

FEDERAL FISCAL YEAR 2016

**Technical Assistance Report
of the On-Site Visit to the
Arizona Rehabilitation Services
Administration**



U.S. DEPARTMENT OF EDUCATION

**OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES**

REHABILITATION SERVICES ADMINISTRATION

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I. Introduction

A. The Federal Mandate

Section 107(b) of the Rehabilitation Act of 1973 (Act), as amended by title IV of the Workforce Innovation and Opportunity Act (WIOA), requires the Commissioner of the Rehabilitation Services Administration (RSA) to provide technical assistance to State vocational rehabilitation (VR) agencies to improve the quality of VR services provided to, and promote the achievement of high quality employment outcomes by, individuals with disabilities. To fulfill, in part, this requirement, RSA conducted five technical assistance (TA) visits to five different VR agencies across the country in the final quarter of Federal fiscal year (FFY) 2016. These visits allowed RSA to review the progress of VR agencies toward compliance with new requirements under the Act, as amended by WIOA, and to assist States in complying with those requirements.

This report summarizes the activities and outcomes of the TA visit to the Arizona Rehabilitation Services Administration (AZ RSA). The report includes a summary of pre on-site activities, TA provided by the RSA TA team during the on-site visit, and the identification of the VR agency's on-going TA needs and possible resources to meet those needs.

B. Description of the Technical Assistance Visit

1. General

Section 506(d) of WIOA makes clear that the amendments to the Act took effect on the date of enactment (July 22, 2014) unless WIOA specified otherwise. As such, VR agencies must ensure that their policies and procedures incorporate and implement all new requirements under the Act, as amended by WIOA. To facilitate this process, and to support this undertaking by its grantees, a TA team from the State Monitoring and Program Improvement Division (SMPID) conducted a TA visit to AZ RSA from September 20 through 22, 2016.

The specific programs covered during this TA visit included:

- The VR program, authorized under Title I of the Act; and
- The Supported Employment program, authorized under Title VI of the Act.

2. Focus Areas of the TA Visit

Prior to the conduct of the TA visits, RSA issued a Technical Assistance Guide that described the three focus areas that would constitute the primary work of the TA teams while on-site. The three focus areas included:

- Competitive integrated employment;
- Pre-employment transition services for students with disabilities, including the requirement for a State to reserve and expend at least 15 percent of the VR allotment to provide, or arrange for the provision of, pre-employment transition services; and

- Supported employment for individuals with the most significant disabilities, including the requirement for a State to reserve and expend 50 percent of its Supported Employment program allotment to provide supported employment services, including extended services, to youth with the most significant disabilities.

A summary of the TA provided under each focus area is discussed in greater detail in the sections that follow in this report. As a result of the TA visit, the RSA TA team, in collaboration with AZ RSA, identified:

- Policies and procedures that need to be revised for AZ RSA to comply with requirements of the Act, as amended by WIOA, and its implementing regulations; and
- The need and the resources for further technical assistance.

Section VI of this report summarizes the identified policies and procedures in need of further revision and any outstanding TA needs along with possible resources to meet those needs.

II. Overview of the Technical Assistance Visit Process

A. Pre On-Site Activities

Prior to the on-site visit, the RSA TA team conducted a variety of preparatory activities, including:

- An introductory teleconference with the TA team and AZ RSA to introduce the RSA TA team, and to discuss dates for the visit and a proposed agenda;
- A review by the RSA TA team of proposed revised VR service policies intended to comply with new requirements under WIOA;
- A review of contracts and requests for proposals from contractors to provide pre-employment transition services;
- A review of data collected by RSA related to the three focus areas;
- The development of a final on-site agenda; and
- Follow-up communication between RSA and pertinent AZ RSA staff to confirm on-site logistics.

B. Participants

The RSA TA team consisted of Brian Miller, team lead, and Shannon Moler (VR Program Unit); Sean Barrett (Fiscal Unit); and Caneshia McAllister (Technical Assistance Unit).

During the on-site TA visit, the RSA TA team met with the following individuals and organizations:

- The Assistant Director , Division of employment and Rehabilitation Services (DERS), under the Arizona Department of Economic Security;
- The Assistant Deputy Director, DERS;
- The Administrator of AZ RSA;

- The Deputy Administrator of AZ RSA;
- AZ RSA regional managers;
- The Operations Manager for the Services for the blind, visually impaired and deaf of AZ RSA;
- AZ RSA Statewide Transition Coordinator; and
- Policy Manager, Business Intelligence Manager, and representatives from the DES Financial Services Administration.

III. Competitive Integrated Employment

A. General

The Act, as amended by WIOA, emphasizes the achievement of competitive integrated employment. The foundation of the VR program is the principle that individuals with disabilities, including those with the most significant disabilities, are capable of achieving high-quality, competitive integrated employment when provided the necessary services and supports. To increase the employment of individuals with disabilities in the competitive integrated labor market, the workforce system must provide individuals with disabilities opportunities to participate in job-driven training and to pursue high quality employment outcomes. To reinforce this principle, the Act, as amended by WIOA, contains several critical changes that form the basis for this focus area. In addition, the VR program regulations, which were published at 81FR55629 on August 19, 2016, and which became effective on September 19, 2016, contain further critical changes that affect this focus area. The changes related to competitive integrated employment covered by the TA teams included:

- The new definition of “competitive integrated employment” in section 7(5) of the Act and §361.5(c)(9) of the implementing regulations that combines, clarifies, and enhances the two separate definitions of “competitive employment” and “integrated setting” for the purpose of employment under the VR program in prior §361.5(b)(11) and (b)(33)(ii), respectively;
- The revision of the definition of “employment outcome” in §361.5(c)(15) that specifically identifies customized employment as an employment outcome under the VR program and requires that all employment outcomes achieved through the VR program be in competitive integrated employment or supported employment, thereby eliminating uncompensated outcomes, such as homemakers and unpaid family workers, from the scope of the definition for purposes of the VR program; and
- The requirement in section 102(b)(4)(A) of the Act and §361.46(a) of the implementing regulations that the individualized plan for employment (IPE) include a specific employment goal consistent with the general goal of competitive integrated employment.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to competitive integrated employment:

1. Competitive Integrated Employment – General Requirements

To satisfy the definition of “competitive integrated employment” in section 7(5) of the Act and 34 CFR 361.5(c)(9) of the implementing regulations, the employment outcome must satisfy the criteria of three major components of the definition, including competitive earnings, integrated location, and opportunities for advancement.

“Competitive integrated employment,” as defined at 34 CFR 361.5(c)(9), means work that—

(i) Is performed on a full-time or part time basis (including self-employment) and for which an individual is compensated at a rate that—(A) Is not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the rate required under the applicable State or local minimum wage law for the place of employment; (B) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and (C) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and (D) Is eligible for the level of benefits provided to other employees; and

(ii) Is at a location—

(A) Typically found in the community; and

(B) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (*e.g.*, customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and

(iii) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

During the on-site visit, these components and their criteria were explored through the review of documentation, available data, and the questions listed in the Vocational Rehabilitation Program Federal Fiscal Year 2016 Technical Assistance Guide. The documentation reviewed during the on-site visit include the VR agency policies related to the achievement of employment outcomes in competitive integrated employment; the VR services portion of the approved Unified or Combined State Plan; and RSA-911 data describing the number and percentages of individuals who achieved employment outcomes in competitive integrated employment, their hours worked, and wages earned.

Based on data reported by AZ RSA through the VR program Case Service Report (RSA-911) for FFY 2015, of the 1,339 individuals whose cases were closed and who achieved employment outcomes, 1,310, or 97.83 percent, achieved competitive integrated employment outcomes. During that year, 1,165 individuals (87 percent) achieved employment without supports and 148 (11.1 percent) achieved employment with supports in an integrated setting.

During the on-site visit, AZ RSA management described its streamlined policy development process, which has enabled it to more efficiently develop policies necessary to implement the changes to the VR program made by the Act, as amended by WIOA, and the final regulations, including those related to competitive integrated employment. For example, AZ RSA has developed a new policy concerning the content and development of the individualized plan for employment (IPE), which is consistent section 102(b) of the Act, as amended by WIOA, and 34 CFR 361.45 and 361.46. Specifically, the agency's revised policy requires that the IPE be developed as soon as possible, but no later than 90 days after the date of eligibility determination (34 CFR 361.45(e)), and that the goal on the IPE be consistent with the general goal of competitive integrated employment (34 CFR 361.46(a)(1)). This policy was completed and ready for the acting director's signature at the time of the on-site visit. During the on-site visit, AZ RSA asked how it should handle cases that are already beyond the 90-day development timeframe specified in 34 CFR 361.45(e).

