

FISCAL YEAR 2015
Technical Assistance Summary Report
of the
On-Site Visit to
Utah State Office of Rehabilitation



U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION

June 8, 2015

I. Introduction

The Rehabilitation Services Administration (RSA) conducted an on-site technical assistance (TA) visit with the vocational rehabilitation (VR) agency in Utah, the Utah State Office of Rehabilitation (USOR), from March 10-11, 2015, for the primary purpose of assessing: 1) the reliability, accuracy, and validity of financial data being reported on the Federal Financial Reports (SF-425 reports); and 2) the implementation of the order of selection (OOS). Specifically, the visit addressed the following areas:

- verification and TA regarding the SF-425 form and instructions;
- assessment of non-Federal share reported on the SF-425 reports, including the impact on the match and maintenance of effort (MOE) requirements;
- OOS priority category implementation; and
- TA regarding the development and implementation of a mechanism to manage and evaluate agency fiscal and programmatic resources related to the OOS.

In preparation for the on-site TA visit, RSA conducted telephone discussions with representatives of USOR regarding TA areas to be addressed during the onsite. In addition, RSA reviewed relevant documents, including USOR's SF-425 reports for the past five Federal fiscal years, and the VR State plan attachments related to input from the State Rehabilitation Council (SRC), OOS and annual estimates.

RSA participants included Craig McManus, Fiscal Unit, within the State Monitoring and Program Improvement Division.

The TA summary includes relevant background information; a description of the on-site activities; a description of the TA provided; and next steps.

RSA wishes to express appreciation to the representatives of USOR and the Utah State Office of Education (USOE) who assisted RSA during the on-site TA visit.

II. Background

A review of the March 31, 2014 semi-annual SF-425 report for the Federal fiscal year (FFY) 2014 VR award indicated that the VR agency had not reported sufficient non-Federal funds to match the Federal VR funds drawn down through the reporting period, as required by the Cash Management Improvement Act of 1990 (CMIA). On August 25, 2014, RSA sent an email to the Utah VR director inquiring into the nature of the fiscal resources available to the agency. On September 11, 2014, a teleconference call was conducted with USOR executive management staff members that revealed the agency was aware it had a non-Federal share deficit, and that it was considering implementation of an OOS. In early November, 2014, RSA staff provided additional TA guidance to USOR regarding the public meeting requirements, SRC consultation, and State plan amendment requirements necessary to establish OOS.

Beginning in February 2015, RSA communicated regularly with USOR to provide the TA required for USOR to prepare for OOS implementation. RSA reviewed multiple draft VR State plan attachments and made recommendations for revisions with respect to their compliance with Federal requirements. USOR conducted public meetings, developed priority categories and amended the requisite FFY 2015 VR State plan attachments necessary to implement the OOS. The VR State plan was approved, effective March 6, 2015, immediately preceding the on-site TA visit.

III. On-site Activities

On-site activities included discussions with the leadership and staff of USOR responsible for program management and financial administration, as well as the Chairperson and Vice-Chairperson of the Utah Board of Education (UBOE), to follow-up on the OOS implementation, SF-425 non-Federal share reporting, and to provide TA. Due to unforeseen circumstances, the Financial Manager II, typically responsible for Federal financial reporting, was unavailable during the week. However, USOR was able to have the Internal Audit Director for Utah schools and the USOR Finance Director to assist USOR with its financial management and reporting activities, as well as participate in the on-site TA visit. Additionally, a new interim VR director was appointed immediately preceding the on-site TA visit.

IV. Summary of Technical Assistance Provided

The following section of the report describes the areas addressed with USOR, including relevant information provided to RSA, and a description of the TA provided.

