

Off. of Spec. Educ. and Rehab. Services, Education

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(4) The Tribal Vocational Rehabilitation unit must release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to an order issued by a judge, magistrate, or other authorized judicial officer.

(5) The Tribal Vocational Rehabilitation unit also may release personal information in order to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

(Authority: Sections 12(c) and 121(b)(1) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 741(b)(1))

§ 371.45 What notice must be given about the Client Assistance Program (CAP)?

The Tribal Vocational Rehabilitation unit shall use formats that are accessible to notify individuals seeking or receiving services under this part, or as appropriate, the parents, family members, guardians, advocates, or authorized representatives of those individuals, about—

- (a) The availability of CAP authorized by section 112 of the Act;
- (b) The purposes of the services provided under the CAP; and
- (c) How to contact the CAP.

(Authority: Section 20 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 717)

PART 373—REHABILITATION NATIONAL ACTIVITIES PROGRAM

Subpart A—General

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(Authority: Section 303(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 773(b); Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

(SOURCE: 81 FR 55607, Aug. 19, 2016, unless otherwise noted.

Subpart A—General

§ 373.1 What is the purpose of the Rehabilitation National Activities program?

The purpose of this program is to provide competitive grants, including cooperative agreements, to, or enter into contracts with, eligible entities to expand and improve the provision of vocational rehabilitation and other services authorized under the Rehabilitation Act of 1973, as amended (Act), or to further the purposes and policies in sections 2(b) and (c) of the Act by supporting activities that increase the provision, extent, availability, scope, and quality of rehabilitation services under the Act, including related research and evaluation activities.

(Authority: Sections 2(b) and (c), 7(40), 12(c), and 303(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 701(b) and (c), 705(40), 709(c), and 773(b))

§ 373.2 Who is eligible for assistance?

- (a) The following types of organizations are eligible for assistance under this program:
 - (1) State vocational rehabilitation agencies.
 - (2) Community rehabilitation programs.
 - (3) Indian tribes or tribal organizations.
 - (4) Other public or nonprofit agencies or organizations, including institutions of higher education.

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(5) For-profit organizations, if the Secretary considers them to be appropriate.

(6) Consortia that meet the requirements of 34 CFR 75.128 and 75.129.

(7) Other organizations identified by the Secretary and published in the FEDERAL REGISTER.

(b) In competitions held under this program, the Secretary may limit competitions to one or more types of these organizations.

(Authority: Sections 12(c) and 303(b)(2) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b)(2))

§ 373.3 What regulations apply?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 75 (Direct Grant Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 35 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(8) 34 CFR part 97 (Protection of Human Subjects).

(9) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(10) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 373.

(c) The regulations in 48 CFR part 31 (Contracts Cost Principles and Procedures).

(d)(1) 2 CFR part 180 (Nonprocurement Debarment and Suspension), as adopted at 2 CFR part 3485; and

(2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted at 2 CFR part 3474.

(Authority: Sections 12(c) and 303(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b))

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§ 373.4 What definitions apply?

The following definitions apply to this part:

Act means the Rehabilitation Act of 1973, as amended.

(Authority: 29 U.S.C. 701 *et seq.*)

Competitive integrated employment is defined in 34 CFR 361.5(c)(9).

(Authority: Section 7(5) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(5))

Early intervention means a service delivery or model demonstration program for adults with disabilities designed to begin the rehabilitation services as soon as possible after the onset or identification of actually or potentially disabling conditions. The populations served may include, but are not limited to, the following:

(1) Individuals with chronic and progressive diseases that may become more disabling, such as multiple sclerosis, progressive visual disabilities, or HIV.

(2) Individuals in the acute stages of injury or illness, including, but not limited to, diabetes, traumatic brain injury, stroke, burns, or amputation.

(3) Individuals receiving an employer's short-term or long-term disability insurance benefits.

(Authority: Sections 12(c) and 303(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b))

Employment outcome is defined in 34 CFR 361.5.

(Authority: Section 7(11) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(11))

Individual with a disability is defined as follows:

(1) For an individual who will receive rehabilitation services under this part, an individual with a disability means an individual—

(i) Who has a physical or mental impairment which, for that individual, constitutes or results in a substantial impediment to employment; and

(ii) Who can benefit in terms of an employment outcome from vocational rehabilitation services.