AZ RSA management also stated that it was eliminating older and outdated policies and procedures and that the agency may disseminate new or amended policies or procedures to staff through email and staff meeting announcements, rather than a policy and procedure manual.

In addition, AZ RSA was developing self-employment guidance at the time of the on-site visit. To assist with its development of this guidance, AZ RSA asked if it is appropriate to support eligible individuals to establish non-profit business ventures, since the individuals would not have at least 51 percent ownership of the business. The agency was concerned that these types of businesses would not meet the competitive earnings criteria in the definition of "competitive integrated employment." AZ RSA also asked if it should assist individuals to establish franchises due to the high expenses associated with these businesses. Finally, AZ RSA inquired if internet businesses are considered integrated locations within the meaning of "competitive integrated employment."

TA Provided:

With respect to the implementation of the 90-day IPE development timeframe, AZ RSA acknowledged that, at the time of the on-site visit, it was not in compliance with section 102(b)(3)(F) of the Act, as amended by WIOA, which became effective on July 22, 2014, and 34 CFR 361.45(e), which became effective on September 19, 2016, because it had not developed the IPE within 90 days of the date of eligibility determination for each individual. The RSA TA team encouraged AZ RSA management to improve its compliance with the statute and regulation by providing training to its VR counselors on the requirement, and noted that section 102(b)(3)(F) and 34 CFR 361.45(e) permits the VR counselor and individual to agree to an extension of the 90-day timeframe to a specific date by which the IPE must be completed. Although the regulation does not impose a limitation on the length of the extension, the agency should ensure that the extension is warranted based on the particular circumstances and needs of each individual, and that the extension is not so long as to cause unnecessary delays in providing services.

During the discussion of the agency's streamlined policy development process, the RSA TA team provided guidance on 34 CFR 361.50, which requires that VR agencies develop and implement written policies describing the nature and scope of each service delivered through the VR program as listed in section 103(a), and 34 CFR 361.48(a) and .48(b). The TA team noted that the use of memoranda or letters to disseminate new and amended policies and procedures, in place of a manual, could make it difficult for managers, counselors, consumers, and stakeholders to stay abreast of changes in policies and procedures. The TA team advised the agency to use a method for dissemination of written policies and procedures that ensures agency personnel, consumers, and stakeholders are able to access current policies and procedures in a timely, effective, and efficient manner.

With respect to the agency's questions concerning self-employment non-profit businesses, these types of businesses can satisfy the competitive earnings criteria in the definition of "competitive integrated employment." Both the definitions of "employment outcome" in 34 CFR 361.5(c)(15) and "competitive integrated employment" in 34 CFR 361.5(c)(9)(i) refer to self-employment as a form of competitive integrated employment, without distinguishing between for- and non-profit businesses. In addition, the competitive earnings criteria when referring to self-employment in 34 CFR 361.5(c)(9)(i)(C) does not establish a minimum percentage for ownership of the business by the individual with the disability. Rather, it requires that individuals in self-employment must earn an income that is comparable to that earned by individuals without disabilities in similar occupations and who have similar training, skills, and experience. So long as a non-profit business satisfies this criterion, and all other criteria within the definition, it would be considered competitive integrated employment. With respect to self-employment franchise businesses, the TA team encouraged AZ RSA not to rule out supporting individuals in these types of businesses, but to consider them case by case based on the viability of each business plan and the needs of each individual.

Finally, internet businesses can satisfy the definition of "competitive integrated employment" in 34 CFR 361.5(c)(9). Like any other business, an internet business must meet the criteria for an integrated location in 34 CFR 361.5(c)(9)(ii), which first requires that the employment setting be "typically found in the community." As stated in the preamble to the final regulations, a setting is typically found in the community if it is in the competitive labor market and not one established by a community rehabilitation program for the express purpose of employing individuals with disabilities. The setting also must be in which the individual interacts, while performing his or her job duties, with coworkers in the work unit and across the work site, and with other persons, as appropriate (e.g., vendors and customers) without disabilities to the same extent that employees without disabilities in similar positions interact with these same persons. So long as AZ RSA determines case by case that both these criteria are satisfied, an internet business would meet the definition of "competitive integrated employment."

2. Employment Outcomes – Customized Employment

Section 7(7) of the Act, as amended by WIOA, and §361.5(c)(15) of the implementing regulations add customized employment to the definition of “employment outcome.” As defined in section 7(11) of the Act, as amended by WIOA, and 34 CFR 361.5(c)(11), customized employment is a form of competitive integrated employment designed to meet the needs of individuals with significant disabilities and employers through flexible strategies. Customized employment is an alternative that enables individuals with disabilities and employers the opportunity to negotiate job tasks and/or reassign basic job duties to improve overall production in the workplace. For employers, customized employment allows an employer to examine its specific workforce needs and fulfill those needs with a well-matched employee.

During the on-site visit, AZ RSA management stated that the agency was developing guidance related to customized employment consistent with the definition in 34 CFR 361.5(c)(11). Based on data reported by AZ RSA through the RSA-911 for FFY 2015, the agency did not provide customized employment services to any individual whose case was closed and who achieved competitive integrated employment.

TA Provided:

During the on-site visit, AZ RSA acknowledged that the agency should be providing customized employment services and is working toward expanding the use of customized employment to help individuals with significant disabilities achieve employment outcomes. The TA team encouraged AZ RSA to work with employers, particularly those employers that have not been open to employing individuals with significant disabilities, to enable them to hire these individuals through customized employment when appropriate. The TA team also offered to provide technical assistance to the agency as it developed its new policy on customized employment, though the agency did not request this technical assistance at the time of the on-site visit.

3. Employment Outcomes – Uncompensated Outcomes

The revised definition of “employment outcome” in 34 CFR 361.5(c)(15) specifically identifies customized employment as an employment outcome under the VR program, and requires that all employment outcomes achieved through the VR program be in competitive integrated employment or supported employment, thereby eliminating uncompensated outcomes, such as homemakers and unpaid family workers, from the scope of the definition for purposes of the VR program. The elimination of uncompensated outcomes from the scope of the regulatory definition of “employment outcome,” as implemented by §361.5(c) (15), is consistent with section 7(11) of the Act, which permits the Secretary to include within the definition any vocational outcomes in a manner consistent with the Act. It is no longer “consistent with the Act” to include uncompensated outcomes within the scope of the definition because of the extensive emphasis on competitive integrated employment throughout the Act as amended by WIOA, including the statement of purpose, provisions related to the transition of students and youth with disabilities, changes to the Supported Employment program, and

limitations on the use of subminimum wage in section 511. In particular, section 102(b)(4) of the Act, as amended by WIOA, and §361.46(a)(1) of the implementing regulations require that the IPE include a specific employment goal consistent with the general goal of competitive integrated employment. To assist VR agencies to implement this change in the definition and to ensure that individuals with disabilities do not experience a disruption in services, 34 CFR 361.5(c)(15) establishes a transition period for its implementation.

The documentation reviewed during the on-site visit included VR agency policies related to assisting eligible individuals to achieve employment outcomes, including those pertaining to homemaker and unpaid family worker outcomes, and RSA-911 data describing the number and percentages of individuals who achieved employment outcomes, including homemaker and unpaid family worker outcomes. During the on-site visit, AZ RSA reported that the agency has not historically placed individuals into uncompensated outcomes and that it does not foresee the changes in the Act regarding uncompensated outcomes will have an impact on the agency's performance on the measures established by section 116 in title I of WIOA for all core programs of the workforce development system, including the VR program. Based on data reported by AZ RSA through the RSA-911 for FFY 2015, of those individuals whose cases were closed, seven (0.5 percent) obtained homemaker outcomes and two individuals (0.1 percent) obtained unpaid family worker outcomes.

TA Provided:

During the on-site visit, AZ RSA acknowledged that the agency may still be serving a few individuals with the goal of homemaker or unpaid family worker. Otherwise, it refers individuals who seek this type of employment to alternative sources for homemaker services, such as Community Rehabilitation Programs and Centers for Independent Living, in accordance with 34 CFR 361.37(b). As of the effective date of the final regulations (September 19, 2016), VR agencies may no longer open cases for individuals pursuing uncompensated employment outcomes. However, the transition period for implementation of the definition of "employment outcome" permits VR agencies to continue to serve individuals who are pursuing uncompensated employment outcomes under IPEs that were approved or amended prior to the effective date of the final regulations when such an employment outcome is specified on those approved IPEs. Under such circumstances, VR agencies may continue to assist those individuals to achieve uncompensated outcomes through June 30, 2017, or for a longer period of time based on the needs of the individual as documented in the service record. AZ RSA did not request additional technical assistance at the time of the on-site visit.

