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OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
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TECHNICAL ASSISTANCE CIRCULAR
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ADDRESSEES: STATE VOCATIONAL REHABILITATION AGENCIES
STATE REHABILITATION COUNCILS
STATEWIDE INDEPENDENT LIVING COUNCILS
CLIENT ASSISTANCE PROGRAMS
TECHNICAL ASSISTANCE & CONTINUING EDUCATION CENTERS
AMERICAN INDIAN VOCATIONAL REHABILITATION SERVICE PROJECTS
CENTERS FOR INDEPENDENT LIVING

SUBJECT: Reorganization of the Designated State Agency and the Designated State Unit for the Vocational Rehabilitation Program

PURPOSE: The *Rehabilitation Act of 1973*, as amended (*Rehabilitation Act*), provides states with considerable flexibility in the organization of the agency or agencies responsible for the administration of the vocational rehabilitation (VR) program. States may choose to designate one agency to provide VR services to persons with all types of disabilities (known as a "combined" agency), or two distinct agencies, one to serve individuals who are blind and visually impaired and another to serve individuals with all other disabilities (known as "blind" and "general" agencies, respectively) (section 101(a)(2) of the *Rehabilitation Act*). In addition, states may structure any of these agency types as a separate department or independent commission, or locate them within existing departments. Furthermore, states may opt to change the organizational structure of the agency or agencies at any time following their designation.

Within the last year, the Rehabilitation Services Administration (RSA) has received several inquiries from states seeking guidance regarding issues related to the reorganization of the agency or agencies designated as the agency responsible for the vocational and other rehabilitation of individuals with disabilities. RSA has noticed that, given the current economic climate, states are considering changes in their governmental structures to bring about greater effectiveness and efficiency in light of decreasing revenues. Therefore, RSA provides the guidance contained in

this technical assistance circular (TAC) to VR agencies regarding the federal requirements governing the reorganization of the designated state agency (DSA) and/or the designated state unit (DSU) responsible for the administration and operation of the VR program. The TAC also discusses the implications a reorganization may have on the administration of other federal programs authorized under the *Rehabilitation Act* (pages 6 thru 11), as well as the processes that must be carried out on the federal and state levels to ensure that services provided under the *Rehabilitation Act* are not interrupted and funds are appropriately managed (pages 11 thru 16).

TECHNICAL ASSISTANCE:

The *Rehabilitation Act* and its implementing regulations permit states to select from among a variety of options when organizing the VR program within their governmental structures. Section 101(a)(2)(A) of the *Rehabilitation Act* and regulations at 34 CFR 361.13(a) require a state to identify a DSA as the sole state agency to administer the VR State Plan, or two DSAs, one "general" and the other "blind," each responsible for the administration of its respective portion of the plan (Section 101(a)(2)(A)(i) of the *Rehabilitation Act* and *34 CFR 361.13(a)(3))*. For purposes of the VR program, a DSA must be either: 1) a state agency primarily concerned with VR, or VR and other rehabilitation, of individuals with disabilities; or 2) a state agency that includes a VR bureau, division or other organizational unit, referred to as a DSU (Section 101(a)(2)(B) of the *Rehabilitation Act* and 34 CFR 361.13(a)(1)).

When considering a change in the organization of the governmental entity or entities currently administering the VR program (e.g., the DSA(s) and/or DSU(s)), states must ensure that the proposed structure meets the required statutory and regulatory requirements set forth at section 101(a)(2) of the *Rehabilitation Act* and 34 CFR 361.13. Specifically, if the state identifies a new DSA to administer the VR State Plan, the state must ensure the agency is primarily concerned with VR, or VR and other rehabilitation of individuals with disabilities. In the event that the new DSA is not primarily concerned with VR, or VR and other rehabilitation of individuals with disabilities, the state must assure the agency contains a DSU that:

- is primarily concerned with VR, or VR and other rehabilitation, of individuals with disabilities, and is responsible for the VR program of the DSA;
- is administered by a full-time director;
- employs staff on the rehabilitation work of the organizational unit all or substantially all of whom devote their full time to such work; and

- is located at an organizational level and has an organizational status within the DSA comparable to that of other major organizational units of the DSA.

