4000-01-U

DEPARTMENT OF EDUCATION

Rehabilitation Training--Rehabilitation Continuing Education Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority under the Rehabilitation Continuing Education Program (RCEP) to fund regional Technical Assistance and Continuing Education (TACE) centers. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2008 and later years. We take this action to improve the quantity and quality of employment outcomes for individuals with disabilities through enhanced technical assistance (TA) and continuing education (CE) for State vocational rehabilitation (VR) agencies and agency partners that cooperate with State VR agencies in providing VR and other rehabilitation services (e.g., Centers for Independent Living (CILs), Client Assistance Programs (CAPs), and Community Rehabilitation Programs (CRPs)).

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: Through this priority, the Department revises the current structure of the RCEP, which includes 21 regional RCEP centers--11 centers that serve primarily State VR agencies and 10 centers that serve primarily CRPs. Instead of funding these two separate sets of centers, this priority supports 10 regional Technical Assistance and Continuing Education (TACE) centers to serve State VR agencies and agency partners that cooperate with State VR agencies in providing VR and other rehabilitation services. CRPs are among the agency partners that the TACE centers are expected to serve. While the current RCEP centers provide CE and limited TA to entities, TACE centers

will provide both TA and CE as necessary to respond to the needs of the State VR agencies and agency partners served by the TACE centers.

We published a notice of proposed priority (NPP) for this program in the Federal Register on January 29, 2008 (73 FR 5179). The NPP included a discussion of the issues associated with modifying the RCEP structure. The background section of the NPP explained that the results of the Department's Rehabilitation Services Administration's (RSA) program monitoring required by section 107 of the Rehabilitation Act of 1973, as amended, and the needs assessments conducted by current RCEP grantees indicated the need to integrate and coordinate services provided to State VR agencies and agency partners that cooperate with State VR agencies in providing VR and other rehabilitation services, including CRPs. The NPP also explained that the modified RCEP structure would reduce administrative costs by combining the functions of the two sets of centers and that public comments on the Rehabilitation Training Program, solicited through a notice in the Federal Register (72 FR 9942), generally supported the role of the RCEP in providing TA and CE and the provision of these services through a regional model. The final priority announced in

this notice contains differences from the priority proposed in the NPP.

Analysis of Comments and Changes

In response to our invitation in the NPP, 79 parties submitted comments on the proposed priority. An analysis of the comments and of any changes in the priority since publication of the NPP follows.

Multiple commenters raised a number of similar issues; therefore, we group major issues by subject area. Generally, we do not address technical and other minor changes and suggested changes the law does not authorize us to make under the applicable statutory authority.

Agency partners

Comment: Fifty-four commenters requested that specific entities be added to the list of agency partners with whom State VR agencies cooperate to provide VR and other rehabilitative services. Various commenters recommended that the following entities be added: American Indian Vocational Rehabilitation Service programs (30 commenters); State Rehabilitation Councils (SRCs) (nine commenters); Migrant and Seasonal Farmworker programs (seven commenters); CILs (six commenters); Statewide Independent Living Councils (one commenter); and State agencies such as

developmental disability, mental illness, and substance abuse agencies (one commenter).

Discussion: The agency partners included in the priority are examples of agencies with which State VR agencies cooperate to provide VR and other rehabilitative services; the list of agencies provided is not intended to be exhaustive. The entities suggested by the commenters could be agency partners--that is, if a State VR agency cooperates with any one of these entities to provide VR and other rehabilitative services, that entity would be considered an agency partner for purposes of this priority.

Changes: None.

Consolidation of the regional centers

Comment: Twenty-three commenters stated that CRPs will not be served adequately under the modified RCEP structure, and six commenters stated that the TA and CE needs of CRPs are significantly different from the needs of State VR agencies.

Discussion: This priority focuses on the needs of State VR agencies and their agency partners. RSA values the contribution of the CRPs in the VR service system and recognizes that CRPs may have TA and CE needs that are different from those of the State VR agency and its other agency partners. RSA expects that the needs of CRPs, along

with the needs of other agency partners, will be reflected in the annual needs assessment that will serve as the foundation for each TACE center's work plan.