4. Impact of an Order of Selection on Competitive Integrated Employment

Section 101(a)(5)(D) of the Act, as amended by WIOA, and §361.36(a)(3)(v) of the implementing regulations permit a VR agency to elect to serve eligible individuals who require specific services or equipment to maintain that employment, whether or not those individuals are receiving VR services under the order of selection. This exemption from the order of selection applies only to those services and equipment needed to maintain the

individual's employment. It does not permit the VR agency to provide VR services and equipment not directly tied to maintaining the individual's current employment. If the VR agency elects to exercise this flexibility, it must indicate so in the VR services portion of the Unified or Combined State Plan.

The documentation reviewed during the on-site visit included VR agency policies related to the implementation of an order of selection and the assurances and descriptions in the VR services portion of the program year (PY) 2016 Arizona Unified State Plan related to the order of selection.

During the on-site visit, AZ RSA management stated that the agency did not plan to exercise this flexibility for individuals who need help maintaining employment even though they do not meet the order of selection criteria. The agency stated that the State Rehabilitation Council (SRC) would support the exception to serve these individuals, but understands the current fiscal constraints.

In FFY 2016, AZ RSA requested a reallocation of funds and stated that it intended to reduce the number of individuals on the order of selection waitlist. The order of selection waitlist began in March 2009, due to a reduction in State appropriations. Since then, AZ RSA has served only those individuals with the most significant disabilities (Priority Category I). According to the VR services portion of the PY 2016 Unified State Plan, 2,917 individuals were on the agency's waitlist, most of whom were individuals with significant disabilities (Priority Category II), while 459 individuals were individuals with all other disabilities (Priority Category III). AZ RSA sends letters to individuals on the waitlist every 6 months and removes individuals from the waitlist if they do not respond to two consecutive letters.

Having received a reallocation of VR program funds in FFY 2016, the agency plans to begin releasing individuals from closed categories in FFY 2017. The agency intends to reduce the number of individuals assigned to waitlist for Priority Category II, and will monitor its fiscal and staff before completely opening all categories. At the time of the review, AZ RSA had 40 VR counselor positions vacant and discussed with the RSA TA team methods of cost savings so it could retain more counselors and serve more individuals. At the time of the on-site visit, AZ RSA was confident that State matching funds would be available in future fiscal years and that its goals for reducing the order of selection would be sustainable.

TA Provided:

During the on-site visit, AZ RSA management acknowledged that it was unusual for the agency to request a reallocation of funds because the State did not provide the requisite matching funds. However, AZ RSA anticipates that it will continue to have the support of its designated State agency to obtain sufficient matching funds from the State legislature in future fiscal years. AZ RSA intends to provide raises for staff to attract good candidates to fill vacant positions and to stabilize existing positions so that more individuals can be served. The agency did not request additional technical assistance on

the impact of an order of selection for competitive integrated employment at the time of the on-site visit.

IV. Pre-Employment Transition Services

A. General

The Act, as amended by WIOA, places heightened emphasis on the provision of services, including pre-employment transition services, to students and youth with disabilities to ensure they have meaningful opportunities to receive training and other services necessary to achieve employment outcomes in competitive integrated employment. The Act and its final regulations in 34 CFR part 361 contain several new terms and requirements related to pre-employment transition services.

Pre-employment transition services, defined in section 7(30) of the Act, as amended by WIOA, and §361.5(c)(42) of the final regulations, include both required activities and authorized activities specified in section 113 of the Act and the final regulations in §361.48(a). There are **five required activities** (most beneficial to a student in the early stages of employment exploration) that are provided directly to eligible or potentially eligible students with disabilities. There are **nine authorized activities** described in §361.48(a)(3) that VR agencies may implement to improve the transition of students with disabilities from school to postsecondary education or an employment outcome.

Pre-employment transition services also include pre-employment transition coordination activities. Pre-employment transition **coordination activities**, described in §361.48(a)(4), include activities that each local VR agency office must engage in to coordinate and facilitate the provision of pre-employment transition services to students with disabilities.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to pre-employment transition services.

1. Planning for and Coordination of Pre-Employment Transition Services

Under section 101(a)(15) of the Act, as amended by WIOA, and 34 CFR 361.29(a)(1)(i)(D) of the VR regulations, VR agencies must include in the comprehensive statewide needs assessment (CSNA) the VR needs of students and youth with disabilities, including their need for pre-employment transition services or transition services, as applicable, and an assessment of that need, as well as the extent to which services are coordinated with transition services under the Individuals with Disabilities Education Act (IDEA). The VR services portion of the Unified or Combined State Plan must describe the strategies the VR agency will use to improve and expand VR services for students and youth with disabilities, including pre-employment transition services for students with disabilities pursuant to section 101(a)(25) of the Act, as amended by WIOA, and 34 CFR 361.29(d)(3) and (4) of the VR regulations.

AZ RSA expects to complete its next CSNA in FFY 2017. The agency will incorporate all required new elements in the assessment under 34 CFR 361.29, including the need to assess youth with disabilities, and students with disabilities, including their need for pre-employment transition services or other transition services; and, an assessment of the needs of individuals with disabilities for transition services and pre-employment transition services, and the extent to which these services are coordinated with transition services provided under IDEA.

TA Provided:

The RSA TA team discussed with AZ RSA the requirements in 34 CFR 361.29(a) for the conduct of the CSNA to assess the needs of students and youth for pre-employment transition services and transition services, as applicable, and the extent to which these services are coordinated with transition services provided by the Local Educational Agency (LEA) under IDEA. In doing so, the TA team also clarified the services to be assessed for students and youth with disabilities, since VR agencies can only provide pre-employment transition services to individuals who meet the definition of “student with a disability” in 34 CFR 361.5(c)(51), whereas VR agencies can provide students and youth with disabilities group transition services, regardless of whether they have applied for VR services, or individualized transition services under an approved IPE, in accordance with section 103 of the Act, as amended by WIOA, and 34 CFR 361.49(a) and 361.48(b), respectively.

Finally, the TA team clarified that once AZ RSA determines the potential students with disabilities eligible for pre-employment transition services, and targets a sufficient amount of reserved funds necessary to provide the “required” activities needed by the population identified in the CSNA, if any funds remain, funds reserved for the provision of pre-employment transition services may then be used for the “authorized” activities in section 113(c) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(3).

2. State Educational Agency (SEA) Agreement

Under section 101(a)(11)(D) of the Act, as amended by WIOA, and 34 CFR 361.22, VR agencies are required to develop policies and procedures for coordinating with educational officials to facilitate the provision of VR services, including pre-employment transition services. Additionally, the VR services portion of the PY 2016 Arizona State Plan must contain plans, policies, and procedures for coordination between the VR agency and the SEA to facilitate the transition of students from the receipt of educational services, including pre-employment transition services, to the receipt of VR services as required in 34 CFR 361.22(a)(1). As a result of the amendments to the Act made by WIOA, 34 CFR 361.22(b) was revised by incorporating pre-employment transition services in the interagency coordination of transition services; the provision of consultation and technical assistance to educational agencies through alternative means; coordination necessary to satisfy documentation requirements set forth in 34 CFR part 397 with regard to youth seeking subminimum wage employment; an assurance that neither the SEA nor LEA will enter into a contract or other arrangement with an entity, as

defined in 34 CFR 397.5(d) for the purpose of operating a program under which a youth with a disability is engaged in work compensated at subminimum wage; and the construction clause in section 101(c) of the Act, as amended by WIOA.

During the on-site visit, AZ RSA informed the TA team that it was working with the AZ Department of Education to update the formal interagency agreement to assist in identifying students and youth with disabilities and assessing their need for pre-employment transition services. At present, information is shared between several agencies including the Arizona Department of Education, AZ RSA, and the Arizona Behavioral Health agency, to identify potential students who could benefit from pre-employment transition services. AZ RSA had developed a draft of the formal SEA agreement at the time of the on-site visit and expected to finalize and sign the agreement early in FFY 2017.

Additionally, AZ RSA senior managers continue to develop relationships with community colleges for individuals needing VR services. However, they are currently working to develop more memorandum of understanding (MOUs) on the community college level. At present, the agency has one active MOU with a local community college and one active MOU with the state's largest community college district which serves ten community colleges and two skills centers. AZ RSA currently does not have agreements with any of the state universities, but plans to continue to explore opportunities to partner with the universities. AZ RSA is also seeking to collaborate with the AZ Department of Education to provide pre-employment transition services to high school students. The agency hopes to use these arrangements with institutions of higher education to establish relationships with campus career service offices to enable students with disabilities to transition from secondary to postsecondary education and employment through career counseling and job exploration.