Additionally, the VR program regulations require that the DSU carry out the following non-delegable responsibilities:

- the determination of eligibility, the nature and scope of services, and the provision of those services (34 CFR 361.13(c)(1)(i));
- the determination that individuals have achieved employment outcomes (34 CFR 361.13(c)(1)(ii));
- policy formulation and implementation (34 CFR 361.13(c)(1)(iii));
- the allocation and expenditure of VR funds (34 CFR 361.13(c)(1)(iv)); and
- the participation of the DSU in the one-stop service delivery system in accordance with Title I of the *Workforce Investment Act* (*WIA*) and the regulatory requirements specified in 20 CFR Part 662 (34 CFR 361.13(c)(1)(v)).

Reorganizations, for purposes of the VR program, can take many different forms. For example, a reorganization can involve:

- the creation of a stand-alone DSA;
- the movement of a DSA into another department;
- the division of a combined DSA or DSU into separate general and blind agencies;
- the combination of separate general and blind DSAs or DSUs into a single combined agency;
- the relocation of the DSU within the same department;
- the movement of other programs and offices into the DSU; and
- a combination of these options.

Together or separately, each has implications for the state's ability to comply with the federal organizational structure requirements and those governing the non-delegable responsibilities of the DSU. For additional detail regarding these requirements, refer to RSA TAC 12-03, *Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program*, April 16, 2012.

A reorganization of the DSA and/or DSU can affect the structure and composition of the State Rehabilitation Council (SRC), if the state has established a SRC for one or more DSAs or DSUs, or the structure of the VR agency as a consumer-controlled independent commission. Section 101(a)(21) of the *Rehabilitation Act* and 34 CFR 361.16(a) of the implementing regulations require a state to assure that it has 1) established either a single or separate SRC(s) for the VR agencies in the state; or that 2) the DSA, or DSAs if more than one exists, is an independent commission. For example, the state may have initially structured a VR agency as an independent commission, thus not requiring it to have established an SRC. If that state reorganizes the VR agency as a component of a DSA that is no longer structured as an independent commission, it must establish a SRC. Conversely, if a DSU is reorganized to become an independent commission, the VR agency would not be required to maintain its SRC so long as the new agency meets all of the requirements of 34 CFR 361.16(a)(1).

Any changes to SRCs as a result of a reorganization must be in compliance with composition and membership requirements contained in section 105(b) of the *Rehabilitation Act* and regulations at 34 CFR 361.17(b). For additional guidance on the composition and membership requirements of a SRC, see RSA TAC 12-01, *Federal Requirements Governing the Composition and Membership of, and Appointments to, the State Rehabilitation Councils*, October 21, 2011.

RSA is available to assist states in determining whether proposed reorganizations are in compliance with the federal requirements discussed above. States should submit the proposed legislation or executive order requiring the reorganization to RSA as early as possible in the process to ensure that any needed changes are accomplished prior to the effective date. In general, the legislation or order should:

- specify the effective date of the reorganization, which is typically aligned with the beginning of the state or federal fiscal year, and
- describe:
    - the structure of the VR agency, either as a DSA or DSU,
    - the location of the DSU, if one exists, within the DSA,
    - to whom the director of the VR agency will report,
    - the intervening levels, if any, of organization between the DSU and the DSA; and
    - the composition and membership of the SRC if the new DSA will not be an independent commission.

Once the state has ensured that its proposed reorganization complies with federal requirements governing the organizational structure of the VR program, it must engage in a variety of actions to accomplish the reorganization by the proposed effective date. The state must consult with

stakeholders, conduct public hearings, and amend or submit a new State Plan. Each of these requirements will be discussed separately.

The DSA must consult with stakeholders, including tribal organizations, the Client Assistance Program (CAP), and the SRC (Section 101(a)(16)(A) of the *Rehabilitation Act* and 34 CFR 361.20(d)). This consultation process, as well as the public hearing process, is the statutorily-mandated procedures established through which these organizations can provide input regarding the proposed reorganization.

The DSA must conduct public hearings prior to adopting any substantive changes that affect the provision of VR services. Since the reorganization of a DSA or DSU is considered a substantive change in the administration of the VR program, public hearings must be conducted pursuant to section 101(a)(16)(A) of the *Rehabilitation Act* and 34 CFR 361.10(d) of the implementing regulations. The public must be provided appropriate and sufficient notice throughout the state in accordance with State law, or in the absence of State law, procedures developed by the DSA in consultation with the SRC (34 CFR 361.20(b)). The DSA must hold the hearings "throughout the state" to allow the public, including individuals with disabilities, sufficient opportunity to provide input on the proposed reorganization (34 CFR 361.20(a)). RSA interprets this requirement to mean that hearings are to be conducted in multiple locations across the state; however, in Consideration of advancements in technology, the DSA may choose to incorporate the use of video conferencing in a single or several locations to reach different areas of the State, as long as this option allows the public to actively participate through interaction with the speaker and other participating locations.