Changes: None.

Comment: Two commenters asked whether the 10 TACE centers will provide the employment certificate series training that the RCEP centers serving CRPs currently provide.

Discussion: The TA and CE provided by each TACE center will be determined by each TACE center with input from RSA after the TACE center conducts an annual needs assessment of the State VR agency and agency partners in the TACE center's region. While the TACE centers are not required to provide the employment certificate series training referred to by the commenter, nothing in the priority prohibits a TACE center from doing so if it meets a need identified by the State VR agency or its agency partners.

Changes: None.

Comment: Twenty-three commenters stated that the TACE centers should balance the time and resources devoted to address TA needs, on the one hand, and CE needs, on the other. Twelve commenters stated that the proposed priority appears to emphasize TA more than CE.

Discussion: We do not agree that the priority places a greater emphasis on TA than CE. The priority clearly

states that each TACE center must conduct an annual needs assessment to identify the TA and CE needs of State VR agencies and agency partners. Based on the annual needs assessment, each TACE center will determine and describe in its work plan the distribution of resources that will be devoted to TA and CE activities.

Changes: None.

Comment: One commenter expressed concern that the 10 TACE centers will not be able to handle the high volume of TA and CE requests as well as the 21 currently funded RCEP centers.

Discussion: We expect the 10 TACE centers to be able to handle the high volume of TA and CE requests as well as the 21 currently funded RCEP centers because we believe that these 10 centers will provide TA and CE more effectively and efficiently than the current 21 RCEP centers. Because each region will have one TACE center to serve all State VR agencies and agency partners in that region and because RSA will coordinate across the TACE centers on a national level, the modified structure will facilitate sharing materials and information, and coordinating TA and CE activities, as appropriate, within and across regions. The annual needs assessment and work plan requirements in the priority will also help focus resources more effectively.

We believe that the modified structure of the program will decrease duplication of effort and enhance coordination between State VR agencies and their agency partners. In addition, fewer resources will be expended on administrative costs because there will be one center in each region rather than two.

Changes: None.

Comment: Six commenters expressed concern that the relationships that have been developed over time among the current RCEP centers, State VR agencies, and agency partners will be lost in the modified RCEP structure supported by the TACE center priority.

Discussion: The modified structure of the RCEP program is designed to ensure collaboration between the TACE center, the State VR agency and agency partners served, and RSA. We believe that this collaboration will result in increased coordination of TA and CE provided to State VR agencies and agency partners and enhance relationships among the TACE centers, State VR agencies, and agency partners. Further, we believe that each TACE center's advisory committee will provide an opportunity for the advisory committee members who represent State VR agencies, among others, to develop and sustain relationships.

Changes: None.

Funding

Comment: Eighteen commenters stated that requiring the TACE centers to take on more TA responsibilities than the current RCEP centers will require more funds than those allocated to the current RCEP centers. Fourteen commenters stated that the same amount of funds currently provided to the 21 RCEP grantees should be provided to the 10 TACE centers in order for the new RCEP structure to be effective.

Discussion: The estimated level of funding for the TACE centers will be included in the notice inviting applications for new awards. We do not anticipate maintaining the same level of funds for the TACE centers that has been available under the current structure of the RCEP program. One of the major reasons for the changes in the RCEP program is to facilitate close coordination within each TACE center and among the TACE centers in order to maximize the effective use of funds to meet the TA and CE needs of the State VR agencies and their agency partners. To help ensure collaboration among TACE centers, RSA will coordinate activities of the TACE centers at the national level. We believe that the increased coordination within each TACE center and across centers will result in

significant administrative efficiencies that will offset some of the expected funding differential.

Changes: None.

Comment: Three commenters asked how available funds for the RCEP program will be allocated and whether the geographic size of regions will be considered when funds are allocated to the TACE centers.

Discussion: All TACE centers will receive the same base funding amount. Additional funding will be provided to individual TACE centers based on the number of State VR agency staff in the region each TACE center serves, as identified in the most recently published data from the RSA-2, the Annual VR Program/Cost Report. We will not base our funding allocations on the geographic size of regions because we do not believe that the size of a region alone should affect the level of services provided--since there are multiple ways to conduct TA and provide CE in addition to face-to-face meetings, such as video conferencing and Web casts.