TA Provided:

The TA team provided technical assistance specific to the formal interagency agreement requirements in 34 CFR 361.22(b), including the need to conduct outreach to, and identify, students with disabilities in need of not only transition services, but also pre-employment transition services; the requirements under section 511 of the Act, as amended by WIOA, specific to the coordination necessary to satisfy documentation requirements with regard to youth with disabilities seeking subminimum wage employment; and the contracting prohibitions for educational agencies to enter into a contract with an entity that holds a special wage certificate under section 14(c) of the Fair Labor Standards Act for the purpose of employing youth with disabilities at subminimum wages.

The TA team discussed with AZ RSA the statutory provisions of the construction clause in section 101(c) of the Act, as amended by WIOA, and 34 CFR 361.22 (c), which clarify that nothing in the formal interagency agreement will be construed to reduce the obligation under IDEA of a LEA or any other agency to provide or pay for transition

services, including pre-employment transition services, that are also considered to be a special education or related service necessary for a free appropriate public education.

3. Provision of Pre-Employment Transition Services

Pre-employment transition services include the required activities, authorized activities, and pre-employment transition coordination activities listed in section 113 of the Act, as amended by WIOA, and 34 CFR 361.48(a) of the VR regulations.

A. Required Activities

Under section 113(a) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(1), VR agencies must provide, or arrange for, the provision of the required activities, or direct services, in collaboration with the LEA and must be made available Statewide to all students with disabilities in need of such services, regardless of whether they have applied or been determined eligible for the VR program. These services are limited to those listed in section 113(b) of the Act, and 34 CFR 361.48(a)(2) (job exploration counseling, work-based learning experiences, post-secondary educational enrollment counseling, work place readiness training, and self-advocacy instruction) and can be provided prior to application, or after application, eligibility determination or development of the IPE, so long as the definition of “student with a disability” in section 7(37) of the Act, as amended by WIOA, and 34 CFR 361.5(c)(51) is met.

A “student with a disability” is defined in section 7(37) of the Act and 34 CFR 361.5(c)(51) as an individual with a disability in a secondary, postsecondary, or other recognized educational program who: (1) is not younger than the earliest age for the provision of transition services under section 614(d)(1)(A)(i)(VIII) of IDEA, or, if the State elects to use a lower minimum age for receipt of pre-employment transition services under the Act, is not younger than that minimum age; and (2) is not older than 21 years of age, or, if the State law provides for a higher maximum age for receipt of services under IDEA, is not older than that maximum age; and (3) is eligible for, and receiving, special education or related services under part B of IDEA, or is a student who is an individual with a disability for purposes of section 504 of the Act. AZ RSA provides pre-employment transition services to students with disabilities as early as age 14 (the minimum age for the transition services under part B of IDEA in Arizona is 16) and up to a maximum age of 21 years and 11 months consistent with the maximum age for providing transition services in Arizona under part B of IDEA.

AZ RSA provides pre-employment transition services, such as job exploration counseling and work-based learning experiences, to students with disabilities on an individualized basis directly by agency staff, third-party cooperating agencies, and other contractors. AZ RSA does not provide pre-employment transition services in group settings.

Students with disabilities who have not applied for VR services, but are receiving pre-employment transition services, are considered “recipients” of VR services for purposes of 34 CFR 361.28, which sets forth the requirements for third-party cooperative arrangements. As such, VR agencies may enter into third-party cooperative arrangements

for the provision of pre-employment transition services so long as all requirements of 34 CFR 361.28 of the VR regulations are met. For example, the services, which can be provided only to applicants for, or recipients of, VR services, cannot be the customary or typical services provided by the cooperating agency, but must be new services that have a VR focus or existing services that have been modified, adapted, expanded, or reconfigured to have a VR focus. AZ RSA provides pre-employment transition services through 25 third-party cooperative arrangements with school districts, including job exploration counseling, workplace readiness training, and in- and after-school work-based learning experiences.

During the on-site visit, AZ RSA asked how individualized required activities could be provided to students with disabilities who had not applied for VR services and if students with disabilities assigned to a closed priority category under its order of selection could receive pre-employment transition services.

TA Provided:

During the on-site visit, the TA team discussed the requirements described above related to providing the required activities directly and through third-party cooperative arrangements or other contracts. RSA clarified that third-party cooperative arrangements and other contracts can be used to provide pre-employment transition services to students with disabilities who are potentially eligible for VR services (non-applicants), as recipients of VR services, or applicants of VR services. The method an agency uses to provide pre-employment transition services to non-applicants and applicants may differ (e.g., direct services by a VR counselor, third-party cooperative arrangement with a LEA, or contract with a community rehabilitation program, including fee-for-service or performance-based contracts) so long as the State makes the “required” activities available to both non-applicants and applicants Statewide, even if through different agreements.

Regarding the provision of the individualized required activities to students who are potentially eligible for VR services, AZ RSA may provide, or arrange for the provision of, the required activities on an individual basis or in classroom, employment, or community settings. These services may be offered on a “general” basis in group settings to students with disabilities who have not applied and been determined eligible for VR services. As a student progresses through the VR process by applying and being determined eligible for services, AZ RSA will have the information necessary to conduct assessments and provide more individualized and customized services to address the student’s particular needs. But in some instances AZ RSA may have sufficient information to provide individualized pre-employment transition services to students with disabilities who have not applied and been determined eligible for VR services. Examples of the five “required” activities and how they can be provided in either group or individualized settings include, but are not limited to, the following.

(a) General job exploration counseling may be provided in a classroom or community setting and include information regarding in-demand industry sectors and occupations, as well as non-traditional employment, labor market composition, administration of

vocational interest inventories, and identification of career pathways of interest to the students. Job exploration counseling provided on an individual basis might be provided in school or the community and include discussion of the student's vocational interest inventory results, in-demand occupations, career pathways, and local labor market information that applies to those particular interests.

(b) Work-based learning experiences in a group setting may include coordinating a school-based program of job training and informational interviews to research employers, work-site tours to learn about necessary job skills, job shadowing, or mentoring opportunities in the community. Work-based learning experiences on an individual basis could include work experiences to explore the student's area of interest through paid and unpaid internships, apprenticeships (not including pre-apprenticeships and Registered Apprenticeships), short-term employment, fellowships, or on-the-job trainings located in the community.

(c) Counseling on opportunities for enrollment in comprehensive transition and postsecondary educational programs at institutions of higher education in a group setting may include information on course offerings, career options, the types of academic and occupational training needed to succeed in the workplace, and postsecondary opportunities associated with career fields or pathways. This information may also be provided on an individual basis and may include advising students and parents or representatives on academic curricula, college application and admissions processes, completing the Free Application for Federal Student Aid (FAFSA), and resources that may be used to support individual student success in education and training, which could include disability support services.

(d) Workplace readiness training may include programming to develop social skills and independent living, such as communication and interpersonal skills, financial literacy, orientation and mobility skills, job-seeking skills, understanding employer expectations for punctuality and performance, as well as other “soft” skills necessary for employment. These services may include instruction, as well as opportunities to acquire and apply knowledge. These services may be provided in a generalized manner in a classroom setting or be tailored to an individual's needs in a training program provided in an educational or community setting.

(e) Instruction in self-advocacy in a group setting may include generalized lessons in which students learn about their rights, responsibilities, and how to request accommodations or services and supports needed during the transition from secondary to postsecondary education and employment. Individual opportunities may be arranged for students to conduct informational interviews or mentor with educational staff such as principals, nurses, teachers, or office staff; or they may mentor with individuals employed by or volunteering for employers, boards, associations, or organizations in integrated community settings. Students may also participate in youth leadership activities offered in educational or community settings.

With respect to the provision of the required activities to students with disabilities assigned to closed priority categories, neither section 101(a)(5) of the Act, as amended by WIOA, nor §361.36(d) of the VR regulations exempts students with disabilities from any of the order of selection requirements, which apply to all VR program applicants. However, as specified in §361.36(e)(3)(A), the VR agency must continue to provide pre-employment transition services to students with disabilities who were receiving such services prior to being determined eligible for VR services and assigned to a closed order of selection priority category. In addition, VR agencies may provide general transition services that benefit a group of students with disabilities in a group setting pursuant to section 103(b)(7) of the Act, as amended by WIOA, and §361.49(a)(7) of the VR regulations to ensure the continuation of some beneficial services in the event that a student with a disability is assigned to a closed priority category prior to receiving pre-employment transition services. However, individualized VR and transition services, may only be provided under an IPE.