1. Financial Reporting

Discussions during the on-site TA visit addressed the impact of USOR's management of non-Federal share expenditures under the VR program, which directly affect its ability to satisfy the match and MOE requirements applicable to the program. A primary component of the on-site activities encompassed the review of VR non-Federal share expenditure patterns in relation to the non-Federal share deficit that was demonstrated on the March 31, 2014 SF-425 report for the FFY 2014 VR award. The supporting documentation provided by USOR staff indicated that, due to increased consumer service demands on the VR program over the past few fiscal years, the agency had obligated and expended higher percentages of its Federal VR awards in the year of appropriation. Additionally, USOR received an increasing amount of Federal VR funds through the reallocation process during FFYs 2009 – 2014 that were in excess of USOR's Federal VR formula award. As a result of the increased consumer service demands on VR expenditures, USOR carried over none of its Federal VR funds in FFYs 2012 and 2013, in contrast to FFYs 2009 through 2011, during which period the agency carried over Federal VR funds of \$5,142,677, \$8,562,373 and \$4,015,770, respectively.

The Utah State fiscal year (SFY) operates from July 1- June 30. During the months of July, August and September, 2013, Utah's first quarter SFY 2014 and fourth quarter FFY 2013 overlapped. VR agency expenditures across these months rose to a level that required USOR to expend the majority of its SFY 2014 non-Federal funds during the quarter, leaving insufficient non-Federal funds to match its FFY 2014 award until the SFY 2015 funds became available in

July, 2014. The impact of utilizing a largely disproportionate share of first quarter SFY 2014 non-Federal funds to meet final quarter FFY 2013 demands resulted in the agency's inability to contribute sufficient non-Federal funds during the first six to nine months of FFY 2014. Therefore, USOR was unable to meet the CMIA requirement to draw down Federal VR funds in proportion to the level of non-Federal share provided, which was first demonstrated on the March 31, 2014 SF-425 report for the FFY 2014 VR award.

During the on-site TA visit, USOR staff inquired about the nature of reporting unliquidated obligations, specifically related to the RSA-2. USOR staff was aware of PD-14-02 related to RSA-2 instructions, but requested clarification regarding the language indicating expenditures do not include unliquidated obligations, and that the RSA-2 requires the reporting of expenditures that have been disbursed, or accrued, in accordance with 34 CFR 80.3. RSA clarified that in certain circumstances, when Federal and non-Federal requirements are met, obligations that remain unliquidated in one RSA-2 reporting period may be canceled and subsequently re-obligated and expended in another RSA-2 reporting period, resulting in the reporting of the same obligation twice in consecutive RSA-2 reporting periods. The clarification within PD-14-02 ensures that expenditure data reported on the RSA-2 is not at risk of duplication on two consecutive RSA-2 reports. Within the context of using the accrual versus cash basis of accounting, the definitions of accrued expenditures and obligations are described in the TA section below, as they also affect SF-425 reporting.

TA Provided

RSA reviewed the semi-annual and final VR SF-425 reports with USOR during the onsite, working with staff to identify the instances in which the supporting documentation sustained the SF-425 non-Federal share concerns of overspending in one Federal fiscal year, leaving little to no non-Federal funds to proportionately match the Federal funds drawn down during the beginning of the subsequent Federal fiscal year. This information was reviewed with the agency in relation to the impact the increased non-Federal share expenditures have on the match and MOE levels, described in further detail in the next section. RSA provided resources, including information related to the proportional drawdown requirement under CMIA (31 CFR 205.15(d)).

Related to the unliquidated obligation inquiry for the RSA-2 report, RSA provided additional TA after the onsite related to the definitions of accrued expenditures and obligations in the Education Department General Administrative Regulations ((EDGAR) (34 CFR 80.3)).

“Accrued expenditures” mean the charges incurred by the grantee during a given period requiring the provision of funds for:

- (1) Goods and other tangible property received;
- (2) Services performed by employees, contractors, subgrantees, subcontractors, and other payees; and
- (3) Other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

The accrued expenditures definition makes it clear that the expenditures must be paid in relation to the three areas described above; however, in the definition below regarding obligations, which does have some overlap with accrued expenditures, the relevant point is that the transaction will require payment by the grantee during the same or future period, but does not have the same urgency of a current provision of funds requirement. Obligations have the potential to remain unliquidated if the order is cancelled, or billing is not received, etc.

