

# Establishment Projects Case Scenarios

## What are establishment projects?

In accordance with 34 C.F.R. § 361.5(c)(16), the establishment, development, or improvement of a public or nonprofit community rehabilitation program (CRP) means:

- The establishment of a facility for a public or nonprofit CRP, as defined in 34 C.F.R. § 361.5(c)(17), to provide VR services to eligible individuals;
- Staffing to establish, develop, or improve the program for the purpose of providing VR services to eligible individuals for a maximum of four years, with an applicable matching rate for the following staffing costs: 100% for the first year; 75% for the second year; 60% for the third year; and 45% for the fourth year;
- The acquisition of an existing building and, if necessary, the land in connection with the acquisition, if the building has been completed in all respects for at least one year prior to the date of acquisition and the Federal share of the cost of acquisition is not more than \$300,000;
- The remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;
- Other expenditures and activities necessary to make the program functional or increase its effectiveness in providing VR services (but may not include ongoing operating costs of the program).

Community rehabilitation program means a program that provides or facilitates the provision of one or more VR services to individuals with disabilities to maximize opportunities for competitive integrated employment, including career advancement (34 C.F.R. § 361.5(c)(7)).

## Two scenarios:

A VR agency submitted two prior approval requests to RSA under the establishment authority. One request was to establish four projects for the evidence-based model of supported employment known as Individual Placement and Support (IPS). The other request was to establish three customized employment projects.

During the preparation of its two prior approval requests, the VR agency met with the CRPs to closely examine staffing levels, budgets, and the scope of work and outcome projections for each of the CRPs. The VR agency sought prior approval for the Establishment Projects to begin on a specific date and identified which grant award would be used to fund these projects.

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### Description of Purchase: Four IPS Models

The VR agency requested prior approval to expend funds to establish and implement the evidence-based model of supported employment known as Individual Placement and Support (IPS). The request included staffing, training, outreach, travel, and other necessary expenses to establish, implement, and/or expand IPS among four CRPs. IPS is a model of supported employment for people with serious mental illness (e.g., schizophrenia spectrum disorder, bipolar disorder, major depressive disorder). IPS supported employment helps people living with serious behavioral health conditions work at regular jobs of their choosing. IPS refers to the evidence-based practice of supported employment and is based on the following 8 principles: zero exclusion; competitive integrated employment focus; rapid job search; targeted job development; client preferences guide decisions; individualized long-term supports; integrated treatment team; and benefits counseling. IPS has expanded to other populations, such as veterans, youth, individuals with traumatic brain injury, substance use, and intellectual disabilities. Each CRP will be required to provide quarterly reports that include, but are not limited to: number of referrals; number of Career Profiles; number of job starts; number of 30-day, 60-day, and 90-day outcomes; average number of days employed for all participants; average hourly earnings; percentage of participants receiving benefits; description of benefits obtained by participants; data describing reasons for non-successful outcomes; information on technical assistance and fidelity review activities; career advancement among participants; employer contacts; staff changes; staff accomplishments, challenges, successes, and any other information deemed necessary by the VR agency.

### Reason for Purchase:

The VR agency has been a part of the IPS Learning Collaborative since 2009 and currently has 19 total IPS providers throughout the state. Up to this point, the sole source for establishing IPS programs throughout the state has been through the Department of Behavioral Health, which primarily established partnerships with Community Mental Health Centers. There are a total of fourteen community mental health centers and four other nonprofit agencies that currently provide IPS. All agencies were assisted with startup funds provided by the Department of Behavioral Health. Funding through the department is very limited, and as a result, expansion of IPS has stagnated over the past several years. Therefore, the VR agency wanted to aid in the continued expansion of the evidenced-based supported employment model by partnering with two new sites and assisting in the expansion of two existing sites. More specifically, one new site and one existing site would focus on developing and implementing IPS for individuals with intellectual/developmental disabilities. Data would be collected and provided to *the* IPS Learning Collaborative to aid other states desiring to explore providing this service to this population.

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### Cost/Justification of Purchase:

The establishment of new programs or the expansion of existing programs will allow for the continued effort in building capacity for the evidence-based IPS model of supported employment for eligible individuals, resulting in an increase in competitive integrated employment outcomes.

