

**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON D.C. 20202**

**TECHNICAL ASSISTANCE CIRCULAR
RSA-TAC-00-02
July 24, 2000**

TO: State Vocational Rehabilitation Agencies (General)
State Vocational Rehabilitation Agencies (Blind)
Client Assistance Programs
Regional Rehabilitation Continuing Education Programs
American Indian Vocational Rehabilitation Service Programs
RSA Senior Management Team

SUBJECT: Self-employment, Telecommuting, and Establishing a Small Business as
Employment Outcomes

Statutory and Regulatory Citations: the Rehabilitation Act of 1973, as amended;
the Workforce Investment Act of 1998; 34 CFR Part 361.

PURPOSES:

The Rehabilitation Act (Act) Amendments of 1998, which are contained in Title IV of the Workforce Investment Act, include two specific references to self-employment, telecommuting, and establishing a small business as viable employment outcomes under the State Vocational Rehabilitation (VR) Services Program. One purpose of this Technical Assistance Circular (TAC) is to highlight these changes.

A second purpose of this TAC is to bring attention to three recent publications that contain effective and proven methods for utilizing self-employment, including the establishment of a small business, as an employment outcome.

BACKGROUND

The U.S. Department of Labor reported that in 1994 approximately 12 percent of the American workforce were self-employed. Data from the 1990 Census indicated that approximately 12 percent of the individuals who reported a work disability also reported being self-employed. While self-employment has always been a permissible employment outcome under the Act, data from the State VR Services Program indicate that, of those individuals who achieve an employment outcome, 3 percent achieve an employment outcome in the self-employment category. The results of several recently completed demonstration projects on “Choice” (see

RSA-IM-98-16, July 7, 1998) indicate that vocational rehabilitation consumers are interested in self-employment outcomes. The percentages of individuals participating in “Choice” projects who sought self-employment were higher than the percentage of individuals in the State VR Services Program who achieve self-employment outcomes.

Two recent reports, one by the XXIV Institute on Rehabilitation Issues (1998) and the other by the Presidential Task Force on Employment of Adults with Disabilities (November 15, 1998), concluded that self-employment outcomes are an underutilized, and potentially productive (given the changing nature of the U.S. workforce) source of employment opportunities for individuals with disabilities. These reports found that technological advances, especially in the areas of computers and telecommunications, have removed many of the obstacles that previously hampered individuals with disabilities from successfully entering self-employment.

The language in the Rehabilitation Act Amendments of 1998 regarding self-employment, telecommuting, and establishing a small business makes it clear that Congress intends these employment outcomes to be available in assisting individuals with disabilities to obtain employment opportunities consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. These inclusions also make it explicit that Congress intends self-employment, telecommuting, and establishing a small business to be viable employment outcomes, and that the State VR Services Program is to have the authority and ability to provide the services necessary to support those outcomes when they are “described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual.” (§103(a))

The Rehabilitation Act Amendments of 1998

There are two sections of the Act, as amended in 1998, where self-employment, telecommuting, and establishing a small business are cited as appropriate employment outcomes.

The first instance is at §7(11)(C), under the definition of an employment outcome:

The term “employment outcome” means, with respect to an individual--

...

(C) satisfying any other vocational outcome the Secretary may determine to be appropriate (including satisfying the vocational outcome of self-employment, telecommuting, or business ownership), in a manner consistent with the Act.

The second instance is at §103(a)(13), among the vocational services to be provided under the Act:

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are

authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.

The Rehabilitation Services Administration has received several requests for clarification of the meaning of the phrase “to the extent such resources are authorized to be provided through the statewide workforce investment system....” The phrase refers to the manner in which the Act authorizes the State VR Services Program to “otherwise provide resources,” to individuals pursuing self-employment, telecommuting, or establishing a small business, and, in effect, places a condition on the provision of resources other than “technical assistance and other consultation services to provide market analyses” and the “develop[ment] of business plans” to eligible individuals. The condition is that the other “resources” must be provided in a manner consistent with what is authorized to be provided through the statewide workforce investment system of the WIA. This condition does not apply to the provision of any other vocational rehabilitation service listed in section 103(a) of the Act.