“Obligations” means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

In other words, an accrued expenditure is one in which goods or services have been delivered, recorded as expenditures, but not yet paid; however, the expenditure must be paid and is not at risk of “falling off the books.” Unliquidated obligations are classified under an-intent-to-pay because the services may not have been provided, or the bill has not yet been received; they do not count as expenditures.

2. Maintenance of Effort (MOE)

Section 111(a)(2)(B) of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), establishes the MOE requirement through the following language:

The amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for any previous fiscal year are less than the total of such expenditures for the second fiscal year preceding that previous fiscal year.

The amended FY 2015 Utah VR State plan attachment specific to OOS included data related to the non-Federal expenditures that established the MOE levels for the past several Federal fiscal years. RSA reviewed this information and noted a discrepancy in the FFY 2013 MOE expenditure level when it calculated MOE utilizing data submitted on the FFY 2013 SF-425 reports. Discussions onsite indicated that the agency had been reporting non-Federal expenditures for a grant award (i.e., H126A130066) during the entire period of performance (i.e., FFYs 2013 and 2014), instead of only during the year of appropriation (i.e., FFY 2013). As a result, the fourth quarter FFY 2013 SF-425 report, through September 30, 2013, indicated that the non-Federal share was \$13,216,537; however, the final FFY 2013 SF-425 reported a non-Federal share of \$16,309,960, representing an increase of \$3,093,423 in the fiscal year following the year of appropriation.

Further discussion surrounding what constitutes MOE indicated that USOR may not have been reporting all non-Federal share expenditures that support the VR program, such as those from the Division of Services for the Blind and Visually Impaired (DSBVI). USOR indicated a portion of the \$3,093,423 reported after September 30, 2012 included non-Federal expenditures at DSBVI that were identified after the report period had ended, but were determined allocable to the reporting period. However, USOR had not revised the September 30, 2013 SF-425 report to include these expenditures that would impact the FFY 2013 MOE levels.

TA Provided

During the onsite, RSA reviewed the non-Federal share discrepancy with USOR staff, comparing the fourth and final SF-425 reports of the FFY 2013 VR award. RSA informed USOR that the highest figure reportable for the MOE level will occur on the fourth quarter SF-425 report, which occurs at the end of the year of appropriation. However, RSA monitors non-Federal expenditures and unliquidated obligations through the end of the carryover year, and again at grant closeout to determine the extent to which unliquidated obligations from earlier reports are liquidated. The MOE amount is determined by reviewing the fourth quarter and latest/final SF-425 reports, utilizing the lesser of the two figures. The VR agency must ensure that non-Federal funds obligated or expended in any given Federal fiscal year are reported on the SF-425 report that corresponds to the year of appropriation. However, non-Federal funds that are determined allocable to a reporting period, identified during a review or reconciliation process that occurs after that reporting period, must be reported as part of the non-Federal share for the reporting period represented by the year of appropriation to which the expenditures were allocable. To the extent this occurs, the VR agency must request that RSA re-open the impacted SF-425 reports for revision on the RSA website (www.rsa.ed.gov)

Related to the FFY 2013 VR award SF-425 reports, a portion of the \$3,093,423 reported as expended in the carryover year of FFY 2013 (i.e., FFY 2014) should have been reported on the semi-annual SF-425 reports for the FFY 2014 VR award (i.e., March, 31 2014, September 30, 2014, March 31, 2015, and the September 30, 2015 final report), since FFY 2014 is the year of appropriation. Additionally, the portion of the \$3,093,423 identified as expended during the FFY 2013 VR award year of appropriation should be reported on the SF-425 reports pertaining to that period, despite the reconciliation activities occurring in FFY 2014.

At the time of the onsite, USOR was considering the submission of a MOE waiver to potentially reduce or eliminate future MOE penalties that may result from USOR's FFYs 2013 and 2014 non-Federal share expenditures. Information regarding MOE waiver requirements was provided to USOR and UBOE staff onsite, as well as in written form after the TA visit.