The VR agency is required to amend its currently approved State Plan if the effective date of the reorganization will occur on a date other than the first day of the federal fiscal year (October 1st) (34 CFR 361.10(e)). The VR agency, at a minimum, must amend:

- section 1 of the preprint identifying the agency authorized to submit and administer the State Plan;
- section 4.1 of the preprint, which identifies whether the State agency authorized to administer the State Plan has been designated as a DSA or DSU;
- section 4.2 of the preprint specifying whether the VR agency is an independent commission or has an established SRC;
- Attachment 4.2(c) containing the input from the SRC regarding the reorganization and the agency's response, including an explanation of why any input was rejected, if applicable;

- the signature and date the amended State Plan was submitted by the authorized signatory; and
- the name of the DSA and/or DSU wherever it appears in the preprint and attachments, if the reorganization involves a change in the VR agency name.

RSA must approve the amended State Plan on or before the effective date of the reorganization so that it can release federal VR program funds to the newly designated agency. Ideally, the amended plan should be submitted through the RSA website no less than 30 days prior to the effective date of the reorganization to allow sufficient time for approval; however, in some cases the director of the new DSA or DSU is not authorized to sign and submit the amended State Plan to RSA until the effective date of the reorganization. Under this circumstance, the proposed designated agency authorized to submit the State Plan should ensure the necessary amendments are developed and submitted to RSA well in advance of the identified effective date, thus giving RSA time to review the amendments to ensure compliance with federal requirements. The amended plan should then be officially submitted through the RSA website on the effective date. RSA will have reviewed the amended State Plan in advance, enabling it to immediately approve the plan and award the State's VR and supported employment grants.

States also must engage in a variety of activities to ensure that VR program funds, along with all other federal grant funds involved in the reorganization, are appropriately transferred from the original DSA and/or DSU to the entities resulting from the reorganization. These specific requirements are discussed beginning on page 10 of this TAC.
A reorganization of the DSA and/or DSU for the VR program also will affect the state's administration of other RSA grants and programs within the purview of these entities. To ensure their proper administration, the following sections of this TAC provide guidance regarding the pertinent federal requirements related to management of these grants or programs when the agencies responsible for the VR program undergo a structural change.

Independent Living Programs

According to regulations at 34 CFR 364.4, the DSU for the state independent living services (SILS) program and the centers for independent living (CIL) program, authorized under Chapter 1 of Title VII is the agency, or agencies in the state if the state has designated a general and blind agency, charged with the provision of VR, or VR and other rehabilitation services. Therefore, the state must ensure that the DSU under the SILS and CIL programs is the state agency responsible for the administration of the VR program. The independent living services for

older individuals who are blind program (OIB) is affected by a DSA reorganization. The DSA for the OIB program must be the state agency authorized to provide rehabilitation services to individuals who are blind, whether that is a combined or separate agency (34 CFR 367.2). In addition, if the reorganization affects the placement, composition or member appointments of Statewide Independent Living Council (SILC), the state must ensure that it adheres to all SILC appointment, composition and independence requirements at 34 CFR 364.21.

The State Plan for Independent Living (SPIL) that governs the administration of the SILS and CIL programs must be amended whenever necessary to reflect any material change in state law, organization, policy, or agency operations that affects the administration of the SPIL (34 CFR 364.20(b)(1)[1]. Since the reorganization of the DSU or DSA changes the organization or agency that administers the SPIL, the SPIL must be amended. When the effective date of the reorganization falls within the three-year period covered by the approved SPIL, the DSU and SILC must sign and submit an amended SPIL through the RSA website addressing, at a minimum, Sections 1 and 9 of the Part I assurances and Section 4 of the Part II narratives. The SPIL need not be amended if the effective date of the reorganization is October 1st of the succeeding three-year period.

If a state amends the SPIL, it must engage in the same processes as those it must use to prepare and submit the SPIL (34 CFR 76.141). The DSU and the SILC must conduct public meetings in accordance with their joint procedures an in compliance with the requirements for public meetings set forth in 34 CFR 364.20(g). So long as the DSU coordinates public meetings with the SILC, the DSU and DSA can conduct public hearings covering changes in the administration of both the VR and IL programs, without the need for separate hearings, if the requirements for such hearings are met under both 34 CFR 361.20 and 34 CFR 364.20.