(2) For all other purposes of this part, an individual with a disability means an individual—

(i) Who has a physical or mental impairment that substantially limits one or more major life activities;

(ii) Who has a record of such an impairment; or

(iii) Who is regarded as having such an impairment.

(3) For purposes of paragraph (2) of this definition, projects that carry out services or activities pertaining to Title V of the Act must also meet the requirements for “an individual with a disability” in section 7(20)(c) through (e) of the Act, as applicable.

(Authority: Section 7(20) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20))

Individual with a significant disability means an individual—

(1) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, intellectual disability, respiratory or pulmonary dysfunction, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle-cell anemia, specific learning disabilities, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

Informed choice means the provision of activities whereby individuals with disabilities served by projects under this part have the opportunity to be active, full partners in the rehabilitation process, making meaningful and informed choices as follows:

(1) During assessments of eligibility and vocational rehabilitation needs.

(2) In the selection of employment outcomes, services needed to achieve the outcomes, entities providing these services, and the methods used to secure these services.

(Authority: Sections 2(c) and 12(c) of the Act 29 U.S.C. 701(c) and 709(c))

Rehabilitation services means services, including vocational, medical, social, and psychological rehabilitation services and other services under the Rehabilitation Act, provided to individuals with disabilities in performing functions necessary in preparing for, securing, retaining, or regaining an employment or independent living outcome.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

Substantial impediment to employment means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, and other related factors) hinders an individual from preparing for, entering into, engaging in, or retaining employment consistent with the individual’s abilities and capabilities.

(Authority: Section 7(20)(A) and 12(c) of the Act 29; U.S.C. 705(20)(A) and 709(c))

Supported employment is defined in 34 CFR 361.5(c)(53).

(Authority: Section 7(38) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(38))

Vocational Rehabilitation Services means services provided to an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. Vocational Rehabilitation Services for an individual with a disability may include—

(1) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) Counseling and guidance, including information and support services to

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assist an individual in exercising informed choice;

(3) Referral and other services to secure needed services from other agencies;

(4) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

(5) Vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials;

(6) Diagnosis and treatment of physical and mental impairments;

(7) Maintenance for additional costs incurred while the individual is receiving services;

(8) Transportation;

(9) On-the-job or other related personal assistance services;

(10) Interpreter and reader services;

(11) Rehabilitation teaching services, and orientation and mobility services;

(12) Occupational licenses, tools, equipment, and initial stocks and supplies;

(13) Technical assistance and other consultation services to conduct market analysis, develop business plans, and otherwise provide resources to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;

(15) Transition services for individuals with disabilities that facilitate the achievement of employment outcomes;

(16) Supported employment services;

(17) Services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome;

(18) Post-employment services necessary to assist an individual with a disability to retain, regain, or advance in employment; and

(19) Expansion of employment opportunities for individuals with disabilities, which includes, but is not limited to—

(i) Self-employment, business ownership, and entrepreneurship;

(ii) Non-traditional jobs, professional employment, and work settings;

(iii) Collaborating with employers, Economic Development Councils, and others in creating new jobs and career advancement options in local job markets through the use of job restructuring and other methods; and

(iv) Other services as identified by the Secretary and published in the FEDERAL REGISTER.

(Authority: Section 7(40) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(40))

Youth or Young adults with disabilities means individuals with disabilities who are between the ages of 14 and 24 inclusive when entering the program.

(Authority: Section 7(42) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(42))

(Authority: Sections 7(40), 12(c), and 103(a) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(40), 709(c) and 723(a))

[81 FR 55607, Aug. 19, 2016, as amended at 82 FR 31913, July 11, 2017]

§ 373.5 Who is eligible to receive services and to benefit from activities conducted by eligible entities?

(a)(1) For projects that provide rehabilitation services or activities to expand and improve the provision of rehabilitation services and other services authorized under Titles I, III, and VI of the Act, individuals are eligible who meet the definition in paragraph (a) of an “individual with a disability” as stated in § 373.4.