In general, the Secretary may grant a waiver or modification of the MOE deficit:

- when a State has experienced a major natural disaster or a serious economic downturn that causes significant unanticipated expenditures or reductions in revenue that result in a general reduction of programs in the State;
- when the State incurred substantial expenditures for long-term purposes due to the one-time costs associated with the construction of a facility for community rehabilitation program (CRP) purposes, the establishment of a CRP, or for the acquisition of equipment; or
- to permit the State to respond to exceptional or uncontrollable circumstances, such as a major natural disaster, that result in significant destruction of existing facilities and require the State to make substantial expenditures for the construction or establishment of a facility for CRP purposes in order to provide VR services.

On-site discussions indicated that Utah experienced an economic downturn in FFY 2011, causing a budget reduction in that fiscal year. However, the anticipated MOE deficit will occur in FFY 2015. Specifically, the impacted Federal fiscal years that will be reviewed in relation to Utah's MOE will include FFYs 2013, 2014 and 2015, due to the pending MOE deficit in FFY 2015 and future potential MOE penalty. RSA provided TA related to the financial information required to submit a MOE waiver, which must be certified in writing by a State Budget Office official. MOE waiver submissions will be most effective once a State has reported non-Federal expenditures on the SF-425 report that are unlikely to change in subsequent reports (e.g., reflecting zero non-Federal unliquidated obligations that may impact final MOE figures). Additional discussions with USOR after the on-site TA visit indicated that USOR integrated the MOE waiver guidance and understands that the circumstances related to the pending MOE deficit in Utah likely do not meet the requirements necessary for RSA to approve a MOE waiver.

3. Order of Selection (OOS)

As described in the background section, USOR established an OOS and explained the key factors in Attachment 4.11(c)(3) of its amended FFY 2015 VR State plan that it believed would affect its ability to serve all eligible individuals within the fiscal year, including:

- limited State funds to match available federal VR funds;
- increased number of referrals, applications and clients served (USOR went from serving 20,584 clients in FFY 2007 to 29,679 in FFY 2014, which is a 44.18 percent increase);
- inadequate staff coverage to meet the needs of clients (between FFYs 2007 and 2014, the client-to-counselor ratio increased from 176:1 to 221:1); and
- increased expenditures (from FFYs 2007 to 2014, consumer expenditures increased approximately 49 percent due to both the increased number of clients served and increases in the cost of services, such as diagnostic, medical, restoration and training services).
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- Due to the close proximity between the approval of the amended FFY 2015 VR State plan to establish the OOS (March 6, 2015), and the on-site TA visit (March 10 and 11, 2015), USOR had just begun closing all three priority categories at the time of the onsite and had not implemented an OOS resource tracking mechanism. Discussions with the interim VR director and UBOE representatives indicated that the VR agency was considering the implementation of a new provision under the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act (WIOA), which would permit a State operating with a waiting list under OOS to serve eligible individuals (whether or not receiving VR services) who require specific services or equipment to maintain employment. Related questions arose regarding whether or not USOR's original draft OOS policy (submitted for review and input by RSA in connection with the approval of the amended FFY 2015 State plan) containing a five-category order was allowable because it included separate priority categories for students with disabilities and individuals requiring VR services to maintain employment. Prior to the approval of the amended State Plan, RSA provided the TA set forth below, and USOR revised its draft policy and plan accordingly.

TA Provided

During the time of the onsite, USOR indicated that it was at risk of not being able to continue providing VR services to all eligible individuals already receiving authorized VR services under an individualized plan for employment (IPE). A supplementary appropriation request of \$6,300,000 was under consideration by the State legislature. Immediately following the on-site TA visit, it was confirmed that USOR received approval for the supplement. RSA emphasized the need to project accurately in order to make appropriate decisions about managing closed priority categories. The OOS justification contained in USOR's Attachment 4.11(c)(3) is based upon broad estimates, for example, indicating that if it served all eligible individuals, the projected expenditures would exceed the non-Federal and Federal resources available to it by \$2,958,370. The attachment further breaks down the number of individuals estimated to be served within each of the three priority categories during the fiscal year, including the estimated average costs to provide services to each group. The effective monitoring of the OOS waitlist should include the use of the information from the attachment, updated on a scheduled, frequent and ongoing basis, such that USOR may compare estimates to actual program expenditures for all categories and project as accurately as possible for the short and long-term.