The *Rehabilitation Act* and IL program regulations specify certain non-delegable duties of a DSU under the SILS and CIL programs. Section 704(c) provides that the DSU shall:

- receive, account for, and disburse funds distributed to the state under chapter 1 of Title VII, in accordance with the SPIL
- provide administrative support services for a program under part B, and a program under part C in a case in which the program is administered by the State under section 723 of the *Rehabilitation Act*;

[1] The OIB program is not governed by the SPIL, but by a separate application. The newly created DSA and DSU need only submit a revised set of assurances. Public hearings are not required regarding the implications of the reorganization for the administration of the OIB program.

- maintain and afford access to such records as the RSA Commissioner finds to be necessary with respect to the programs; and
- submit additional information or provide assurances, as the Commissioner may require with respect to the programs.

The regulations at 34 CFR 364.57 describe duties that the DSU can delegate. All other duties of the DSU not specifically mentioned in that section are non-delegable.

Randolph-Sheppard Program

As VR agencies also serve as state licensing agencies (SLA) for the Randolph-Sheppard program, a reorganization of a DSA or DSU may have implications for the administration of this program as well. Through any restructuring affecting a DSA or DSU currently serving as an SLA, states must adhere to several key requirements contained in the *Randolph-Sheppard Act* and regulations at 34 CFR Part 395. The Randolph-Sheppard program must be housed only within the DSA or DSU responsible for the provision of VR services to individuals who are blind (20 U.S.C. 107a(e); 34 CFR 395.2(a)), including both combined and blind agencies. Thus, a Randolph-Sheppard program cannot be administered by general agencies, which are for the provision of services to all individuals with disabilities except for those who are blind and visually impaired. States that have identified a combined DSA or DSU containing organizational units through which services to individuals who are blind are delivered should situate the Randolph-Sheppard program within these components. The Randolph-Sheppard program cannot be located within any other non-rehabilitation-related agency of government, or in a private entity.

In addition, if a state intends, pursuant to the proposed reorganization, to use a nominee agency to help it operate the state's vending program, the reorganized SLA must obtain approval of this plan from RSA (34 CFR 395.3(a) (9)). A nominee for the Randolph-Sheppard program must be a "nonprofit agency or organization" designated by the state to fulfill these functions (34 CFR 395.1(l)), and cannot be housed within another agency of government. The newly organized SLA must ensure that any nominee agency perform only those functions authorized for a nominee entity to undertake in statute and regulations. The SLA is expected to retain for itself ultimate control and full responsibility for the administration of the Randolph-Sheppard program (34 CFR 395.15(a)).

The new SLA should notify RSA of its reorganization and continuing legal authority to operate the Randolph-Sheppard program, so that its status as the recognized SLA can be updated and reaffirmed. Similarly,

any reorganized rehabilitation agency, operating as the SLA for Randolph-Sheppard, should inform RSA of any contemplated changes to its governing program policies or rules (34 CFR 395.3(a)(11)(iii)). It is important in this context to recognize that the *Randolph-Sheppard Act* and regulations require that the SLA facilitate "active participation" among the state's Elected Committee of Blind Vendors in reviewing and approving any modifications to major administrative procedures and governing policies of the program before RSA will issue new approvals of such policies (20 U.S.C 107b-1(3)(A); 34 CFR 395.14(b)(1)). Finally, the new SLA should review any corresponding and similar state legislation that may provide a Randolph-Sheppard-like priority on state or local properties to ensure that any new organizational names, along with other critical changes, are reflected in state law.

In-Service Training Grant

Pursuant to Title III of the *Rehabilitation Act*, RSA awards an in-service grant to a DSA or DSU for the VR program in accordance with its application. Prior to the effective date of the reorganization, the grantee must notify RSA of the upcoming reorganization in writing. The newly organized DSA or DSU must submit an assurance that it will adhere to the requirements and commitments outlined in the original grant application, including but not limited to the following: 1) to serve the population specified in the original grant application, using the design approved by RSA; and (2) to use the same key personnel to conduct the work of the grants or substitute key personnel who have been approved by RSA as meeting the qualifications of the original key personnel. In addition, the new entity must submit an Application for Federal Assistance (Form SF-424), a Certification Regarding Lobbying, and Budget Information for the grant (Form ED-524).