B. Authorized Activities

Authorized activities are described in section 113(c) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(3) and may be provided to improve the transition of students with disabilities from school to postsecondary education or an employment outcome. The authorized activities must support the provision or arrangement for the provision of the required activities under section 113(b) of the Act, as amended by WIOA, and may be provided only if funds reserved under section 110(d)(1) of the Act, as amended by WIOA, remain after the provision of the required activities described in section 113(b) of the Act, as amended by WIOA.

AZ RSA and the TA team reviewed the TA protocol, as well as the statutory and regulatory requirements related to the provision of the nine authorized activities once AZ RSA has determined that funds are available and remaining after the necessary required activities have been provided to students with disabilities identified as needing such services. At the time of the TA visit, the VR agency's efforts were focused on providing all of the required activities needed by students with disabilities in Arizona. AZ RSA did not request additional TA related to the provision of authorized activities under pre-employment transition services.

TA Provided:

RSA clarified that authorized activities may be provided concurrently with required activities and pre-employment transition coordination activities so long as funds reserved for the provision of pre-employment transition services remain beyond the targeted amount necessary for the required activities as identified in the CSNA, fiscal forecasting or other planning activities. RSA also provided technical assistance regarding the nine authorized activities that AZ RSA may provide to support the arrangement or provision of the "required" activities, including providing instruction to VR counselors, school transition personnel, and other persons supporting students with disabilities; and coordinating activities with transition services provided under the IDEA.

C. Pre-Employment Transition Coordination Activities

VR agencies must participate in pre-employment transition coordination activities described in section 113(d) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(4) of the VR regulations. The VR agency may engage in these activities using alternate means (e.g., video conferences and teleconferences). AZ RSA did not request additional TA related to the provision of pre-employment transition coordination activities.

TA provided:

RSA clarified that pre-employment transition coordination activities are necessary for the provision of required activities to students with disabilities. As such, AZ RSA may use funds reserved to provide pre-employment transition services to carry out any of the responsibilities described under pre-employment transition coordination activities in section 113(d) of the Act, as amended by WIOA, or 34 CFR 361.48(a)(4) of the VR regulations.

4. Policies Regarding Pre-Employment Transition Services

The new definitions and requirements related to pre-employment transition services and students with disabilities under the Act, as amended by WIOA, require policy revisions and development of new policies. As specified in 34 CFR 361.50(a) of the VR regulations, VR agencies are required to develop and maintain written policies regarding the nature and scope of VR services, which include pre-employment transition services.

During the site visit, AZ RSA did not have a written policy in place regarding the definitions and requirements of pre-employment transition services, though it was developing such policies. To prepare the VR staff, AZ RSA management are conducting quarterly transition meetings to discuss changes. In addition, the agency posts information regarding WIOA and pre-employment transition services on a shared drive accessible to staff across the State. AZ RSA also has developed and disseminated to stakeholders brochures describing requirements for pre-employment transition services. The agency also holds partner meetings with school staff twice a year.

TA Provided:

AZ RSA requested additional TA regarding the development of a pre-employment transition services policy that reflects all the requirements of the new VR regulations under WIOA. At the time of the TA visit, the VR agency did not have a firm date by which it expected to complete its draft of the pre-employment transition services policy. AZ RSA stated that it would follow-up with RSA as it developed the policy.

5. “Tracking of Pre-Employment Transition Services

The TA team discussed with AZ RSA methods for tracking students with disabilities, including those who are potentially eligible and those who have applied for VR services, receiving pre-employment transition services. The agency requested TA regarding the

methods to use, as well as TA for the reporting of pre-employment transition service data on the RSA-911.

TA Provided:

RSA discussed the need for AZ RSA to develop a system to report on all students with disabilities receiving pre-employment transition services Statewide, as required in Uniform Guidance at 2 CFR 200.302 related to financial management requirements. Specifically, VR agencies are required to identify all pre-employment transition services received by a student, the total amount expended for this service, who provided this service and the dates of the service, in accordance with the instruction manual for the RSA-911 in Policy Directive (PD) 16-04 and 2 CFR 200.302.

RSA discussed the requirement to obtain basic information for each student with a disability receiving pre-employment transition services. RSA reviewed the reporting requirements in accordance with PD 16-04 for the RSA-911 report and clarified the requirements for verification through documentation within the service record. RSA discussed the definition of a “student with a disability” in section 7(37) of the Act and 34 CFR 361.5(c)(51), which requires the student to be in a recognized educational program and meet the minimum and maximum age for the provision of transition services provided under Arizona State law, pursuant to IDEA. As such, AZ RSA must verify that the individual is enrolled in, or attending, a recognized educational program at the time pre-employment transition service are provided. In addition, AZ RSA must verify that the individual was a student with a disability eligible to receive special education or related services under part B of IDEA or was considered an individual with a disability under section 504 of the Act at the time the services were provided and for the duration of the services.

RSA discussed the required elements in the RSA-911 identified in PD 16-04 that AZ RSA will need to collect for all students with disabilities who have not applied for or been determined eligible for VR services prior to receiving pre-employment transition services. These data elements include an unique identifier, social security number (if available), date of birth, race (required if the student is in elementary or secondary education), ethnicity (required if the student is in elementary or secondary education), student with a disability, start date of pre-employment transition services, the pre-employment transition services provided, the type of provider, and the amount expended for each service.

AZ RSA must maintain supporting documentation for all individuals served by the agency, including pre-employment transition services for students with disabilities. Acceptable forms of supporting documentation can include:

- Case note documenting counselor observation, review of school records, statements of education staff; or
- Referral form for pre-employment transition services with the identification of a student’s disability, signed by school staff and parent/guardian if the student is

under the age of majority in a State (parental consent to participate in pre-employment transition services is governed by State law, as well as policies of the educational programs and the VR agency); or

- Copy of an IEP document, SSA beneficiary award letter, school psychological assessment, documentation of a diagnosis or disability determination or documentation related to section 504 accommodation(s).

6. Fiscal Requirements for the Provision of Pre-Employment Transition Services

Section 110(d)(1) of the Act, as amended by WIOA, and 34 CFR 361.65(a)(3) require States to reserve and expend not less than 15 percent of their Federal VR award funds for the provision of pre-employment transition services authorized in section 113 of the Act, as amended by WIOA, and 34 CFR 361.48(a) of the VR regulations. Federal VR expenditures that are reportable and can be incurred with funds reserved under section 110(d)(1) of the Act, as amended by WIOA, for the provision of pre-employment transition services include:

- The five required activities, described in section 113(b) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(2);
- Authorized activities described in section 113(c) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(3); and
- Pre-employment transition coordination activities described in section 113(d) of the Act, as amended by WIOA, and 34 CFR 361.48(a)(4).

States must ensure that methods of administration are established to ensure accurate data collection and fiscal accountability as required in 34 CFR 361.12 so that Federal VR funds reserved for the provision of pre-employment transition services are only spent on the allowable services identified in section 113 of the Act, as amended by WIOA, and 34 CFR 361.48(a). The Uniform Guidance at 2 CFR 200.402(a) (formerly 34 CFR 80.20(a) of the Education Department General Administrative Regulations) requires States to develop financial management systems that permit the preparation of reports and the tracing of funds to a level of expenditure adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

As part of the VR allotment, funds reserved for the provision of pre-employment transition services have the same match requirement as all Federal VR funds, per 34 CFR 361.60 of the VR regulations. States are permitted to carry over any unobligated Federal VR funds reserved for the provision of pre-employment transition services so long as they have met the requisite matching requirement for those funds by the end of the year of appropriation, in accordance with section 19 of the Act, as amended by WIOA, and 34 CFR 361.64. In addition, States are not permitted to use funds reserved under section 110(d)(1) of the Act, as amended by WIOA, to pay agency administrative costs associated with the provision of pre-employment transition services or for providing any other VR services (see section 110(d)(2) of the Act, as amended by WIOA, and 34 CFR 361.65(a)(3)(ii)(B)).

- A. Requirement to reserve and expend not less than 15 percent of Federal VR funds for the provision of pre-employment transition services.

Based on data reported by AZ RSA through the Federal Financial Report (SF-425), AZ RSA did not meet the requirement to reserve and expend at least 15 percent of its Federal VR program award for the pre-employment transition in FFY 2015 and, at the time of the on-site, had not done so for FFY 2016. The agency stated that it needed TA on how to account for some of these funds. Furthermore, FFY 2016 marked the first year in many that AZ RSA had requested re-allotment dollars. AZ RSA had questions as to whether receiving these reallocated funds would increase the reserve requirement.