### Type of Purchase: Team Selection Process

The state's IPS Implementation Team, consisting of representation from the Department of Behavioral Health, two universities, and the VR agency, thoroughly explored options, held informational meetings with providers, sought expert feedback from the Department of Behavioral Health staff regarding potential providers, and provided additional team analysis, to select potential providers for expansion efforts. In all four cases, unserved or underserved counties were targeted as well as specific populations that would be served by the establishment project.

### Budget:

The prior approval request included budgets for the four projects. Each four-year budget included: line items for staffing costs (salary and fringe for a designated number of FTEs) with decreasing staffing costs for each of the four years as required by the VR regulations; travel; training; supplies; equipment (e.g., technology); rent and utilities; outreach; total direct costs; indirect costs; and total project costs.

### Projected Outcomes:

The prior approval request explained that the first year would be a planning, training, and implementation year. The agency explained that there was the potential for employment outcomes in the first year of the project, but the focus would be on the hiring of staff, training, and skills acquisition. Under the IPS model, caseloads would be limited to no more than 20 individuals per staff. The VR agency included a table of projected competitive employment outcomes over the four years of the project using the IPS model.

### Description of Purchase: Three Customized Employment Projects

The VR agency requested prior approval to expend funds to establish and implement the Marc Gold & Associates (MG&A) model of customized employment at three CRPs. This would include staffing, training, outreach, travel, and other necessary expenses to establish and implement customized employment services.

Marc Gold & Associates consists of consultants committed to ensuring the full participation of individuals with the most significant disabilities in their communities. MG&A provides technical assistance and training in support of community inclusion of people with the most significant disabilities for national, state, nonprofit, and educational agencies that impact the lives of

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individuals with disabilities and their families. The VR agency partners with a university to implement the Leadership Series, which is a comprehensive training program that embodies the MG&A model. There are four Gateways provided in this training, which include: Social Role Valorization; Discovery; Job Development; and Systematic Instruction; the latter three offer certifications. The intent is to enhance the skills among employment specialists to aid in identifying, developing, and empowering individuals in customized employment, which is obtained by matching the skills, interests, and abilities of the job seeker with the needs of the employer. Each CRP funded will be required to provide quarterly reports that include but are not limited to: the number of referrals; number of Vocational Profiles; number of visual resumes; number of job analyses; number of needs analyses; number of planning meetings; number of job starts; number of 30-day, 60-day, and 90-day outcomes; average number of days employed for all participants; average hourly earnings; percentage of participants receiving benefits; description of benefits obtained by participants; data describing reasons for non-successful outcomes; information on technical assistance and audit review activities; career advancement among participants; employer contacts; staff changes; staff accomplishments, challenges, successes, and any other information deemed necessary by the VR agency. The CRPs will be required to provide detailed, clear, and professionally written information when completing the required documentation, such as Vocational Profiles, Job Analyses, Needs Analyses, Visual Resumes, Planning Meeting Reports, Worksite Activity Notes, Monthly Summaries, and Long-Term Support Plans.

#### Reason for Purchase:

The VR agency polled counselors around the state to identify the need for customized employment services for the individuals they serve. As identified in the comprehensive statewide needs assessment and in the current approved State Plan, there are significant needs throughout the state. Survey results also revealed that options for skilled customized employment services are not readily available. CRPs stated that they are unable to hire staff and participate in required training due to limited resources. Currently, only 11 providers statewide have staff that have completed at least one of the Gateways. Additionally, there are only 24 individuals who have obtained at least one certification, with only 19 of them still working in the field. Therefore, additional efforts are needed to continue to identify and train CRP staff to perform this highly skilled and much-needed service. Developing establishment contract opportunities will aid in this effort.

A major emphasis will be to continue to expand customized service opportunities to individuals who are deaf, blind, or DeafBlind, which is consistent with the agency's Statewide Strategic Plan.

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### Cost/Justification of Purchase:

The establishment of new programs, or the expansion of existing programs, will allow for the continued effort to build capacity for addressing customized employment service needs of individuals, resulting in an increase in competitive integrated employment outcomes.

### Type of Purchase: Team Selection Process

The VR agency created a review team, and proposals were scored independently, then reviewed and discussed by the team. A consensus was established by the team to make offers to three CRPs. The review team thoroughly explored options, held informational meetings, sought interest from CRPs throughout the state through the request for proposal process, scored the seven proposals received, and provided additional team analysis, to select potential providers for expansion efforts. Each of the three CRPS selected will provide customized employment services to unserved or underserved areas as designed by the MG&A model, thereby expanding services in underserved counties. Staff hired will participate in MG&A training and obtain certifications in job Developing, Discovery, and Systematic Instruction, and they will complete the training in Social Role Valorization through a university program. Each CRP will receive technical assistance from VR Consultants and university staff to ensure that proper strategies and quality services are being provided.