Statewide Assistive Technology Grant

The extent to which the reorganization affects the administration of the statewide assistive technology (AT) program depends on whether the DSU for the VR program is the lead agency for the AT program and if it uses an implementing entity. In accordance with Section 4(c)(1)(A) of the *Assistive Technology Act of 1998*, as amended (*AT Act),* the governor of the state designates a public agency as a lead agency to administer the states AT program. In approximately 50 percent of the states, the DSA or DSU for the VR program is that lead agency. In addition to the lead agency, the governor may designate an agency or office to be an implementing entity for the program (Section 4(c)(1)(B), which carries out responsibilities under the *AT Act* through a subcontract or another administrative agreement with the lead agency.

The governor may redesignate the lead agency, or the implementing entity, if the Governor demonstrates to RSA "good cause" as to why the entity currently designated as the lead agency or implementing entity should no longer administer the AT program (Section 4(c)(1)(C)). Though not defined in the *AT Act*, RSA interprets "good cause" to include instances where the reorganization of state government affect the agency charged with the administration of the program. The Governor must also show that the agency or entity that has been proposed to serve as the new lead agency or implementing entity is able to meet the requirements of the *AT Act*. Once RSA approves the redesignation, the new entity must submit a new AT State Plan through the RSA website, containing any changes to the program goals and activities. RSA must approve the new plan before AT program funds can be distributed to the new lead agency or implementing entity.

Client Assistance Program

A reorganization of the DSA and DSU for the VR program may have an impact on the state's CAP, if it is also located within the DSA (known as an "internal" CAP). Section 112(c)(1)(B)(ii)(I) of the *Rehabilitation Act* states if a DSA, "undergoes any change in the organizational structure of the agency that results in the creation of 1 or more new State agencies or departments or results in the merger of the designated State agency with 1 or more other State agencies or departments", the CAP must be redesignated to a public or private agency independent of any agency that provides treatment, services, or rehabilitation to individuals under the *Rehabilitation Act*. Therefore, when any DSA with an internal CAP undergoes a reorganization of the VR program to a new or different DSA, the governor must redesignate the CAP. However, a state is not required to redesignate an internal CAP in connection with the reorganization of a DSA that does not result in the creation of one or more new state agencies or departments, or the merger of the DSA with one or more departments. For example, a state with an internal CAP would not be required to redesignate its CAP if the reorganization occurs solely within the organizational structure of the DSA, such as merging multiple divisions, bureaus or units (e.g., general and blind DSUs) into one entity while remaining under the same DSA.

It is important to note that Section 112(b) of the *Rehabilitation Act* requires states to have an effective and operational CAP prior to receiving funding for any program authorized under the *Rehabilitation Act,* including the VR and IL programs. Therefore, states should address the potential redesignation of an internal CAP as early as possible in the reorganization process to ensure that the CAP is operational on the effective date of the DSA reorganization. See CAP program regulations at

34 CFR 370.10 through 370.17 for the steps and timelines involved in the redesignation of the CAP.

Transfer of Funds and Reporting

The original DSA and/or DSU (transferor), along with the entities to which their responsibilities are transferred (transferee), must engage in a variety of activities (detailed below) to ensure the timely transfer of existing award balances and/or new grant award funds with respect to each program discussed above. Also, see "Reorganization of the Designated State Agency and Designated State Unit for the Vocational Rehabilitation Program: Responsibilities of the Transferor and Transferee," attached hereto, for a checklist of the activities that must be carried out by the parties involved in the reorganization. These processes may vary depending on when the reorganization occurs during the grant award period.

- Grant Award numbers: When a grant award is transferred from one grantee to another, regardless of the time of the transfer, the Department of Education requires that the transferee obtain a new PR/Award number. RSA will establish the new PR/Award number and assign it to the transferee. The PR/Award number associated with the transferor will no longer be used once all grant funds have been drawn down and the award has been closed. When a transfer occurs at the beginning of a federal fiscal year, it is possible that a transferee may receive two new PR/Award numbers, one for the new federal fiscal year (FFY), and one for the prior FFY if funds remaining in the grant year are eligible for carryover into the subsequent year in accordance with Section 19 of the *Rehabilitation Act*.