TA Provided:

RSA informed AZ RSA that the calculation of the reserve requirement is based on the amount of VR funds allotted to the State as of September 30 of the year of appropriation and that any subsequent change, positive or negative, would not effect this calculation. This is particularly critical in that AZ RSA has not yet met the 15 percent reserve requirement and the reallocated funds for FFY 2016 received by the agency will increase the amount of funds required to be reserved for expenditures on pre-employment transition services.

RSA clarified that although the required level for the reservation and expenditure on pre-employment transition is set on September 30 of the year of appropriation, those funds can be carried over into the subsequent year as long as the requirements for non-Federal share have been met by September 30 of the year of appropriation. RSA further clarified that AZ RSA cannot use any portion of the funds reserved for pre-employment transition services, but not expended, on other VR program activities.

- B. Use of contracts to meet the Reserve Requirement

As described above, AZ RSA maintains numerous contracts with providers and school districts, some of which include expenditures that are counted toward the 15 percent requirement.

TA Provided:

RSA discussed the definition of administrative costs as defined in section 7(1) of the Rehabilitation Act and 34 CFR 361.5(c)(2) and that the funds reserved for pre-employment transition services cannot be used to pay for these costs. While section 110(d)(2) of the Act and §361.65(a)(3)(ii)(B) restrict pre-employment transition services reserve funds from being used to pay for administrative costs associated with the provision of such services or any VR service, RSA has determined that this provision is not applicable to contracts for the direct provision of purchased pre-employment transition services. Therefore, administrative costs associated with the direct provision of required pre-employment transition services purchased through a contract, which are reasonable, necessary and allocable to the provision of the required activities, may be paid with reserve funds.

RSA provided TA to AZ RSA regarding the revised implementing regulations in §361.28(c)(2) and (3), which clarify that the only certified expenditures that qualify as match under a third-party cooperative arrangement are those for the salary and fringe benefits of cooperating agency personnel who directly provide VR services to recipients under the arrangement, as well as other direct expenditures incurred by the cooperating agency for the sole purpose of providing services under the arrangement, so long as they are verifiable through supporting documentation and do not meet the definition of third-party in-kind contributions under Uniform Guidance at 2 CFR 200.96.

AZ RSA uses the term “third-party cooperative arrangement” to refer to a number of contracts, only some of which may satisfy the requirements in 34 CFR 361.28 and were related to pre-employment transition services. Therefore, RSA reviewed the key aspects of 34 CFR 361.28, with particular focus on requirements that the cooperating agency must furnish all or part of the non-federal share, the services provided by the cooperating agency must be new or modified to have a VR focus, and the VR agency must maintain administrative supervision over the services provided under the arrangement and the personnel providing the services.

During the on-site visit, RSA requested that AZ RSA provide information on the non-federal share generated from those contracts it identifies as third-party cooperative arrangements, and how it uses these arrangements to satisfy the reservation requirement for pre-employment transition services. Once received, RSA will identify with AZ RSA its need for further technical assistance.

V. The State Supported Employment Services Program

A. General

The State Supported Employment Services program (Supported Employment program), authorized under title VI of the Act, as amended by WIOA, provides grants to assist States in developing and implementing collaborative programs with appropriate entities to provide programs of supported employment services for individuals with the most significant disabilities, including youth with the most significant disabilities, to enable them to achieve a supported employment outcome in competitive integrated employment.

WIOA made several significant changes to title VI of the Act, which governs the State Supported Employment Services program. All of the amendments to title VI are consistent with those made throughout the Act, namely to maximize the potential of individuals with disabilities, especially those individuals with the most significant disabilities, to achieve competitive integrated employment and to expand services for youth with the most significant disabilities.

Through the implementation of this focus area, the RSA TA team provided technical assistance to AZ RSA in both program specific and fiscal accountability areas related to the Supported Employment program. Program specific technical assistance refers to the Act and to VR and

Supported Employment program implementing regulations at 34 CFR 361 and FR 363, respectively.

B. Technical Assistance Topics

During the course of the on-site visit, the TA team identified and discussed the following topics related to supported employment services, including the 50 percent matching requirement.

1. Extended Time Frame for Provision of Supported Employment Services

Section 7(39) (C) of the Act, as amended by WIOA, extends the time frame for the provision of supported employment services by the VR agency from 18 months to no longer than 24 months, unless under special circumstances the eligible individual and the VR counselor jointly agree to extend the time to achieve the employment outcome identified in the IPE. The extension provides additional time for individuals with the most significant disabilities to receive services and supports necessary after placement to achieve an employment outcome in supported employment, either in competitive integrated employment or in an integrated setting while the individual is working toward competitive integrated employment on a short-term basis.

While on-site, RSA provided technical assistance related to the significant changes to the supported employment program resulting from the amendments to the Act made by WIOA. The RSA TA team and AZ RSA reviewed the agency's policies and procedures related to the provision of supported employment to determine the policy revisions necessary to address the new requirements under the Act, specific to the supported employment program, and ensure that the VR agency's supported employment policies and procedures incorporate and implement all new requirements under the Act, as amended by WIOA.

AZ RSA did not express any training and/or technical assistance needs or concerns pertaining to the extended time frame for the provision of supported employment services.

TA Provided:

RSA provided technical assistance related to the revised definition of "supported employment services" consistent with section 7(39) of the Act, as amended by WIOA, and 34 CFR 361.5(c) (54) of the VR regulations, including the extension of the allowable timeframe for the provision of these services from 18 months to 24 months. RSA clarified that this timeframe may be extended under special circumstances if the individual and VR counselor jointly agree to extend it in order to achieve the employment outcome identified in the IPE.

RSA clarified that supported employment may include customized employment. Section 7(39) of the Act, as amended by WIOA, indicates that supported employment services are "ongoing support services", including customized employment, needed to support and maintain an individual with a most significant disability in supported employment.

2. Competitive Integrated Employment and Short-Term Basis

Section 7(38) of the Act, as amended by WIOA, and 34 CFR 363.1 require that supported employment be in competitive integrated employment or in an integrated setting in which the individual is working toward competitive integrated employment on a short-term basis. Under 34 CFR 363.1()(c), an individual with a most significant disability is permitted work on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment within six months of achieving a supported employment outcome; or, in limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual, and the individual has demonstrated progress toward competitive earnings based on information contained in the service record. The six-month short-term basis period, and the additional six months that may be available in limited circumstances, begins after an individual has completed up to 24 months of supported employment services (unless a longer period of time is necessary based upon the individual's needs) and the individual has achieved a supported employment outcome, meaning that the individual is stable in the supported employment placement for a minimum period of 90 days following the transition to extended services.

As noted above, the TA team and AZ RSA discussed the provision of supported employment services and the necessary policy changes to ensure that AZ RSA policies and procedures incorporate and implement all new requirements under the Act, as amended by WIOA. AZ RSA managers and staff stated that the agency does not place individuals in supported employment settings in which individuals work toward competitive integrated employment on a short-basis, and that it does not use sub minimum wage training centers for individuals with the most significant disabilities. AZ RSA asserted its focus is exclusively on securing competitive integrated employment for individuals with the most significant disabilities, including those who need supports and extended services. The agency did not request any further technical assistance regarding the short-term basis requirement.

TA Provided:

- By utilizing the questions provided in the TA Guide issued prior to the on-sight visit, During the course of the TA visit, RSA reviewed with AZ RSA the requirements related to the short-term basis option described above. Although AZ RSA does not use the short-term basis option as a regular practice, it will consider these requirements if it ever were to do so.
- When the VR agency expressed concern about becoming the funder of last resort for extended services, RSA encouraged AZ RSA continue to explore the availability of funding from other sources, as is done for other individuals with the most significant disabilities transitioning from supported employment services to extended services.

3. Extended Services for Youth with the Most Significant Disabilities

Under WIOA, VR agencies may use Supported Employment program or VR funds to provide extended services only to youth with the most significant disabilities—not to individuals with the most significant disabilities who are not youth. Prior to the passage of WIOA, VR agencies were not permitted to expend supported employment or VR funds for extended services. Section 604(b)(2) of the Act, as amended by WIOA, mandates that the VR agency make available extended services for youth with the most significant disabilities for a period not to exceed four years. As such, 34 CFR 363.4(a)(2) clarifies that VR agencies may use VR or supported employment funds to provide extended services for a period of up to four years or until such time that a youth reaches the age of 25 and no longer meets the definition of a “youth with a disability” under 34 CFR 361.5(c)(58), whichever occurs first. The Act defines “youth with a disability” in section 7(42) as an individual with a disability who is not younger than 14 years of age, and not older than 24 years of age. This new requirement is contained in the definition of “extended services” in 34 CFR 361.5(c)(19). AZ RSA did not express the need for additional technical assistance pertaining to the implementation of extended services for youth with the most significant disabilities.

