

VOCATIONAL REHABILITATION FEDERAL GRANT

EXECUTIVE SUMMARY

JULY 2018

In December 2011, the Department of Employment, Training and Rehabilitation (DETR) was notified by the State Budget office that the Legislative Counsel Bureau (LCB) had concerns that the Rehabilitation Division (RD) was *pre-matching* the RD Vocational Rehabilitation (VR) grant ([CFDA 84.126](#) formula grant, *aka* Section 110 grant). The State Budget office, and LCB, informed DETR that *pre-matching* is a direct violation of **Section 7** of Nevada's Appropriations Act – SB 545, i.e., VR must expend all other non-General Fund sources of match *prior* to expending State General Funds as match.

As of July 1, 2011 (SFY 2012), DETR ceased *pre-matching* Section 110 grant funding with General Fund to comply with this edict, which has resulted in the re-allotment and relinquishment of non-matched federal Section 110 grant funding. In SFY 2017 (FFY 2017), Nevada re-allotted **\$9.5 million** and relinquished **\$1,432,599** of its Section 110 grant funding back to the federal government.

HISTORY

Section 110 Grant Funding and Match

Nevada receives Section 110 formula grant funds as a result of the Rehabilitation Act of 1973. States are required to *match* this federal funding with state funding sources. In Nevada, VR has acquired the following sources of *match*: *hard match (cash)* – State General Fund, Aging and Disabilities Services Division (ADSD) Independent Living collaboration funding (interagency transfer), and Fund for a Health Nevada grant funding; and, *soft match (effort)* – Statewide Cost Allocation (SWCAP), Third Party Cooperative Arrangements with other government entities, and allowable expenditures from its Blind Business Enterprise of Nevada (BEN) program.. These *match* funding sources are what Nevada utilizes to pay expenditures, which in turn draws down federal Section 110 grant funding. The match formula is: 21.3% State (non-federal) match funds to 78.7% federal Section 110 grant funds.

SFY vs. FFY Budgetary Constraints – Pre-Matching

Because the federal Section 110 grant is based on a federal fiscal year (FFY) award schedule (October 1-September 30), which is different from the State Fiscal Year (SFY) (July 1-June 30), states do not receive coincided federal funding to match expenditures. The first quarter of each SFY encompasses the *fourth* quarter of the FFY. For example, in the first quarter of SFY 2012 (July 1-September 30, 2011), the FFY 2012 federal funding was not yet authorized (October 1, 2012). Therefore, continued matching of the FFY 2011 grant was necessary to meet the requirements of the Section 110 grant being fully matched by September 30, 2011.

Additionally, since the federal Section 110 grant funds may be expended over a 2-year time period (even though awarded annually), VR began *pre-matching* its Section 110 grant funding to avoid losing

federal funds that were matched and available to support services to Nevadans with disabilities in the subsequent fiscal year. DETR believes that Nevada is the only state that is subject to the constraint of expending its 2-year federal grant in one year.

Violation of Section 7 of the State's Appropriation Act

Included in each session in the State's Appropriation Act (i.e., 2017 Legislative Session, SB 545) is law that prohibits the State from expending State General Fund or State Highway Fund money *prior* to decreasing that State appropriation by the amount provided from other fund sources.

Sec. 7. Except as otherwise provided in section 8 of this act, subsection 3 of section 9 of this act, sections 13, 15, 16 and 20 to 23, inclusive, of this act and NRS 90.851, where the operation of an office, department, board, agency, commission, institution or program is financed during the 2017-2019 biennium by an appropriation or appropriations from the State General Fund or the State Highway Fund as well as by money received from other sources, the portion provided by appropriation from the State General Fund or the State Highway Fund must be decreased to the extent that the receipts of the money from other sources is exceeded, but such a decrease must not jeopardize the receipts of such money as is to be received from other sources.