- Grant Transfer Agreement: The transferor and transferee agencies must enter into a single grant transfer agreement covering each federal award, or separate agreements for each. This document provides necessary dates and figures regarding the amount of funds the transferor needs to meet its obligations under the awards, and the amount of funds available for the transferee to begin administering its programs. The grant transfer agreement must reference the state statute, legislation, or executive order that authorizes the grant transfer. The grant transfer agreement should be reviewed and approved by RSA prior to execution.

- Transfer of funds: When transfers involve the redistribution of grant award funds between agencies, it is important to determine the amount of funds necessary for the transferor to honor the obligations made while it was the grant holder to ensure the grant

transfer process is efficient and effective. The transferor must provide the transferee with an estimate of the amount of funds that will remain in its grant award so that it can liquidate allowable unliquidated obligations incurred prior to the effective date of the transfer. The transferor also must identify the amount of any funds available for immediate transfer to the transferee at the time the grant transfer agreement is executed. This may occur when the transferor anticipates a balance of funds will remain that is more than the amount the transferor estimates will be required to fulfill its obligations. Both the estimate of funds the transferor needs to liquidate unliquidated obligations, and the amount available for immediate transfer, will be provided on the grant transfer agreement.

Transfers that involve carryover funds from a prior FFY require RSA to obtain approval through a Request for Use of Prior Year funds before the transfer may be made. This may occur for transfers at the beginning of a FFY when remaining grant funds from the prior fiscal year are eligible for carryover in accordance with Section 19 of the *Rehabilitation Act*, or from a late-FFY transfer resulting in the transferor fulfilling its obligations with funds remaining after the beginning of the subsequent FFY. See "Non-Federal Share" below regarding the transfer of allowable carryover funds. To process the Request for Use of Prior Year's funds, the amount being transferred to the transferee will be deobligated from the transferor's account and then, when the form is approved, be obligated to the transferee.

Grant transfers that occur at the beginning of a FFY permit the transferee to more quickly obtain and receive funds. Since the transferee will have a new PR/Award number for the new FFY, once funds have been appropriated from Congress, RSA will obligate the grantee's allotment once all requirements have been met (e.g., an approved VR State Plan or SPIL covering that FFY, establishment of payee account information in the G5 grants management system). If the grant transfer occurs in the middle of a FFY, there is a more urgent need to transfer funds to the transferee to begin operations immediately, since no new funds will be available until the subsequent FFY.

- Final transfers: After the transferor has made its last draw, liquidated its obligations, and is preparing the final SF-425 report, the transferor must inform RSA of any balance of grant funds. If so, the transferee may receive an additional transfer of prior year funds as long as those funds meet the requirements of the program. As mentioned above, this transfer may require RSA to submit a

Request for Use of Prior Year's Funds to obtain approval to reallocate funds from a previous FFY.

- Logistics: The transferee is required to complete several steps before it can access funds through the G5 grants management system. The transferee can register in the system by accessing the G5 website: https://www.g5.gov. On the left hand side of that website is a link labeled "Non ED employee Sign Up," and the user may register by following the instructions provided.

To use the G5 system, the transferee is required to provide both a payee and grantee data universal numbering system (DUNS) number. When establishing the new award in G5, after the G5 staff has entered the payee DUNS number and banking information in the system, RSA staff are able to enter the grantee DUNS number into the system. If the payee and grantee DUNS numbers are different, the grantee must also work with G5 staff to enter the grantee DUNS number in the G5 system before RSA can assign that number to a grant award. To initiate changes in G5, the transferee must notify the Department of Education in writing on the grantee's official letterhead of the request. The letter must contain the following information:

- grantee name;
- grantee DUNS number;
- current payee DUNS number to be deactivated, if this action is being requested;
- new payee DUNS number to be activated, and grantee DUNS number if different from payee;
- PR/Award Number;
- grantee's Contact phone number and email address; and
- signature of certifying representative (senior program officer) for the grantee organization;

The request should be mailed to:

U.S. Department of Education
Office of the Chief Information Officer
Mail Stop – 4138
Potomac Center Plaza
Attn: G5 Functional Application Team
550 12Th Street, SW
Washington, DC 20202

The Grantee may expedite the change process by faxing this letter to the Attention of the G5 Functional Application Team at 202-245-8219.

Direct any questions regarding the assignment/reassignment of payee DUNS numbers to the G5/GAPS Payee Hotline at 888-336-8930. Note that for a new Payee DUNS number, the G5/GAPS External User Access Form and the banking information must be submitted to the Department of Education, in addition to the letter.