TA Provided:

RSA recommended that AZ RSA continue to explore the availability of funding from other sources for extended services to youth with the most significant disabilities, as is done for other individuals with the most significant disabilities transitioning from supported employment services to extended services. RSA provided guidance with respect to when supported employment services should begin, and how to transition an individual from supported employment, to extended supports when necessary. RSA recommended that AZ RSA develop a detailed policy specifying conditions that must be met before a it can assist an individual in transitioning to extended services, such as ensuring the individual is engaged in supported employment that is in competitive integrated employment, or in an integrated work setting in which the individual is working on a short-term basis toward competitive integrated employment, and the employment is customized for the individual consistent with his or her strengths, abilities, interests, and informed choice.

RSA recommended that AZ RSA implement internal controls to account for the Federal supported employment funds it reserves for the provision of supported employment services, including extended services, to youth with the most significant disabilities. As section 603(d) of the Act is clear that the State must reserve and use 50 percent of its total supported employment allotment for a specific purpose (supported employment services, including extended services) that benefit a specific population (youth with the most significant disabilities), it will be critical that the VR agency implement internal controls that ensure proper data collection and financial accountability of these reserved funds. Such controls would ensure the accurate completion of all required forms, including financial reports that show the reservation and use of these funds for this purpose and for this population.

4. Transitional Employment

The WIOA amendments removed transitional employment from the Act, thus the term has been removed in the VR regulations, both as a separate definition and from the definitions of "supported employment" and "ongoing support services" in §34 CFR 361.5(c)(53) and 34 CFR 361.5(c)(37) of the VR regulations, respectively. However, transitional employment may be provided as a VR service that can lead to an employment outcome, but does not constitute a supported employment outcome in accordance with the definition of "supported employment" in 34 CFR 361.5(c)(53) and 34 CFR 363.1(b) and (c). RSA clarified that transitional employment is not appropriate for employment on a short-term basis and is not considered an employment outcome.

AZ RSA indicated that this change had no significant impact on its Supported Employment program or outcomes, as it did not use transitional employment.

TA Provided:

The TA team provided a brief overview of changes in transitional employment requirements. AZ RSA managers and staff indicated they were aware that transitional employment may continue to be offered as a VR service leading to competitive integrated employment. The agency did not request additional technical assistance regarding transitional employment.

5. Requirements for an Employment Outcome in Supported Employment

The four requirements that must be satisfied for a supported employment outcome, consistent with the statutory definition of "employment outcome" in 7(11) of the Act are found in 34 CFR 363.54. First, the individual must have completed supported employment services, which may be received for up to 24 months, or longer if the counselor and the individual have determined that such services are needed to support and maintain the individual in supported employment. Any other VR services listed on the IPE provided to individuals who are working on a short-term basis toward the achievement of competitive integrated employment in supported employment need not be completed prior to satisfying the achievement of an employment outcome. Second, the individual has transitioned to extended services provided either by the VR agency for youth with the most significant disabilities, or another provider, consistent with the provisions of 34 CFR §363.4(a)(2) and 363.22. Third, the individual has maintained employment and achieved stability in the work setting for a minimum of 90 days after transitioning to extended services and, finally, the employment must be individualized and customized consistent with the strengths, abilities, interests, and informed choice of the individual.

During the on-site visit, RSA provided an overview of and clarification related to the four requirements that must be satisfied for an individual to achieve a supported employment outcome as set forth in 34 CFR 363.54. AZ RSA did not request additional technical assistance regarding the requirements for an employment outcome in supported employment.

TA Provided:

RSA stressed that supported employment continues to be included as a distinct type of outcome within the definition of “employment outcome” in 34 CFR 361.5(c)(15) as individuals in supported employment in integrated settings may be working toward competitive earnings on a short-term basis and, therefore, may not initially be earning competitive wages. AZ RSA emphasized its commitment to competitive integrated employment for all eligible individuals it serves, including adults and youth with the most significant disabilities.

6. Closure of the Supported Employment Service Record

Section 363.55 explains when a VR agency can close the service record of an individual who has achieved an employment outcome in supported employment. Separate requirements are specified for different scenarios, depending on whether individuals with the most significant disabilities, including youth with the most significant disabilities, have achieved competitive integrated employment or are working toward competitive integrated employment on a short-term basis, and whether they are receiving extended services and any other VR services from the VR agency or from other service providers.

The service record for an individual with a most significant disability, including a youth with a most significant disability, who has achieved an employment outcome in supported employment in competitive integrated employment is closed at the time the individual achieves the employment outcome and has satisfied the requirements for case closure in §361.56 of the VR regulations, and is not receiving extended services or any other VR service provided by the VR agency with funds under title I or the supported employment program.

The service record of an individual with a most significant disability, including a youth with a most significant disability, who is working toward competitive integrated employment on a short-term basis and is receiving extended services from funds other than those allotted under the Supported Employment or VR programs will be closed when the individual achieves competitive integrated employment within the short-term basis period established pursuant to 34 CFR 363.1(c); the individual satisfies requirements for case closure in 34 CFR 361.56; and is no longer receiving VR services provided by the VR agency. If an individual does not achieve competitive integrated employment within the short-term basis period, the service record will be closed.

The service record of a youth with a most significant disability who is receiving extended services provided by the VR agency from funds under the Supported Employment or VR programs will be closed when the youth achieves an employment outcome in supported employment in competitive integrated employment without entering the short-term basis period; and is no longer eligible to receive extended services provided by the VR agency with funds allotted under the Supported Employment or VR programs because the individual no longer meets age requirements established in the definition of a “youth with a disability” in 34 CFR 361.5(c)(58), has received extended services for a period of four

years, or has transitioned to extended services provided with funds other than those allotted under the Supported Employment or VR programs prior to meeting the age or time restrictions. Additionally, the requirements for case closure in 34 CFR 361.56 must be satisfied and the individual can no longer be receiving any other VR service from the VR agency provided with title I funds.

The service record of a youth with a most significant disability who is working toward competitive integrated employment on a short-term basis will be closed when the individual achieves competitive integrated employment within the short-term basis period and is no longer eligible to receive extended services provided by the VR agency with funds allotted under the Supported Employment or VR programs because the individual no longer meets age requirements established in the definition of a “youth with a disability;” has received extended services for a period of four years; or has transitioned to extended services provided with funds other than those allotted under the VR or Supported Employment programs prior to meeting the age or time restrictions. Additionally, the requirements for case closure in 34 CFR 361.56 must be satisfied. If a youth does not achieve competitive integrated employment within the short-term basis period, the service record will be closed.

TA Provided:

During the on-site visit, RSA clarified when the service record of an individual who has achieved a supported employment outcome may be closed in accordance with 34 CFR 363.55, as well as the requirements under 34 CFR 361.56.

7. Fiscal Elements of the Supported Employment Program

Section 603(d) of the Act, as amended by WIOA, requires the State to reserve 50 percent of its Federal Supported Employment program allotment for the provision of supported employment services, including extended services, to youth with the most significant disabilities. The reserve will be affected by adjustments to a State’s Federal allotment made throughout the year of appropriation, including continuing resolutions, reallocation, and any relinquishments or additions made to the Supported Employment program Federal allotment. As with all VR and Supported Employment program funds, States must implement processes necessary to ensure the proper accounting and reporting of expenditures, including those incurred with reserved funds, to ensure the funds spent were only for allowable and allocable purposes.

Section 606(b)(7)(I) of the Act, as amended by WIOA, and 34 CFR 363.23 require that States provide non-Federal expenditures in an amount that is not less than 10 percent of the total expenditures for youth with the most significant disabilities. Total expenditures includes both the Federal reserve funds and the non-Federal share incurred for the provision of supported employment services, including extended services, to youth with the most significant disabilities. Since the required non-Federal share is only applicable to the 50 percent reserved funds for youth with the most significant disabilities, the non-Federal expenditures are required to be spent on supported employment services, including extended services, to youth with the most significant disabilities. However, the

10 percent non-Federal share cannot count toward meeting the reserve requirement, which applies only to Federal Supported Employment program award funds.