Each statewide workforce investment system must include a “State plan” which describes the employment and training activities that are to be carried out with the funding received under the WIA (see §112 of WIA). The employment and training activities to be provided under each statewide workforce investment system are to be determined individually by each State, will vary depending on the needs and economic conditions of each State, and may vary between local areas within each State (see §116 of WIA). As the extent and scope of the employment and training services to be provided under the statewide workforce investment system will vary from State to State, each State VR agency must determine what activities the WIA State plan calls for in their State (and localities within their State, as appropriate), and ensure that these resources are also available and provided (as appropriate) to eligible individuals in a manner consistent with the statewide workforce investment system.

Based upon long-standing policy, an individual with a disability cannot be **required** to take out a loan to pay for any vocational rehabilitation service. However, there may be circumstances where the individual elects to do so. In such instances, the Department has determined that State VR Services Program funds may be used to guarantee (but not provide) a loan to an individual with a disability receiving VR services to enable the individual to pay for certain items contained in the individualized plan for employment. Included among those items may be loans for the purpose of establishing a small business or for equipment needed to enter self-employment. The loans must be for the receipt of a VR service that the State agency may provide to the consumer under the law. State VR Services Program funds may be used to guarantee the repayment of the unpaid balance of principal (but not the accrued interest) on the loan. In addition, the provisions of 34 CFR 361.54 - Participation of individuals in cost of services based on financial need may apply if a State employs such a procedure. As stated at 34 CFR 361.50(b)(3), the State unit may not place absolute dollar limits on specific service categories or on the total services provided to an individual.

Recent Publications

To implement the intent of Congress for self-employment, telecommuting, and the establishment of a small business to become viable employment outcomes under the State VR Services Program, the rehabilitation community must continue to define and refine the nature and scope of vocational rehabilitation services to be provided to eligible individuals pursuing those outcomes, and the role of the vocational counselor in providing vocational rehabilitation services to those individuals. Vocational rehabilitation counselors require assistance and guidance to support clients in exploring the marketplace, developing a viable business plan, providing necessary accommodations, obtaining items necessary for business start-up, connecting clients with community resources (including funding sources), and other activities related to entering self-employment of establishing a small business.

Three recent documents present information on effective methods of providing VR services to individuals with disabilities entering self-employment and establishing small businesses.

The XXIV Institute on Rehabilitation Issues produced a document titled "People With Disabilities Developing Self-employment and Small Business Opportunities" (1998). This document is intended as a tool for VR counselors to assist individuals with disabilities, and a resource for VR consumers who wish to pursue self-employment and small business opportunities. This document also contains references that can provide additional assistance. Copies of this document may be obtained from:

Region VI Rehabilitation Continuing Education Program
P.O. Box 1358
Hot Springs, Arkansas 71902
Telephone: 501-623-7700
Fax: 501-624-6250

(Note: The Region VI Rehabilitation Continuing Education Program maintains a web site on self-employment and entrepreneurship for individuals with disabilities at <http://www.cei.net/~regionvii/business.htm>.)

The "First Report of the Presidential Task Force on Employment of Adults with Disabilities" (November 15, 1998) contains the findings of the Work Group on the Small Business and Entrepreneurial Opportunities which provides information on what activities are currently underway to increase self-employment as a viable employment outcome and what actions are necessary to further the use of this employment outcome. This document also provides references that may be useful to State VR agencies in their efforts to more effectively utilize self-employment and the establishment of a small business as employment outcomes.

"Getting Down to Business: A Blueprint for Creating and Supporting Entrepreneurial Opportunities for Individuals with Disabilities" (April, 2000) addresses the current status of small business and self-employment opportunities for individuals with disabilities and offers recommendations for addressing barriers to business ownership. The findings in this report build upon the proceedings of the National Blue Ribbon Panel on Self-employment, Small Business and Disability, convened by the President's Committee on Employment of People with

Disabilities in July 1998. This publication contains profiles of successful entrepreneurs, an overview of the business planning process, useful web sites, and entrepreneurial opportunities for individuals with disabilities.

Copies of these latter two documents may be obtained from:

Presidential Task Force on Employment of Adults with Disabilities
Room S2220D
200 Constitution Avenue
Washington DC 20210

Telephone (voice): 202-693-4939
(TTY): 202-693-4290
Fax: 202-693-4929

Questions regarding this Technical Assistance Circular should be directed to the RSA Regional Commissioners.

Fredric K. Schroeder, Ph.D.
Commissioner