Changes: None.

Comment: One commenter stated that the majority of funds provided to the TACE centers should be used to address TA and CE needs of State VR agencies. Another commenter asked whether the TACE centers would share staff training costs

with the State VR agencies they serve as they do under the current RCEP structure.

Discussion: The use of funds for TA and CE will be determined by each TACE center based on the TACE center's annual needs assessment (developed with input from its advisory committee) and the TACE center's annual work plan (developed with input from RSA). Nothing in the priority prohibits the majority of funds provided to the TACE centers from being used to address TA and CE needs of State VR agencies. However, we do not believe that it is appropriate to require all TACE centers to use the majority of their funding under this program to address these needs. With regard to sharing training costs, while nothing in this priority requires a TACE center to share staff training costs with the State VR agencies it serves, nothing in the priority prohibits the TACE center from doing so.

Changes: None.

RSA involvement with the TACE centers

Comment: Twenty-eight commenters expressed concern that the priority gives RSA too much control over the decision-making of the TACE centers and that, as a result, each TACE center's needs assessment and annual work plan will be

dictated by RSA and not adequately consider the needs of the State VR agency and its agency partners.

Discussion: Under the priority, the TACE centers must work in consultation with RSA to establish their annual work plans, which describe the activities the TACE centers will carry out during each year of their project. We believe that this level of RSA involvement in and approval of the work plan is critical to ensure that the TACE centers are familiar with relevant information from RSA's State monitoring activities and to facilitate alignment of the TA and CE provided by the TACE centers with the VR service system in each State and across States. Given the need to ensure coordination of the work of the TACE centers at the national level, we believe it is important for RSA to approve all TACE center annual work plans. While the TACE model provides RSA with the authority to approve each center's work plan, RSA recognizes that, in order for the TACE centers to be effective, the TACE centers must also work with the State VR agencies and agency partners to ensure more integrated decision-making with regard to the needs of State VR agencies and agency partners within and across the regions.

Changes: Priority paragraph (1) has been amended to clarify that each TACE center must establish an annual work

plan, in coordination with and subject to the approval of RSA.

Comment: Nine commenters stated that TA should be RSA's responsibility, not the TACE centers' responsibility. One commenter stated that there is a need to explain the difference between the TA provided by the TACE centers and that provided by RSA.

Discussion: RSA will utilize the TACE centers to supplement the TA it provides. In light of RSA's program monitoring and the needs assessments conducted by current RCEP grantees that indicate a significant need for TA, we believe that supplementing RSA's provision of TA is beneficial to State VR agencies and agency partners, and ultimately individuals with disabilities receiving services from State VR agencies and agency partners. RSA--not the TACE centers--will provide TA on the interpretation of the Rehabilitation Act of 1973, as amended, and its regulations. TACE centers will provide TA to State VR agencies and agency partners to assist them in improving their performance in areas such as program management and delivery of VR services to increase and improve employment outcomes for individuals with disabilities.

Changes: None.

Needs Assessment and Work Plan

Comment: The comments of 26 individuals indicated that there was confusion about the relationship between the annual needs assessment and the annual work plan, as well as the role of a TACE center's advisory committee.

Discussion: The proposed priority specified that each TACE center would conduct an annual needs assessment, with input from its advisory committee, and develop an annual work plan, with input from RSA. However, we agree that the proposed priority was not clear about how the results of the needs assessment would be used to develop the annual work plan. We intend that the annual work plan, developed in cooperation with RSA and approved by RSA, will take into consideration the TA and CE needs of State VR agencies and agency partners that are identified in the TACE center's annual needs assessment. We do not expect each annual work plan to address all of the needs identified in the needs assessment. We understand that, due to limited resources, each TACE center will prioritize needs to be addressed in the annual work plan.

Changes: We have modified paragraph (1) of the priority to make clear that annual work plans must consider, but not necessarily address, the TA and CE needs of State VR agencies and agency partners identified in the TACE center's annual needs assessment.

