

Establishment Authority Planning Checklist

If you are considering using VR funds for an establishment project, please use this checklist to be sure you have taken all necessary steps. This list is not intended to be exhaustive. Any questions about the establishment authority and/or establishment projects should be directed to RSA.

Pre-Planning Phase

Policy considerations

Do you have current policies on establishing, developing, or improving a community rehabilitation program (CRP)?

A VR agency must develop and maintain written policies covering the nature and scope of each of the VR services it provides to groups of individuals with disabilities and the criteria under which each service is provided ([34 C.F.R. § 361.49\(b\)\(1\)](#)), including those for the establishment and construction of CRPs.

***Remember, the definition of a CRP is broad and includes your agency-operated training centers.**

Your policies must be consistent with the following:

- [34 C.F.R. § 361.5\(c\)\(7\)](#) – definition of community rehabilitation program (CRP);
- [34 C.F.R. § 361.5\(c\)\(16\)](#) – definition of establishment, development, or improvement of a community rehabilitation program;
- [34 C.F.R. § 361.5\(c\)\(17\)](#) – definition of establishment of a facility for a public or nonprofit community rehabilitation program;
- [34 C.F.R. § 361.49\(a\)\(1\)](#) and (b) – description of the establishment authority as one of the services for groups of individuals with disabilities that VR agencies may provide; and
- [2 C.F.R. § 200.303](#) – Requirements for internal controls

If you need to develop these policies or update policies that have not been reviewed for a number of years, be sure to do the following in accordance with [34 C.F.R. § 361.20](#):

- Consult with the Client Assistance Program;

- Involve the State Rehabilitation Council in developing or updating your policies;
- Provide the public an opportunity to comment on your proposed policies.

Comprehensive Statewide Needs Assessment (CSNA)

When thinking about funding establishment projects, review the results of your agency's triennial CSNA. In this review, think about these questions.

- Have you evaluated the needs of VR participants described in the CSNA ([34 C.F.R. § 361.29\(a\)](#))?
- Does the information in the CSNA indicate whether there is a need for your agency to establish, develop, or improve a CRP, and what specific needs would such establishment projects address (e.g., specific services, underserved populations, etc. ([34 C.F.R. § 361.29\(a\)\(1\)\(ii\)](#))?
- Have you thought about how you would use the results from your agency's triennial needs assessment to develop or refine your agency's goals and priorities for carrying out your VR program ([34 C.F.R. § 361.29\(c\)\(4\)\(i\)](#))?

Once your goals and priorities are defined or updated, your Agency must then develop strategies to address the identified VR needs within the State within the context of your goals and priorities, including needs that could be addressed through the establishment, development, or improvement of a CRP ([34 C.F.R. § 361.29\(d\)\(6\)](#)).

- Have you conducted a public meeting or meetings for your State Plan describing plans to establish, develop, or improve a CRP? Information gathered at these meetings will need to be included in your submission to RSA of either your four-year state plan, your two-year modification, or an amendment to your state plan falling outside these regular timeframes, as appropriate. ([34 C.F.R. § 361.20\(a\)](#)).

Planning Phase

If your agency has satisfied the above requirements for policy development and planning activities related to establishing, developing, or improving a CRP, then the following requirements must be satisfied for your agency to use Federal funds or count non-Federal expenditures incurred for these activities towards its match requirement under the VR program:

- The activities proposed must fit within the definition of establishment, development, or improvement of a CRP at [34 C.F.R. § 361.5\(c\)\(16\)](#) & [\(17\)](#), or the construction of a facility for a CRP at [34 C.F.R. § 361.5\(c\)\(10\)](#); and

- The activities must be designed to provide VR services to State VR agency applicants and eligible individuals.

Overall Questions to Answer

- Has the VR agency determined whether or not staffing costs are necessary to establish, develop, or improve the CRP for the purpose of providing VR services to applicants or eligible individuals? (This can be complicated. Consult with your RSA liaison and State team.
- Are the costs of the establishment project related to promoting integration and competitive employment in the community for groups of individuals with disabilities? ([34 C.F.R. 361.49\(a\)\(1\)](#))
- Does the project address whether other expenditures related to the establishment, development, or improvement of a CRP are necessary to make the program functional or increase its effectiveness in providing VR services to applicants or eligible individuals but are not ongoing operating expenses of the program ([34 C.F.R. § 361.5\(c\)\(16\)\(iii\)](#))?
- Does the project describe the program/service to be provided in establishing, developing, or improving a public or nonprofit CRP under the establishment authority?
- Has the VR agency sought and received prior written approval for applicable establishment or construction project costs subject to prior approval ([2 C.F.R. § 200.407](#))?

Questions to Answer Regarding Costs

Proportionality of Allowable Costs under the VR Program:

- Are the costs of the project allowable under the VR program ([2 C.F.R. § 200.403](#))?
- Are costs allocable to the Federal award ([2 C.F.R. § 200.405](#))?

Costs associated with establishment or construction would be allowable under the VR program only to the extent that applicants and eligible individuals benefit from that expenditure. If it is determined that some VR applicants and consumers would benefit, then the amount that would be allocable to the VR program is only that which is commensurate with the benefit that VR applicants and consumers would receive from the entity while receiving VR services. In other words, when CRPs serve individuals who are not applicants or recipients of services from the VR program, the VR agency may not provide VR funds to establish or construct that proportional amount of a project.



- What proportional cost distribution and methodology is being used (e.g., space used by applicants and eligible individuals vs. individuals not served by the VR agency, or a percentage of staff time serving VR applicants and eligible individuals)?
- Are the costs allowable construction costs to VR?
- Is any construction or renovation work to be completed subject to the Davis-Bacon Act?
- Has the agency included the Build America Buy America Act provisions to ensure costs accurately reflect compliance with requirements?
- How will your agency safeguard the long-term Federal interest in the capital asset (e.g., ensuring only applicants or recipients of VR services continue to benefit from the establishment or construction project)?

Non-Federal (Match) Share of the Costs:

- Does your agency address the use of non-Federal funds earmarked for establishment projects under [34 C.F.R. § 361.60](#) where the CRP is contributing part or all of the non-Federal share required for the project?

If your agency engages in construction of a CRP under the VR program, the Federal share may not be more than 50 percent of the total cost of the project ([34 C.F.R. § 361.60\(a\)\(2\)](#)) or more than 10 percent of the State's allotment ([34 C.F.R. § 361.61](#)).

Your agency may accept contributions from private entities to satisfy its non-Federal share of expenditures if those contributions are earmarked for meeting part of the State's non-Federal share for establishing a CRP ([34 C.F.R. § 361.60\(b\)\(3\)\(i\)](#)).

- Has your agency planned to subtract the amount of non-Federal share expended for establishment projects from the total non-Federal share when determining compliance with Maintenance of Effort requirements ([34 C.F.R. § 361.62\(b\)](#))?