AZ RSA's FFY 2015 SF-425 for the Supported Employment program shows that adequate non-Federal share had been provided, although only 35% of the Federal Supported Employment allotment had been expended for youth with the most significant disabilities. However, AZ RSA had a number of questions related to the proper accounting and reporting of these funds, including:

- What is the basis for the calculation of the 50 percent of supported employment funds reserved for services to youth with the most significant disabilities?
- What is the effect of changes to the award on the amount of supported employment funds reserved for supported employment services to youth with the most significant disabilities?
- Must matching funds be spent on activities for youth with the most significant disabilities?

TA provided:

As with the VR award, the calculations of the 50 percent of supported employment funds reserved for youth with the most significant disabilities and the 10 percent non-Federal share requirement are based on the amount of funds allotted to the state as of September 30 of the year of appropriation. Any change to the award in the following year, whether positive or negative, does not change the amount required to be expended on services for youth with the most significant disabilities. A VR agency can carry over funds to the subsequent year only to the extent that non-Federal share requirements were met in the year of appropriation. The Non-Federal share requirement is tied to the requirement that 50 percent of funds be spent on supported employment services, including extended services, for youth with the most significant disabilities, and therefore any expenditures counted toward the non-Federal share requirement must have been expended on these services to youth with the most significant disabilities.

AZ RSA must maintain documentation that the calculations of the 50 percent reservation requirement and the 10 percent of non-Federal share represent specific expenditures in support of these specific requirements. If unable to expend its supported employment funds, RSA encourages AZ RSA to investigate options for re-allotment under 34 CFR 363.21.

8. Timing of the provision of Supported Employment services

During the on-site visit, RSA discuss with AZ RSA the provision of Supported Employment services. At that time, the agency typically began expending supported employment funds when the IPE for an individual pursuing a supported employment goal was initiated, instead of at the time of an employment placement in accordance with regulations at 34 CFR 361.5(c)(54).

TA Provided:

RSA provided guidance to AZ RSA about the appropriate time to initiate the provision of supported employment services by sharing the pertinent regulations found in 34 CFR 363.4, as well as 34 CFR 361.5(c)(54). AZ RSA asserted the agency would ensure that all supported employment funds would be spent appropriately under its new data management system, and that it would use only VR program funds for VR services prior to placing an individual in supported employment.

AZ RSA asked whether it could use supported employment funds to pay a vendor at the time of a purchased placement, or did the agency have to wait until at least 90 days had passed, and retention requirements had been met. RSA informed AZ RSA that it could use supported employment funds to make such payments at the time of placement.

VI. Next Steps

A. General

As part of RSA's follow-up activities to the technical assistance visit to Arizona, RSA will continue to assist AZ RSA to implement new policies and procedures required by the Act, as well as its implementing regulations, through further technical assistance and monitoring in accordance with section 107 of the Act.

B. Technical Assistance Needs

Additionally, the RSA TA team has, in consultation with AZ RSA, identified the following technical assistance needs that were either not met during the on-site visit or are on-going TA needs of the agency. RSA will continue to provide technical assistance to AZ RSA directly or by connecting the agency with TA resources.

1. Pre-employment transition services:

AZ RSA asked if it could provide new pre-employment transition services to an individual who has been determined eligible, and is placed on a wait list due to the implementation of an order of selection, or can it provide only the pre-employment transition services that had begun prior to the individual being placed on the wait list. So long as any of the required activities under pre-employment transition services begin prior to an eligible student being placed in a closed priority category under the order of selection, AZ RSA must provide that required activity and any of the other 4 required pre-employment transition services to the student while on the waitlist. AZ RSA also may provide the general transition services under the services to groups authority in accordance with 34 CFR 361.49(a)(7), but it cannot provide individualized VR services to students with disabilities while they are on the waitlist.

AZ RSA asked what data elements on the RSA-911 it must report for students with disabilities receiving the required activities in a group setting. AZ RSA must ensure that it tracks each of the required activities, even when provided to students with disabilities in a group setting, to a level that enables it to report all the data elements associated with

pre-employment transition services, including an unique identifier, social security number (if available), date of birth, race (required if the student is in elementary or secondary education), ethnicity (required if the student is in elementary or secondary education), student with a disability, start date of pre-employment transition services, the pre-employment transition services provided, the type of provider, and the amount expended for each service (see PD 16-04).

AZ RSA asked if there is a limit to how long, or how many, pre-employment transition services it can provide to a potentially eligible student with a disability. A student with a disability who has not applied, or been determined eligible for, VR services may receive pre-employment transition services as long as he or she meets the definition in 34 CFR 361.5(c)(51). These students may receive any or all of the 5 required pre-employment transition services and they may receive these services multiple times (see section III of this report for more detail on pre-employment transition services).

AZ RSA asked if the conduct of that portion of the CSNA that assesses the needs of students with disabilities for pre-employment transition services is considered a pre-employment transition coordination activity and if it could count the cost of this assessment toward the funds reserved for providing pre-employment transition services. Section 113(d) and 34 CFR 361.48(a)(4) do not include this assessment within the list of pre-employment transition coordination activities. Rather, the costs for conducting the assessment are administrative costs under section 7(1) of the Act and 34 CFR 361.5(c)(2) and cannot be paid from the 15% of the Federal VR allotment reserved and expended for pre-employment transition services.

2. Third Party Cooperative Arrangements:

AZ RSA has several questions related to the use of third-party cooperative arrangements for providing pre-employment transition. It has asked how a VR agency retains administrative control of cooperating agency staff providing these services. In addition, it has requested examples of third-party cooperative arrangements that provide pre-employment transition services through Project SEARCH.

RSA does not offer any particular State policies or practices as models, but will share, as appropriate, any sample policies in use by other VR agencies.

3. Supported Employment:

AZ RSA asked if other States have models for providing extended services to youth with the most significant disabilities. RSA does not offer any particular state policies or practices as models, but will share, as appropriate, any sample policies in use by other VR agencies.

AZ RSA sought guidance on the RSA-911 data elements for individuals who receive supported employment services and achieve supported employment outcomes. According to the instruction manual for the RSA-911 in PD 16-04, AZ RSA must indicate if an

individual's IPE contains a goal of supported employment in data element 49. In addition, the agency must report the supported employment services, including extended services to youth with disabilities, provided in the services section, including if the service was provided by the agency or another provider; If by another provider, the provider type; and the amount of Title I and VI funds expended (see pages 76 and 77 of PD 16-04). Finally, AZ RSA must use data element 356 for reporting the achievement of supported employment in competitive integrated employment or supported employment in an integrated setting in which the individual is working toward competitive integrated employment on a short-term basis.

In addition to the above questions, AZ RSA noted that it needed additional TA on developing customized employment opportunities as this is an area of employment outcomes the agency had not previously explored.

AZ RSA also indicated that it would need TA on how to manage record keeping obligations as part of the agency's responsibilities under the new regulations implementing Section 511 of the Rehabilitation Act as amended by WIOA. In particular, the agency expects to need guidance regarding how to document that an individual does not wish to participate in the VR program but would prefer to seek non-competitive employment or employment in a non-integrated setting.

C. Next Steps

1. Agency Next Steps

AZ RSA will continue its collaboration with the WIOA Implementation National Technical Center (WINTAC) and Youth Technical Assistance Center (YTAC) through intensive TA service contracts. The VR agency will consult with the RSA TA team as needed through a variety of methods, including, but not limited to:

- The seeking of clarification from RSA on how to best coordinate the provision of TA through the different technical assistance grantees, such as the WINTAC and YTAC, so as to maximize the benefit of working with multiple TA providers, and to avoid confusion of jurisdictions of TA;
- Forwarding revised VR service policies to RSA for review and feedback to ensure compliance with the Act, as amended by WIOA, and the implementing regulations; By consulting with RSA on the development of the formal interagency agreement with the SEA by forwarding the draft and final version to RSA for review and input; and
- Working closely with RSA to ensure that the third-party cooperative arrangements and contracts with private entities currently in place and under consideration meet all statutory and regulatory requirements.

AZ RSA will share with RSA all documents necessary to support its needs for further TA. RSA and AZ RSA will conduct teleconferences to address the questions and TA needs identified in this report.

2. RSA Next Steps

The TA team will continue to provide feedback to AZ RSA on a number of topics, including, but not limited to:

- The revised formal interagency agreement with the SEA
- third-party cooperative arrangements for the provision of pre-employment transition services;
- The review of other contracts with private service providers that may generate match in accordance with 34 CFR 361.62(c); and
- The provision of substantive feedback on VR service policies as they are developed and shared with RSA.