Comment: Four commenters stated that the needs assessment should consider what the State VR agencies and agency partners say they need and not be based solely on RSA-generated data. Eighteen commenters stated that the State VR agencies in a TACE center's region should be consulted in the development of the TACE center's needs assessment and that a representative from State VR agencies in the region should be a member of a center's advisory committee.

Discussion: As specified in paragraph (2) of the priority, each TACE center's annual needs assessment must be based on the needs of State VR agencies and agency partners in its region. The priority lists several sources of information that will be important for each TACE center to consider in its annual needs assessment, including information from VR State plans, on-site monitoring reports, and annual review reports issued by RSA. A TACE center's needs assessment, therefore, could not be based solely on RSA-generated data. In addition, paragraph (3) of the priority requires each TACE center to solicit input from its advisory committee members in developing the needs assessment and to use this information in developing its annual work plan.

Members of the advisory committee include, at a minimum, the entities listed in 34 CFR 385.40 as well as those additional entities listed in paragraph (3) of the

priority. We believe that adding a representative from each State VR agency in a TACE center's region will increase opportunities for State VR agencies to inform the TACE center about their needs and to provide input into a TACE center's annual work plan. For this reason, we are modifying the priority to require each TACE center to invite a representative from the State VR agencies in the TACE center's region to participate on its advisory committee.

Changes: Paragraph (3) of the priority has been modified to require a TACE center to invite a representative from each State VR agency in its region to participate on its advisory committee.

Comment: Fifteen commenters stated that basing the needs assessment on VR State plans will result in a reactive and deficiency-based needs assessment (i.e., one that intends only to remediate skills identified as ineffective through RSA monitoring), rather than a proactive needs assessment (i.e., one that considers the development of new professional skills of staff as a valuable activity). One commenter stated that TA should be focused on VR State plans.

Discussion: VR State plans document the agency's goals and priorities for the upcoming fiscal year, including the

strategies that the agency will undertake to achieve them. Using the VR State plans as one source of information in the needs assessment process enhances the needs assessments' relevance to State VR agencies' goals and priorities.

It was not the intent of the priority that the needs assessment be based solely on VR State plans. These plans are listed as one of the data sources to be reviewed when conducting the needs assessment. Paragraph (2) of the priority lists several other sources of data that must be considered in the annual needs assessment, including on-site monitoring reports and annual review reports issued by RSA, other performance and compliance information from RSA and State VR agencies, and other data, as appropriate.

We also do not intend for the needs assessment in this priority to be a deficiency-based model. Instead, we expect that the needs assessment process will be guided by each TACE center's advisory committee to ensure that TA and CE are provided both to remediate deficits and to support new professional development. Each TACE center will make collaborative decisions with RSA about the TA and CE to be provided through the annual work plan based on the needs identified using these multiple data sources.

Changes: None.

Comment: Eleven commenters disagreed with the requirement that TACE center representatives attend State VR agency monitoring exit conferences conducted by RSA. The commenters stated that the presence of TACE center staff would give the impression that the TACE centers have monitoring responsibilities. Three commenters stated that the exit conference is the wrong time to have the TACE centers involved in the monitoring process because the process is incomplete at that time; instead, the commenters recommended that the TACE centers be involved after the issuance of a State's final monitoring report.

Discussion: The priority does not assign monitoring responsibilities to the TACE centers. Rather, the priority requires that the TACE centers serve as observers in RSA's monitoring of State VR agencies in their region by participating, at a minimum, in each State VR agency's monitoring exit conference in order to gain a thorough understanding of each State VR agency's TA and CE needs. It is important to retain the requirement that TACE center representatives participate in State VR agency monitoring exit conferences because these exit conferences provide significant information about the TA and CE needs of the State VR agency and agency partners. Requiring that TACE center staff participate in the exit conferences is

worthwhile because of the early, additional insight the TACE centers will gain. Once the final report is issued, the TACE centers will consider the report's recommendations in their needs assessment and in the development of their work plan.

Changes: None.

Comment: Five commenters stated that, given limited funding, a single center couldn't be expected to have expertise in the 12 areas identified in the third paragraph of the priority. Two commenters stated that the 12 areas in which a TACE center must demonstrate expertise focus on the needs of the State VR agency and do not include areas that apply to agency partners. One commenter stated that the State VR agency should have input on the subject matter experts selected by its regional TACE center to provide TA and CE.