### Budget:

The prior approval request included budgets for the three projects. Each four-year budget included: line items for staffing costs (salary and fringe for a designated number of FTEs) with decreasing staffing costs for each of the four years as required by the VR regulations; travel; supplies; equipment; rent and utilities; outreach; total direct costs; indirect costs; and total project costs.

### Projected Outcomes:

The prior approval request explained that the first year would be a planning, training, and implementation year. The agency explained that there was the potential for employment outcomes in the first year of the project, but the focus would be on the hiring of staff, training, and skills acquisition. Typically, customized employment caseloads are small due to the extensive services required for successful placement and outcomes. The VR agency included a table of projected customized employment outcomes over the four years of the project using the MG&A model.

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## General Principles for Developing and Implementing Establishment Projects:

Due to the nature of the capital expenditures, namely the large dollar amounts involved and the potential risk to the Federal interest that the costs may not be allowable or allocable to the program charged, RSA requires VR agencies to submit itemized, project-specific prior approval requests to RSA that are based on contract bids or other actual cost estimates. For example, VR agencies must submit itemized, project-specific prior approval requests for equipment purchases for:

- The establishment, development, or improvement of a facility for a public or nonprofit community rehabilitation program (CRP) at 34 C.F.R. § 361.5(c)(17);
- The construction of a facility for a public or nonprofit CRP at 34 C.F.R. § 361.5(c)(10); and
- The construction or renovation/alteration of a State facility or American Job Center for purposes allocable to the VR program.

(See question #22 in the RSA FAQ on prior approval, dated 10/29/2019.)

With respect to the VR, Supported Employment, and OIB programs, which have a non-Federal share requirement, VR agencies must submit prior approval requests, if required by the RSA FAQ on prior approval, even if the VR agency plans to use only non-Federal funds to pay for the costs. The OMB Uniform Guidance at 2 C.F.R. § 200.407 refers to costs under a “Federal award,” which would include both Federal and non-Federal expenditures incurred under the program. (See question #23 in the RSA FAQ on prior approval, dated 10/29/2019.)

When RSA grants prior approval, it does so based on the information provided by the VR agency. RSA cannot be responsible for knowing the underlying facts of the expenditure. Therefore, VR agencies remain responsible for ensuring that all expenditures from Department-funded grants, even those for which prior approval has been granted, are allowable and allocable to the grant program in accordance with the OMB Uniform Guidance and program requirements (2 C.F.R. §§ 200.403 through 200.405), and such costs may be reviewed by State auditors. This means that VR agencies must determine that such direct costs are reasonable and necessary under the Federal award and must maintain appropriate documentation for such costs. Additionally, VR agencies must ensure such expenditures are in accordance with State and agency policies and procedures, as applicable. (See question #24 in the RSA FAQ on prior approval, dated 10/29/2019.)

In accordance with 2 C.F.R. § 200.439(b)(1), capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity. Based on the information you provide to RSA in your prior approval request, RSA will determine whether it appears that the

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proposed costs for the equipment would be permitted under the VR program and the Uniform Guidance as a direct cost and whether it appears that the use of the equipment is allocated for the benefit of a single cost. However, it is the VR agency's responsibility to ensure that, if this equipment benefits any programs or cost objectives other than the VR program, the costs that benefit the other programs must be allocated based on those programs' proportionate use of the equipment and relative benefits received, consistent with Uniform Guidance requirements at 2 C.F.R. § 200.405.

Once RSA has determined that the costs associated with the expenditures described in your prior approval request may be made as a direct charge to the award, the VR agency may proceed with directly charging these costs to the State Vocational Rehabilitation program award identified in the prior approval request, as long as all other Federal and State requirements, VR agency policies and procedures, and State procurement requirements are met.

RSA provides prior approval only for costs incurred after the date of approval of a particular request and for the obligations and expenditures to be charged to the grant award specified in the request, consistent with that award's period of performance.

A further note about equipment: When acquiring replacement equipment, VR agencies may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement equipment (2 C.F.R. § 200.313(c)(4)); however, any additional VR funds required to purchase the replacement equipment must receive prior approval; and

For purposes of disposition, not replacement, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase (2 C.F.R. § 200.313(e)).