Discussions onsite surrounding USOR's efforts to contain costs before going on OOS and closing priority categories indicated that USOR had implemented several mechanisms, including the establishment of purchased service rates below standards and in-State rates for post-secondary education, a migration toward performance-based payment modules, the use of collaborative funding through interagency agreements, and the participation of individuals in the cost of services based upon financial need. RSA and USOR further explored financial participation and USOR indicated it may consider reviewing its financial participation policies to determine whether other VR services could be included in its financial needs test.

As of May 14, 2015, the G5 grants management system identifies USOR VR award balances for FFYs 2014 and 2015 of \$ 2,873,756 and \$8,619,229, respectively, although USOR indicated that the FFY 2014 balance is obligated under contract. Therefore, with nearly five months remaining in the fiscal year, USOR has \$8,619,229 in FFY 2015 Federal VR funds, as well as the remaining balance of the \$6.3 million supplemental State appropriation. In addition, RSA will make one final FFY 2015 award in the fourth quarter, representing the 15 percent held back minus any MOE penalty, if applicable, which will increase the total amount of resources available for the remainder of the fiscal year. Any FFY 2015 VR funds fully matched by September 30, 2015, may be carried over into FFY 2016 for obligation and expenditure. RSA encourages USOR to take full advantage of the remaining funds for the benefit of serving eligible individuals currently receiving VR services under an IPE.

As discussed in the non-Federal reporting and MOE sections above, USOR's VR formula awards have been insufficient to meet the demands of higher program expenditures and increasing VR caseloads. In each Federal fiscal year between 2009 through 2014, USOR pursued reallotment funds, increasing from \$2,000,000 to \$8,000,000 over the time span. However, the additional resources were not sufficient to prevent the State from needing to establish an OOS, close all three priority categories, and establish a waitlist. While reallotment funds will not always represent a stable and reliable source of additional Federal VR funds

across fiscal years, USOR may consider the use of reallocation as a source of short-term funds, if and when available, that the agency may use to ensure continuity of VR services for eligible individuals receiving VR services under an IPE. Additionally, the agency will be developing a mechanism to analyze its expenditures and projections as it operates the OOS with all priority categories closed. The influx of reallocation funds may prove useful in reducing the time between priority category closure and the re-opening of priority categories. However, a conservative approach to re-opening priority categories and sustainable consumer purchased VR service levels for all eligible individuals receiving VR services under an IPE are critical in assessing when to re-open closed priority categories.

Prior to FFY 2016 and each subsequent Federal fiscal year, USOR, as the designated State unit (DSU), must determine whether it has the resources to continue providing the full range of VR services to all eligible individuals or whether it must establish and implement an OOS (34 CFR 361.36(c)(1)). In Attachment 4.11(c)(3) of its approved FFY 2015 VR State Plan, USOR stated the factors it believed would impact its ability to serve all eligible individuals during that fiscal year. However, it must continue to evaluate its ability to provide the full range of VR services to all eligible individuals in accordance with 34 CFR 361.36(a)(2).

As stated above, prior to the on-site TA visit RSA provided TA regarding Utah's amended FFY 2015 VR State plan submission related to OOS priority categories. However, due to the change in leadership immediately preceding the on-site TA visit, Utah sought clarification during the on-site TA visit regarding its previously submitted OOS priority categories, specifically its "Students" and "Individuals at Risk of Losing Employment" categories (each with sub-categories related to significance of disability).

Current VR implementing regulations at 34 CFR 361.36(d) state:

(1) Basis for order of selection.

An order of selection must be based on a refinement of the three criteria in the definition of "individual with a significant disability" in section 7(21)(A) of the Act.