Discussion: One of the purposes of the TACE centers is to ensure that State VR agencies and agency partners receive the TA and CE they need to improve program performance. The expertise areas identified are included to address the needs of agency partners in the activities the agency partners undertake in cooperation with the State VR agency in the provision of VR and other rehabilitation services authorized under the Rehabilitation Act of 1973, as amended

(Act). The 12 expertise areas included in the third paragraph of the priority were identified based on the following: an assessment of the TA needs of State VR agencies and SRCs; RSA's monitoring reviews required by section 107 of the Act; and RSA's review of annual VR State plans. Based on this information, we have determined that it is important to require applicants to demonstrate that they have expertise or access to subject-matter experts in at least these areas in order to provide effective TA and CE under this priority. The priority requires an applicant to describe how it will access expertise in at least these 12 areas, but it does not require the applicant to have experts on staff in all 12 areas. Thus, we disagree that this requirement will be too costly for TACE center grantees.

We recognize that other areas of need may arise through the needs assessment and do not wish to limit the areas of expertise to those identified in the priority. Therefore, we have changed the priority to clarify that each TACE center must have expertise or access to subject matter experts in, at a minimum, the 12 areas of expertise identified in the third paragraph of the priority.

Finally, nothing in the priority prevents a TACE center from consulting with the State VR agency to select its experts.

Changes: We have revised the third paragraph of the priority to clarify that each TACE center must have expertise or access to subject-matter experts in at least the 12 areas identified.

Comment: One commenter stated that the TACE centers should focus on other areas of expertise, such as negotiation skills, the psychological adjustment of individuals to acquired disabilities, leadership development, and placement training. Another commenter stated that the TACE centers should increase their knowledge of unserved and underserved populations.

Discussion: The priority requires the applicant to describe how it will address the 12 specified areas of expertise. Nothing in the priority prohibits applicants from proposing to develop or provide expertise in additional areas, such as negotiation skills, psychological adjustment to disabilities, leadership development, placement training, and the needs of unserved or underserved populations. We agree that expertise in these and other areas may arise from the needs assessments and

have revised the priority to make clear that applicants may propose to develop or provide expertise in other areas.

Changes: We have revised the third paragraph of the priority to clarify that each TACE center must have expertise or access to subject-matter experts in at least the 12 areas identified.

Comment: Three commenters stated that each TACE center's annual work plan should remain flexible and responsive to individual State's needs.

Discussion: We agree that each TACE center's annual work plan should remain flexible and responsive to individual State's needs. We anticipate that the annual needs assessment, with input from the TACE center's advisory committee, will ensure that each TACE center's annual work plan will be responsive to individual State's needs given that the annual work plan must consider the TA and CE needs identified in the annual needs assessment. Moreover, because the needs assessments are conducted and the work plans are established annually, they can easily be altered from year to year. Finally, the annual work plan can be revised in consultation with RSA if emerging needs are identified by the TACE center during that year of the project period.

Changes: None.

Comment: One commenter asked whether the TACE centers could coordinate multi-State teams and regional meetings as is done by the current RCEP grantees.

Discussion: There is nothing in the priority that would prohibit a TACE center from coordinating multi-State teams or regional meetings, if it determines that this activity is appropriate based on the results of the TACE center's annual needs assessment and work plan.

Changes: None.

Advisory committee members

Comment: Eight commenters objected to the Department's intent to publish a notice of proposed rulemaking (NPRM) to change the current requirement for an advisory committee to include members of minority groups. The commenters objected to the change that would require that an advisory committee include individuals who are knowledgeable about the special needs of individuals with disabilities from diverse groups, including minority groups, because the new requirement would not ensure the participation of members of minority groups. One commenter suggested that members of the advisory committees include individuals with disabilities who are members of minority groups.