Davis-Bacon Requirements: Uniform Guidance requires a State to follow the same policies and procedures it uses for its non-Federal funds, and the State must ensure all contract clauses identified in 2 C.F.R. § 200.326 (Appendix II) are included in every contract (2 C.F.R. § 200.317). This includes the Davis-Bacon Act requirements (Appendix II (D)). The Davis-Bacon Act applies to any construction project in excess of \$2,000 financed in whole or in part by Federal funds, including VR program funds. Although the Davis-Bacon Act uses the terms "public building or public works," to describe the type of contracts that are covered by the Act, the Department of Labor regulations implementing the Act at 29 C.F.R. § 5.5(a) require Federal agencies to apply the Davis-Bacon Act to all contracts in excess of \$2,000 entered into for the actual construction,

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alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds.

Section 439 of GEPA, 20 U.S.C. § 1232(b), provides: All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with Sections 3141-3144, 3146, and 3147 of Title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and Section 3145 of Title 40. Therefore, any recipient of Federal funds, including funds provided through the VR award, which uses those funds to finance a construction project exceeding \$2,000, including a project for a private citizen who is a consumer of a State agency, must comply with the prevailing wage requirements of the Davis-Bacon Act.

Remember that the VR agency is responsible for monitoring expenditures to ensure that:

- The actual amount charged to the specific award does not exceed the prior approval authorized amount per budget category, that expenditures are consistent with all Federal requirements, and that the costs comply with the State's and agency's procurement policies and procedures;
- Any costs charged directly for equipment, participant support costs, or salaries are not also charged indirectly through a cost allocation plan or indirect cost rate; and
- Only allowable, allocable, necessary, and reasonable costs are charged to the VR award in accordance with the Uniform Administrative Requirements in 2 C.F.R. §§ 200.403 – 405.

Note: The VR agency must resubmit a request for prior approval of budget categories for any amount exceeding the initial approved budget before the agency incurs the excess obligations and expenditures.

In addition, if any approved obligation for the purchase of equipment is not made by the end of the period of performance for the award, approval for the items is rescinded.

Important caveat: RSA reserves the right to review the requested costs associated with any prior approval request, including equipment, meetings, conferences, or training, to determine if they constitute allowable Federal expenditures under the VR program, and if it is determined that the proposed expenditures were not spent in accordance with State policies, Federal requirements, or included unallowable expenditures specified in 2 C.F.R. Part 200, RSA may determine the costs to be unallowable at a later date.

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## Sample Template for Submitting Prior Approval Request for Establishment Projects

### Introduction:

- Briefly describe the purpose of the project(s).
- Indicate the total funds being requested and what funds are to be used (base year of grant or carryover funds).
- Indicate the date you want the project(s) to begin.

### Description of Purchase:

- Describe the purpose of the project(s) in more detail.
- What services will be provided?
- What unserved or underserved populations or areas of the state will they serve?
- What unmet needs will the projects address?

### Reason for Purchase:

- How did you decide on the type of projects you want to fund? Results of comprehensive statewide needs assessment? Concerns brought by the State Rehabilitation Council or consumers during public comment? Discussions with agency partners or employers?
- Briefly describe any data that supports your request.

### Cost/Justification for Purchase:

- How will these projects impact the outcomes of the VR agency?
- How do the projects address goals you have set in your state plan or strategic plan?

### Type of Purchase:

- Who will make decisions about which projects you fund? Will there be a review process by your staff? By the staff at universities, community partners, or employers with whom you partner? Someone else?
- How did you get the word out about the possible availability of these projects?
- What selection criteria did you use to select the final projects?

### Budget:

- Develop a clear and straightforward line-item budget for costs over the four years of each project you expect to fund.
- Be sure to indicate the decreasing commitment for staff costs (salary and fringe benefits) for the number of FTEs to be supported.
- Will the project involve travel costs?
- Are there costs for rent and utilities?
- Consider what the project needs for supplies and equipment.
- Are there any training costs involved?

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- Are there costs for outreach activities?
- Include totals for direct costs for each of the four years of the project.
- Indicate the indirect costs. What percentage was used?
- Include a total cost for each of the four years (direct and indirect) for the project.
- Include a grand total for the four years of the project.

#### Projected Outcomes:

- Be clear about what outcomes you expect.
- Consider that the first year is a start-up year, and you may have fewer outcomes initially.
- Reiterate qualitative outcomes in addition to the quantitative outcomes you expect.

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