- Financial Reporting: The transferor and transferee are responsible for financial reporting related to the obligations and expenditures associated with allowable activities for the period of availability of each entity's funds. Obligations occurring prior to the date of transfer are the responsibility of the transferor, while those occurring after the date of transfer will be the responsibility of the transferee. The transferor must submit a final SF-425 report for each grant program involved in the reorganization 90 days from the date that signifies the end of grant support (34 CFR 80.41(b)(4)). It is critical that the two entities coordinate during this phase of the reorganization process to determine if all unliquidated obligations have been liquidated, or if the transferee must draw and expend funds for the transferor's unliquidated obligations that have not cleared.

- Non-federal Share: In cases when the grant transfer occurs in a program with a match and/or maintenance of effort (MOE) requirement, or in circumstances where the state appropriates funds to support the program, the transferor and transferee must determine which entity expends and reports the funds on the SF-425. For purposes of the VR program, the match and MOE are state-level requirements; therefore, sufficient non-federal funds must be expended and reported on the transferor and/or transferee SF-425 reports for allowable program activities by September 30th of the year in which the grant is awarded. The SILS and OIB programs have a state match, but no MOE requirement. Only those federal funds that have been matched by the state in that fiscal year may be transferred from the transferor to transferee as carryover for use in the subsequent fiscal year. It is the responsibility of the transferor and transferee to determine the responsible party for expending and reporting non-federal funds in accordance with the state's process for transferring any remaining and unexpended non-federal funds associated with the program.

- Performance Reports: The transferor and transferee agencies together are responsible for ensuring the state meets its annual performance reporting obligations for each of the federal programs covered by the reorganization. Generally, the transferor is responsible for providing the data required for the completion of all annual performance reports associated with the programs

affected by the reorganization to the transferee. The transferee is then responsible for submitting the reports for the entire fiscal year during which the reorganization occurred in accordance with applicable deadlines. However, if the performance report is submitted on a semi-annual or quarterly basis, such as the RSA-113 Cumulative Caseload Report, the transferor should submit the report(s) due up until the date of the reorganization and the transferee is responsible for submitting these reports thereafter.

- Access to RSA Website: Prior to any reorganization, the state entities involved must ensure the appropriate personnel maintain, obtain or, in some cases, terminate their required access to program and fiscal reports contained on the RSA website. As the effective date for the reorganization approaches, RSA will notify staff responsible for maintaining its website of all programs involved in the reorganization, the date it will become effective and the name of the new agency or agencies. State agencies involved in the reorganization should clarify with RSA which of their staff, if any, will no longer require access to a specific report or require access to additional reports. Often, many of the same personnel will be working with the new State entity, requiring the same level of access to the same reports. Since the agency name and grant number associated with each program will change upon the effective date of the reorganization, state officials and personnel should ensure they maintain the same level of access available prior to the reorganization. For example, an individual with access to enter information into the State Plan should have the same level of access after the effective date, and should check access to this form is available after the effective date of the reorganization.

When state personnel from the original agency no longer require access to a report or reports, RSA should be notified which staff will no longer require access and the date their access should be terminated. Since an agency will typically have 90 days to submit all required reports, access to most reports would not be terminated on the date the reorganization becomes effective.

Following the reorganization, some individuals may require access to additional reports. If a user currently has a user identification (ID), the individual can request access to additional reports directly through the website. To do so, the user would log in and select "Click here to try to add access" located at the top right side of the page.

In addition to the permissions required to access each report, the new designated agency should provide RSA the names and contact information

for all staff responsible for programs or reports, so it can maintain its contact database and various listservs.

SUMMARY: A state may choose to reorganize the structure of the agency or agencies responsible for the administration of the VR program for various reasons, such as the need to achieve cost savings and program efficiencies, selecting from among a variety of organizational options permitted under the *Rehabilitation Act*. The option the state determines appropriate to accomplish the objectives of the reorganization must be in compliance with the federal requirements described in this TAC pertaining to the VR program, as well as all other grant programs affected by the reorganization, including the IL, in-service training, Randolph- Sheppard, CAP, and AT programs. In addition, states must engage in numerous activities prior to and subsequent to the effective date of the reorganization, including the conduct of public hearings, the submission of amended State Plans or grant applications, the execution of grant transfer agreements, and the reporting of financial and program data, all of which are necessary to ensure a timely, well-managed reorganization and the continuing delivery of services to individuals with disabilities.