Discussion: Members of minority groups are listed in 34 CFR 385.40 as one of the categories of mandatory

participants on rehabilitation training advisory committees. As the note to paragraph (3) of the priority indicates, the Department intends to publish an NPRM to amend 34 CFR 385.40, which would remove the requirement that an applicant include members of minority groups on all project advisory committees and add a requirement that an applicant include individuals who are knowledgeable about the special needs of individuals with disabilities from diverse groups, including minority groups. This proposed change is consistent with the Supreme Court ruling in Adarand Constructors, Inc. v. Peña (515 U.S. 200 (1995)) in which the Court held that all racial classifications are constitutional only if they are narrowly tailored measures that further compelling governmental interests. The proposed change is a race-neutral alternative that achieves the intent of the Department that project advisory committees include individuals who are familiar with the needs of individuals with disabilities from diverse groups, while ensuring compliance with the Supreme Court's decision in Adarand.

Changes: None.

Comment: Eleven commenters requested that various entities be required members of each TACE center's advisory committee. The entities that commenters recommended be

added include: representatives from State VR agencies (six commenters); representatives from agency partners (four commenters); and current or former recipients of VR services (one commenter). One commenter stated that State VR agency representatives should comprise 50 percent of the membership of each TACE center's advisory committee. Another commenter stated that individuals with disabilities should comprise the majority of the members of each TACE center's advisory committee.

Discussion: The required composition of an advisory committee for projects funded under the Rehabilitation Training Program, which includes the RCEP program, is defined in 34 CFR 385.40. The priority also requires that each TACE center advisory committee include members from Independent Living Training and Technical Assistance centers. We believe that adding a requirement to invite a representative from each State VR agency in a TACE center's region would increase the opportunities for State VR agencies to express their needs and provide input into the TACE center's annual work plans. Otherwise, we believe the composition of the advisory committee as specified in 34 CFR 385.40 and this priority is sufficiently broad to enable all appropriate constituents to be represented, including representatives from agency partners and former

recipients of VR services. Nothing in the priority or applicable regulations prohibits an applicant from proposing additional members for its advisory committee.

Changes: We have modified paragraph (3) of the priority to require each TACE center to invite a representative from each State VR agency in its region to participate on its advisory committee.

Comment: One commenter asked if the role of the advisory committee is to provide advice to the TACE center or to set policy for the TACE center.

Discussion: The priority does not specify a policy-making role for the advisory committee. It simply requires that the advisory committee be established to provide input on the TACE center's annual needs assessment. We anticipate that the annual needs assessment will be an important source of input to each TACE center's annual work plan. Nothing in the priority requires center policies to be determined by the advisory committee, although this function could be proposed in the application.

Changes: None.

Comment: One commenter stated that the TACE centers' advisory committees, which, by definition, are regional in nature, would not take into account differences in States'

needs and recommended that the TACE centers be required to have State advisory committees.

Discussion: The goal of TACE center advisory committees is to provide an opportunity for State VR agencies and agency partners to provide information about their TA and CE needs. For reasons of efficiency, the priority requires only one advisory committee for each TACE center. However, as noted elsewhere in this discussion, we have modified the priority to require each TACE center to invite a representative from each State VR agency served by the TACE center to participate on its advisory committee. We believe that this addresses the commenter's concern by allowing regional advisory committees to be informed about and take into account State differences.

Changes: None.

Performance Measures

Comment: Four commenters stated that the goal of improving the quality and quantity of VR outcomes is not adequately defined in the priority, and one commenter stated that the TACE centers should not be expected to contribute to increasing VR outcomes. Another four commenters stated that the performance measures identified for the program in paragraph (7) of the priority should be better defined and more objective.

Discussion: The goal of improving the quality and quantity of VR outcomes is an expected outcome of the provision of TA and CE to the State VR agency and agency partners. However, the Department does not intend to judge the performance of the TACE centers on the basis of changes in VR outcomes. The Department will establish an independent review panel to evaluate the performance of the TACE centers. The areas to be evaluated by the independent review panel--quality, relevance, and usefulness--are those areas typically examined by the Department in assessing the performance of TA activities supported by the Department. The Department will determine the methodology for this review, including the objective criteria to be used by the panel in rating the TA and CE services in these three areas.

Changes: None.