No other factors may be considered in an order (34 CFR 361.36(d)(2)). As a result, current VR implementing regulations require that an OOS be based solely upon the criteria comprising the definition of "individual with a significant disability," currently defined at section 7(21)(A) of the Rehabilitation Act:

Except as provided in subparagraph (B) or (C), the term "individual with a significant disability" means an individual with a disability--

- (i) who has a severe physical or mental impairment which 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;
- (ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) 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, respiratory or pulmonary dysfunction, mental retardation, 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 disability, 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 described in subparagraphs (A) and (B) of paragraph (2) to cause comparable substantial functional limitation.

In determining which individuals with significant disabilities are individuals with the most significant disabilities, for purposes of providing them with the highest priority for services in an OOS, a VR agency must refine the criteria within the above definition. These criteria are: 1) the number and degree of functional limitations; 2) the number of services to be provided; and 3) the period of time over which the services are to be provided. The agency may choose to refine one, or a combination, of these factors. By refining these factors, the VR agency links the nature and depth of the individual's functional limitations with the need for multiple and complex services that require an extended period of time for completion. Therefore, an individual's status as a "student" or his or her risk of job loss cannot serve as the basis for OOS, either as a separate priority category or as criteria to be considered within a priority category.

However, the one change to the OOS requirements made by WIOA occurs in section 105(a)(5)(D) of the Rehabilitation Act of 1973, as amended, cited below, permitting a State, in its discretion, to elect to serve eligible individuals (whether or not receiving VR services) who require specific services or equipment to maintain employment.

(5) ORDER OF SELECTION FOR VOCATIONAL REHABILITATION SERVICES.—

In the event that vocational rehabilitation services cannot be provided to all eligible individuals with disabilities in the State who apply for the services, the State plan shall—

(C) include an assurance that, in accordance with criteria established by the State for the order of selection, individuals with the most significant disabilities will be selected first for the provision of vocational rehabilitation services; and

(D) notwithstanding subparagraph (C), permit the State, in its discretion, to elect to serve eligible individuals (whether or not receiving vocational rehabilitation services) who require specific services or equipment to maintain employment;

As a result of this new statutory exemption, should a State choose to elect this option in its VR State plan, the State may provide these specific services or equipment in order for an individual to maintain employment, even if the State is operating on an OOS with all categories closed. It is not necessary for a State to create an OOS priority category for these individuals to exercise this option. At the time USOR amended its FFY 2015 VR State plan to implement OOS, it did not select this option. However, during the on-site discussions, USOR inquired whether choosing to implement this option would require public meetings or additional amendments to the FFY 2015 VR State plan. The election of this option would require amendments to several

State plan attachments, including: Preprint: Updated Signatures/Dates; Attachment 4.2(c) SRC Comment & Agency Response; Attachment 4.11(b) Annual Estimates; and Attachment 4.11(c)(3) OOS. Given the substantive nature of such a change to the State's OOS, as well as the State plan amendments that would be required, public meetings also would be required (section 101(a)(16)(A) of the Rehabilitation Act and current 34 CFR 361.10(d). This TA is consistent with guidance contained in RSA Technical Assistance Circular (TAC)-12-02, <http://www.ed.gov/policy/speced/guid/rsa/tac/2012/tac-12-02.doc>.

As required by section 101(a)(16)(A) of the Rehabilitation Act and current 34 CFR 361.10(d) of the implementing regulations, prior to the adoption of any substantive policies or procedures (or any substantive amendment to such policies and procedures) governing the provision of VR or supported employment services under the VR State plan or the supplement, the VR agency must conduct public meetings throughout the State, after giving adequate notice of the meetings, to provide the public, including individuals with disabilities, an opportunity to comment on the policies and procedures contained in the proposed State Plan.