CITATIONS: *Rehabilitation Act of 1973*, as amended, at Sections 101(a)(2), (16) and (21); Section 105, and Section 704.

Randolph-Sheppard Act at 20 U.S.C. Sections 107a and 107b

Assistive Technology Act of 1998, as amended, at Section 4(c)

VR program regulations at 34 CFR 361.10, 361.16, 361.17 and 361.20

IL program regulations at 34 CFR 364.4, 364.20, 364.21, and 364.57.OIB program regulations at 34 CFR 367.2

EDGAR regulations at 34 CFR 76.141

Randolph-Sheppard program regulations at 34 CFR 395.1, 395.2, 395.3, 395.14 and 395.15

INQUIRIES: Carol Dobak, Chief
Vocational Rehabilitation Program Unit
(202) 245-7325
carol.dobak@ed.gov

/s/
Edward Anthony, Ph.D.
Deputy Commissioner
Attachment

cc: Council of State Administrators of Vocational Rehabilitation
National Council of State Agencies for the Blind
Consortia of Administrators of Native American Rehabilitation
National Disability Rights Network

REHABILITATION SERVICES ADMINISTRATION

Reorganization of the Designated State Agency
And Designated State Unit for the
Vocational Rehabilitation Program

Responsibilities of the Transferor and Transferee for the Transfer of Grant Awards

1. Transferor Responsibilities:
    - A. In collaboration with Transferee, provide RSA the authorizing legislation for the transfer.
    - B. Ensure all required federal reports, (e.g., federal financial reports, RSA-2, RSA-911, etc.) have been submitted. If transfer is not at the end of the FFY, provide transferee agency with required reporting data for period of award for which transferor was responsible.
    - C. For open awards with a remaining federal balance that will be transferred to the transferee, determine the amount of funds that will be made available to the transferee on the start date of the transfer. As a reminder, federal funds may need to remain available to the transferor during the 90-day liquidation period after the award transfer date.
    - D. Notify the RSA Fiscal Unit Specialist in writing regarding the amount of funds, if any, by grant award that should be deobligated and transferred to the new agency at the time the transferee receives the awards.
    - E. Liquidate remaining obligations and submit a final federal financial report within 90 calendar days after the end of the period for which the transferor was responsible.
    - F. Once liquidation is complete and all federal reports, including the final federal financial report, have been submitted, notify the RSA Fiscal Unit Specialist in writing that all reports are complete and include the amount of any remaining funds, by grant award, which should be deobligated and transferred to the new grantee.
    - G. Ensure that all service records are transferred to Transferee to ensure programmatic records are available and maintained by Transferee according to federal requirements.
    - H. Ensure any outstanding corrective action plans or performance improvement plans, including supporting documentation, are transferred to Transferee.
    - I. Maintain a primary person as a point of contact with RSA regarding the previous awards and any reporting or closeout issues that may arise.

2. Transferee Responsibilities:

    A. Submit information necessary to establish account in the Department of Education G5 Grants Management System.

    B. Provide RSA Fiscal Unit Specialist with information required to establish new grant award number in G5.

    C. Submit user access request forms for appropriate individuals to receive access to online reports located on the RSA website.

    D. Collaborate with the transferor to determine the amount of funds that will be transferred:

        i. For carryover funds transferred from awards with matching requirements, ensure the transferor has met the nonfederal share requirement for any remaining federal funds.

        ii. For awards with matching requirements, if the transfer is not at the end of the FFY, determine the amount of nonfederal share available to the state as a whole for the program during the FFY. This will provide the transferee with an estimate of the amount of federal funds the program was able to match, and therefore expend, for the FFY.

    E. If the transfer is not at the end of the FFY, collaborate with the transferor to ensure that data required to submit federal reports are made available. Transferor is responsible for providing the transferee agency with required reporting data for period of award for which transferor was responsible.

3. RSA Responsibilities:

    A. Provide a copy of the grant transfer agreement template to Transferor.

    B. Work with Transferor and Transferee to ensure the grant transfer agreement is complete and all required information is provided.

    C. Review and approve State Plans or applications as appropriate.

    D. Work with Transferee to provide new PR/Award Number(s) and ensure Grantee DUNS number is accurate on the grant award notification.

    E. Deobligate and reallot funds in accordance with the approved grant transfer agreement.