Other Comments

Comment: One commenter suggested that the priority allow consortia models--that is, models in which a TACE center would be operated by two or more entities, such as the National Rehabilitation Leadership Institute.

Discussion: Although the priority does not specifically address the establishment of consortia models for a TACE

centers, nothing in the priority would prohibit an applicant from proposing such a model.

Changes: None.

Comment: One commenter stated that the TACE centers should have explicit responsibility for disseminating evidence-based knowledge and best practices.

Discussion: The Department agrees that it would be advantageous to have the TACE centers disseminate evidence-based knowledge, including information on best practices to the extent that it is available. We have modified paragraph (5) of the priority to reflect this change.

Changes: We have modified paragraph (5) of the priority to indicate that the TA provided by the TACE centers should be evidence-based to the extent possible.

Comment: Four commenters expressed concern about the timing of this priority and the fact that the TACE centers would be replacing current RCEP grantees that have not completed their five-year funding cycle. Two commenters stated that it creates a poor precedent not to continue grants that are in the middle of a five-year funding cycle, and one commenter stated that RSA is moving forward with this change too quickly.

Discussion: The Department has carefully considered the timing of this priority and believes it is the appropriate

time to make this change. Seven of the current 11 RCEP centers that primarily serve State VR agencies will have completed their five-year project period, and three of the RCEP centers will have completed the fourth year of their grant prior to the establishment of the new TACE centers on October 1, 2008. In addition, the TA needs of the VR system have increased significantly, based on an assessment of the TA needs of State VR agencies and SRCs, RSA's monitoring reviews as required by section 107 of the Act, and RSA's review of annual State plans submitted by State VR agencies as a condition of Federal funding. The purpose of this priority is to ensure that State VR agencies and their agency partners receive the TA and CE they need to improve their performance. The Department believes that it is in the best interest of individuals with disabilities and their families that this change be made at this time.

Changes: None.

Comment: None.

Discussion: Based on internal departmental review, we determined that it was not appropriate to include the phrase "as applicable" in the first sentence of paragraph (2) of the priority. We expect the annual needs assessment to identify the TA and CE needs of all State VR agencies

and agency partners in the region served by the TACE center.

Changes: We have deleted the phrase "as applicable" from the end of the first sentence in paragraph (2) of the priority.

Comment: None.

Discussion: Based on internal departmental review, we determined that "agency partners" was not adequately defined in the priority. Agency partners include all agencies with which the State VR agency cooperates in providing VR and other rehabilitation services.

Change: We have added language to the first paragraph of the priority to clarify that the term "agency partners" refers to all agencies with which the State VR agencies served by the TACE center cooperate in providing VR and other rehabilitation services.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

PRIORITY:

Regional Technical Assistance and Continuing Education Centers.

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority to create 10 regional Technical Assistance and Continuing Education

(TACE) centers to provide (1) technical assistance (TA) to State vocational rehabilitation (VR) agencies and agencies with which State VR agencies cooperate in providing VR and other rehabilitation services (agency partners) to improve services required under the Rehabilitation Act of 1973, as amended, and (2) continuing education (CE) to employees of State VR agencies and agency partners. For purposes of this priority, the term "agency partners" refers to all agencies with which the State VR agencies served by the TACE center cooperate in providing VR and other rehabilitation services.

Under this priority, the TACE centers must contribute to the following outcomes: improved quality of VR services, increased effectiveness and efficiency of State VR agencies in delivering VR services, and improved quantity and quality of VR employment outcomes for individuals with disabilities. The TACE centers must contribute to these outcomes by providing TA and CE, either directly or through contract, to employees of State VR agencies and agency partners on topics that are identified jointly by the Rehabilitation Services Administration (RSA) and each TACE center's advisory committee and included in the TACE center's annual work plan.

Under this priority, applicants must demonstrate their ability to respond rapidly to a broad range of TA and CE needs. Applicants must provide evidence in their applications that they have expertise, or access to subject-matter experts with experience, in conducting TA and CE in at least the following areas: improvement of State VR agencies' service delivery; practices and interventions related to specific VR populations; quality assurance; case management at the administrative and counselor level; the use of assistive technology to achieve employment goals; personnel management (e.g., staff retention strategies); fiscal management; data management; communication skills development; development of individualized plans for employment; development of VR State plans; and strategic planning.

