as the State provided the requisite match for those funds by the end of the Federal fiscal year in which the funds were awarded (year of appropriation). Funds reserved for the provision of pre-employment transition services merely 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 carryover 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 fiscal year.

9. What are the potential consequences of a State not reserving and using the requisite amount of funds for the provision of pre–employment transition services?

Section 110(d)(1) of the Rehabilitation Act requires a State to reserve at least 15 percent of its allotment for the provision of pre–employment transition services. Section 113 of the Rehabilitation Act requires the State to use those reserved funds to provide, or arrange for the provision of, pre–employment transition services to students with disabilities. Therefore, the statute makes clear that the reservation and use of VR funds for this purpose is mandatory, not discretionary, for States. Section 107(a)(1) requires the Commissioner of RSA to conduct annual reviews and periodic on–site monitoring of the VR program. Section 107(a)(4)(B) requires the Commissioner to examine, among other things, the provision of VR services, including the provision of pre–employment transition services, when conducting reviews or monitoring. Section 107(b) and (c) specify the remedies available to the Commissioner if a State fails to satisfy Federal requirements governing the VR program, including requirements related to pre–employment transition services. In this manner, compliance with requirements governing pre–employment transition services is the same as it is for any VR program requirement. States that fail to meet the 15 percent reserve requirement may also face potential consequences resulting from audit findings stemming from Inspector General, State, or Single Audits.

10. How is the reservation requirement impacted when there are two VR agencies (General and Blind)?

The reservation 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 agencies. For this reason, RSA encourages agencies to coordinate to ensure State compliance. While RSA recommends that each designated State unit, particularly when a State has two designated State units, reserve 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 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 allotment, including any adjustments that impact the amount of the Federal award to one or both agencies.