Prior to conducting the public meetings and amending the VR State plan, RSA recommends that USOR consider other factors as well. Since this would in effect create an exemption to OOS, and Utah is currently operating with all priority categories closed, the costs of providing this exemption should be factored into the analysis of deciding whether or not to select this option. RSA encourages USOR to analyze the needs of individuals in Utah who have historically applied for services while employed, the services required to maintain employment (e.g., rehabilitation technology, job-related services), and the cost of those services. It would be important to factor this information into USOR's OOS projection to assess the impact on purchased service funding to ensure continuity of services for those individuals currently under IPE, as well as future funding for individuals Utah may serve who are currently on a waitlist.

4. Indirect Costs

USOR stated onsite that the indirect cost rate utilized by the agency was the rate established by the Utah State Office of Education (USOE), the designated State agency (DSA). USOR's review of the application of the rate demonstrated that the USOE rate may disproportionately overcharge USOR for certain services as part of the indirect costs, and USOR is concerned that the amount of indirect costs it is charged for specific positions may not be reflective of the proportion of relative benefits that USOR receives.

TA Provided

RSA confirmed that the U.S. Department of Education (ED) is the cognizant agency for USOE and USOR, and that if the State made a decision to develop and submit an indirect cost rate proposal specific to USOR, it may be submitted to ED for review and approval. RSA indicated that its own staff is not responsible for the review and approval process, which is conducted by ED's Indirect Cost Group staff housed in Washington, DC. Subsequent to the onsite, RSA confirmed the Indirect Cost Group contact with USOR staff, and USOR has been in discussions

with the Indirect Cost Group staff, receiving TA related the development and submission of its own rate.

5. Reorganization

Prior to the on-site TA visit, discussions with the former VR director indicated that the State of Utah was considering a reorganization of the VR program, possibly placing it into another State department to function as the DSA. During and after the on-site TA visit, the interim director indicated that a reorganization remains a possibility for USOR programs, which currently reside in USOE within the State.

TA Provided

RSA recognizes that a State has considerable flexibility in the manner by which it administers the VR program. However, once the State establishes the administrative or organizational structure for the VR program in its State plan, each component of that administrative structure--the DSA as the administrator of the State plan and the designated State unit (DSU) as the administrator of the VR program--must ensure compliance with all Federal requirements under the VR program. When reviewing a State's compliance with requirements under the Rehabilitation Act, including those related to the establishment and implementation of an OOS, RSA assesses whether both the DSA and DSU performed their discrete responsibilities, including whether the organizational structure established by the State permits the DSU to administer the VR program in a manner that enables the director of the DSU to perform the non-delegable responsibilities discussed herein. For more guidance on the DSA and DSU relationship, please review RSA-TAC-12-03, "Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program," dated April 16, 2012.

V. Next Steps

RSA and USOR staff agreed that a review of the accounting records and supporting documentation for the SF-425 reports related to H126A130066, H126A140066 and H126A150066 is necessary to determine the non-Federal share allocable to the year of appropriation for each award. To the extent this impacts data submitted on the corresponding semi-annual SF-425 reports for each award, revisions to the non-Federal share data will be required. This process will yield accurate non-Federal share information so that RSA may reassess the MOE determinations for the impacted Federal fiscal years.

Clarification regarding the exclusion of unliquidated obligations on the RSA-2 report may lead USOR staff to review the nature of its accounting basis to determine whether or not expenditures reported out on the RSA-2 are commensurate with reporting instructions. A subsequent review of past RSA-2 reports, and requests to revise reports, as appropriate, may be necessary.

Due to the changes in key leadership positions within USOR, including a new interim director, RSA encourages staff to take full advantage of resources provided on RSA's website at <http://rsa.ed.gov/> and to have continued dialogue with RSA, as needed. Since several of the areas discussed with USOR in relation to the OOS and reconstructing previous Federal fiscal year's SF-425 reports relate to non-Federal share were still in the formative stages, RSA invites ongoing dialogue with USOR as formal processes are developed to implement changes associated with these areas.

In addition, USOR identified TA needs associated with implementing the changes identified within this report. USOR requests further TA with respect to:

1. the process for opening up priority categories under its OOS; and
2. moving eligible individuals off the wait list appropriately.

RSA will work with USOR to address the TA needs identified.