(2) For projects that provide independent living services or activities, individuals are eligible who meet the definition in paragraph (b) of an “individual with a disability” as stated in § 373.4.

(3) For projects that provide other services or activities that further the purposes of the Act, individuals are eligible who meet the definition in paragraph (b) of an “individual with a disability” as stated in § 373.4.

(b) By publishing a notice in the FEDERAL REGISTER, the Secretary may identify individuals determined to be eligible under one or more of the provisions in paragraph (a) of this section.

(Authority: Sections 12(c), 103(a), and 303(b) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 723(a), and 773(b))

§ 373.6 What types of projects may be funded?

The Secretary may fund the following types of projects under this program:

- (a) Special projects of service delivery.
- (b) Model demonstration.
- (c) Technical assistance.
- (d) Systems change.
- (e) Special studies, research, or evaluations.
- (f) Dissemination and utilization.

(Authority: Sections 12(c) and 303(b)(4) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b)(4))

§ 373.7 What are the priorities and other factors and requirements for competitions?

(a) In announcing competitions for grants and contracts, the Secretary gives priority consideration to—

(1) Initiatives focused on improving transition from education, including postsecondary education, to employment, particularly in competitive integrated employment, for youth who are individuals with significant disabilities.

(2) Supported employment, including community-based supported employment programs to meet the needs of individuals with the most significant disabilities or to provide technical assistance to States and community organizations to improve and expand the provision of supported employment services.

(3) Increasing competitive integrated employment for individuals with significant disabilities.

(b) In announcing competitions for grants and contracts, the Secretary may also identify one or more of the following as priorities—

(1) Expansion of employment opportunities for individuals with disabilities, as authorized in paragraph(s) of the definition of “vocational rehabilitation services” as stated in § 373.4.

(2) System change projects to promote meaningful access of individuals with disabilities to employment-related services under subtitle B of title I of the Workforce Innovation and Opportunity Act and under other Federal laws.

(3) Innovative methods of promoting achievement of high-quality employment outcomes.

(4) The demonstration of the effectiveness of early intervention activities in improving employment outcomes.

(5) Projects to find alternative methods of providing affordable transportation services to individuals with disabilities.

(6) Technical assistance to designated State units and their personnel in working with employers to identify competitive integrated employment opportunities and career exploration opportunities in order to facilitate the provision of vocational rehabilitation services and transition services for youth with disabilities and students with disabilities.

(7) Consultation, training and technical assistance to businesses that have hired or are interested in hiring individuals with disabilities.

(8) Technical assistance and training to designated State units and their personnel on establishment and maintenance of education and experience requirements, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities.

(9) Technical assistance to State vocational rehabilitation agencies or State vocational rehabilitation units to improve management practices that will improve the provision of vocational rehabilitation services and increase competitive employment outcomes for individuals with disabilities.

(10) Other projects that will expand and improve the provision, extent, availability, scope, and quality of rehabilitation and other services under the Act or that further the purpose and policy of the Act as stated in sections 2(b) and (c) of the Act.

(c) In announcing competitions of grants and contract the Secretary may limit the priorities listed in paragraphs (a) and (b) of this section to address one or more of the following factors:

- (1) Age ranges.
- (2) Types of disabilities.
- (3) Types of services.
- (4) Models of service delivery.

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(5) Stages of the vocational rehabilitation process;

(6) Unserved and underserved populations.

(7) Unserved and underserved geographical areas.

(8) Individuals with significant disabilities.

(9) Low-incidence disability populations.

(10) Individuals residing in federally designated Empowerment Zones and Enterprise Communities.

(d) The Secretary may require that an applicant certify that the project does not include building upon or expanding activities that have previously been conducted or funded, for that applicant or in that service area.

(e) The Secretary may require that the project widely disseminate the methods of vocational rehabilitation service delivery or model proven to be effective, so that they may be adapted, replicated, or purchased under fee-for-service arrangements by State vocational rehabilitation agencies and other disability organizations in the project's targeted service area or other locations.