Under this priority, each TACE center must--

1. Establish an annual work plan, in coordination with and subject to the approval of RSA, describing activities that it will conduct to assist State VR agencies to accomplish the goals identified in their VR State plans and to achieve other performance and compliance goals identified by RSA's monitoring reports. The annual work plan must identify the nature and scope, including delivery means and methods, of the TA and CE to be provided by the

TACE center and consider, but not necessarily address, the TA and CE needs of State VR agencies and agency partners identified in the TACE center's annual needs assessment;

2. Conduct an annual needs assessment to identify the TA and CE needs of State VR agencies and agency partners in its region. Each TACE center must base its annual needs assessment on a thorough review of VR State plans, on-site monitoring reports and annual review reports issued by RSA, other performance and compliance information available from RSA and State VR agencies, and other data, as appropriate;

3. Establish a center advisory committee to provide input on the annual needs assessments conducted by the TACE center in accordance with paragraph (2) of this priority. In addition to the requirements in 34 CFR 385.40 for mandatory members of the center advisory committee, the committee must invite representatives from each of the State VR agencies in the region served by the TACE center and from RSA's Independent Living Training and Technical Assistance grantees to serve on this committee. RSA representatives will serve as ex-officio members.

Note: Members of minority groups are listed in 34 CFR 385.40 as one of the categories of mandatory participants on rehabilitation training advisory committees. However, the Department intends to publish a notice of proposed

rulemaking (NPRM) to amend 34 CFR 385.40, which would remove the requirement that an applicant include members of minority groups on all project advisory committees. The NPRM would add a requirement that an applicant include individuals who are knowledgeable about the special needs of individuals with disabilities from diverse groups, including minority groups. The purpose of this change would be to more clearly reflect the Department's intent that project advisory committees include individuals who are familiar with the needs of individuals with disabilities from diverse groups, rather than individuals who are just members of such groups;

4. Serve as an observer in RSA's monitoring of State VR agencies in its region by participating, at a minimum, in each State VR agency's monitoring exit conference in order to gain a thorough understanding of each State VR agency's TA and CE needs;

5. Collaborate and coordinate with other TACE centers to provide TA and CE as efficiently as possible to employees of State VR agencies and agency partners that have similar needs. TA should be evidence-based, to the extent possible, and include information on best practices to the extent evidence or research is available.

6. Coordinate services with other entities that provide TA and CE to State VR agencies and agency partners, including, but not limited to, Independent Living Training and Technical Assistance grantees and Assistive Technology projects funded by RSA; and

7. Evaluate how well each TA and CE activity provided by the TACE center meets a targeted area of need (e.g., the improvement of State VR agencies' service delivery; practices and interventions related to specific VR populations; quality assurance), based on goals and objectives established for the activity in the TACE center's annual work plan. Each TACE center must provide data on each TA and CE activity it conducts, including information on the topic of the activity, the number and types of personnel and agencies participating in the activity, participant evaluations of the effectiveness of the activity, and any other data required by the Department. Each TACE center must include the results of its evaluation in its annual performance report. RSA will convene an independent review panel to evaluate the work of the TACE centers. The independent review panel will use the following performance measures: (a) the percentage of TA and CE services provided by the TACE center that are deemed to be of high quality; (b) the percentage of TA and

CE services provided by the TACE center that are deemed to be of high relevance to State VR policies or practices; and (c) the percentage of TA and CE services provided by the TACE center that are deemed to be useful in improving State VR agency policies or practices.

Executive Order 12866

This notice of final priority (NFP) has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the NFP are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits--both quantitative and qualitative--of this NFP, we have determined that the benefits of the final priority justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the costs and benefits in the NPP.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Applicable Program Regulations: 34 CFR parts 385 and 389.

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(Catalog of Federal Domestic Assistance Number 84.264A Rehabilitation Continuing Education Program)

PROGRAM AUTHORITY: 29 U.S.C. 772.

Dated:

Tracy R. Justesen,
Assistant Secretary for
Special Education and
Rehabilitative Services.