(Authority: Sections 12(c), 101(a)(7)(B)(ii) and (11)(E), 103(b)(5), 108a, and 303(b)(5) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 721(a)(7)(B)(ii) and (11)(E), 723(b)(5), 728a, and 773(b)(5))

Subpart B—How Does the Secretary Make a Grant?

§ 373.10 What selection criteria does the Secretary use?

The Secretary publishes in the FEDERAL REGISTER or includes in the application package the selection criteria for each competition under this program. To evaluate the applications for new grants under this program, the Secretary may use the following:

(a) Selection criteria established under 34 CFR 75.209.

(b) Selection criteria in 34 CFR 75.210.

(c) Any combination of selection criteria from paragraphs (a) and (b) of this section.

(Authority: Sections 12(c) and 103(a) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a))

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§ 373.11 What other factors does the Secretary consider when making a grant?

(a) The Secretary funds only those applications submitted in response to competitions announced in the FEDERAL REGISTER.

(b) The Secretary may consider the past performance of the applicant in carrying out activities under previously awarded grants.

(c) The Secretary awards bonus points if identified and published in the FEDERAL REGISTER for specific competitions.

(Authority: Sections 12(c) and 103(a) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 723(a))

Subpart C—What Conditions Must Be Met By a Grantee?

§ 373.20 What are the matching requirements?

The Secretary may make grants to pay all or part of the cost of activities covered under this program. If the Secretary determines that the grantee is required to pay part of the costs, the amount of grantee participation is specified in the application notice, and the Secretary will not require grantee participation to be more than 10 percent of the total cost of the project.

(Authority: Sections 12(c) and 303(b)(1) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b)(1))

§ 373.21 What are the reporting requirements under this part?

(a) In addition to the program and fiscal reporting requirements in 34 CFR 75.720 and 2 CFR 200.327 that are applicable to projects funded under this program, the Secretary may require that recipients of grants under this part submit information determined by the Secretary to be necessary to measure project outcomes and performance, including any data needed to comply with the Government Performance and Results Act.

(b) Specific reporting requirements for competitions will be identified by

the Secretary and published in the FEDERAL REGISTER.

(Authority: Sections 12(c), 303(b)(2)(B), and 306 of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), 773(b)(2)(B), and 776)

§ 373.22 What are the limitations on indirect costs?

(a) Indirect cost reimbursement for grants under this program is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or 10 percent of the total direct cost base, whichever amount is less.

(b) Indirect costs in excess of the 10 percent limit may be used to satisfy matching or cost-sharing requirements.

(c) The 10 percent limit does not apply to federally recognized Indian tribal governments and their tribal representatives.

(Authority: Section 12(c) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c))

§ 373.23 What additional requirements must be met?

(a) Each grantee must do the following:

(1) Ensure equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disabilities.

(2) Encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disabilities.

(3) Advise individuals with disabilities who are applicants for or recipients of the services, or the applicants' representatives or the individuals' representatives, of the availability and purposes of the Client Assistance Program, including information on means of seeking assistance under that program.

(4) Provide, through a careful appraisal and study, an assessment and evaluation of the project that indicates the significance or worth of processes,

methodologies, and practices implemented by the project.

(b) A grantee may not make a subgrant under this part. However, a grantee may contract for supplies, equipment, and other services, in accordance with 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) as adopted at 2 CFR part 3474.

(Authority: Sections 12(c) and 303(b)(2)(B) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c) and 773(b)(2)(B))

§ 373.24 What are the special requirements pertaining to the protection, use, and release of personal information?

(a) All personal information about individuals served by any project under this part, including lists of names, addresses, photographs, and records of evaluation, must be confidential.

(b) The use of information and records concerning individuals must be limited only to purposes directly connected with the project, including project reporting and evaluation activities. This information may not be disclosed, directly or indirectly, other than in the administration of the project unless the consent of the agency providing the information and the individual to whom the information applies, or his or her representative, has been obtained in writing. The Secretary or other Federal officials responsible for enforcing legal requirements have access to this information without written consent being obtained. The final products of the project may not reveal any personal identifying information without written consent of the individual or his or her representative.

(Authority: Sections 12(c) and 303(b)(2)(B) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 709(c), and 773(b)(2)(B))

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PARTS 379–380 [RESERVED]