As of July 1, 2011, DETR ceased its *pre-matching* strategy to comply with this law, which has resulted in significant federal dollar re-allotments and relinquishments. Re-allotment is Section 110 grant funding that the state admits its inability to match, which is returned to the federal government for reallocation to other states. Relinquishment is the amount of Section 110 grant funding for which the state has authority to match but was unable to do so by the end of the SFY, and is returned to the federal government unspent. As a result of Nevada's compliance with Section 7 of the Appropriations Act, the following illustrates the financial activity for the funds reverted to the State General Fund and federal funds re-allotted and relinquished:

	GRANT AWARD	GENERAL FUND REVERSION	FEDERAL FUND RE-ALLOTMENT	FEDERAL FUNDS LOST TO VR DUE TO GF REVERSION
SFY 12		\$1,437,287		\$5,310,539
FFY 12	\$22,206,585		\$9,770,000	
SFY 13		\$917,150		\$3,388,719
FFY 13	\$20,385,377		\$4,500,000	
SFY 14		\$670,340		\$2,476,796
FFY 14	\$22,541,738		\$5,200,000	
SFY 15		\$211,136		\$780,113
FFY 15	\$24,188,896		\$8,900,000	
SFY 16		\$1,218,354		\$4,501,618
FFY 16	\$24,988,724		\$8,200,000	
SFY 17		\$953,084		\$3,521,489
FFY 17	\$25,881,489		\$9,500,000	
TOTAL	\$140,192,809	\$5,407,351	\$46,070,000	\$19,979,274

Maintenance of Effort Penalties

Maintenance of effort level is based on the amount of a state's expenditures from *non*-federal sources, and a state's ability to meet those expenditure requirements during the first year of the grant. Due to the challenges noted above (i.e., Nevada VR not expending its federal funding in the second year due to the Rehabilitation Services Administration's requirement of meeting the match in the first year; and, not having the ability to *pre-match*, thus not meeting the match requirements for the Section 110 grant), Nevada VR was penalized \$1,333,737 in FFY 2013. However, since VR did not match the entire federal allotment in FFY 2013, the penalty had no impact on expenditures that year.

Challenges and Strategies

It is important to note that as a result of complying with Section 7 of the Appropriations Act, sources of match generated in addition to the General Fund must be accounted and expended first. This results in a larger General Fund reversion, unless VR submits a work program requesting increased budget authority. This impact is demonstrated in SFY 2012/FFY 2012, when the General Fund reversion amounted to \$1.437 million.

To mitigate both the General Fund reversion and federal re-allotment and relinquishment effects, VR has developed several programs to generate match (which require increased budget authority).

- In 2012, the RD developed its first Third Party Cooperative Arrangement (TPCA). It now has 4 operating TPCAs. By negotiating a higher match participation amount from the partner entity (30% versus the required 21.3%), the RD is able to use the additional "over-match" to draw the subsequent federal funds to provide services to Nevadans with disabilities in its vocational rehabilitation program. In SFY 2017, the division had five (5) TPCAs established and operating. These TPCAs generated *over-match* in the amount of \$251,157, which in turn allowed the RD to draw down federal funds in the amount of \$927,986. This *over-match* is a savings to the General Fund by way of reverting unspent, budgeted General Funds, but perpetuates the erosion of the RD's base budget
- Fund for a Health Nevada (tobacco settlement funds granted by the State of Nevada, Health and Human Services). In SFY 2015, the division received \$87,350 and \$159,840 in SFY 2016 (*hard match* dollars).
- Collaboration with Nevada's Aging and Disabilities Services Division (ADSD). The division jointly provides services to co-enrolled clients. ADSD provides the Section 110 grant required 21.3% match portion, and VR draws down the corresponding 78.8% federal funding to expend within its program. In SFY 2015, this collaboration totaled \$13,355 (*hard match* dollars).

Order of Selection

When VR does not have adequate funding to serve *all* eligible rehabilitation services applicants, the law requires that states utilize an *order of selection* process, which is a categorization process that first serves those with the most significant disabilities. Applicants are assessed and assigned a *significance of disability* (SOD) score, which is then used in determining which applicants are served first, second,

third, etc. until the state's funding is exhausted. Applicants with a *most significantly disabled* category score are served first, those with a *significantly disabled* category score are served next, and those with a *disabled* category score are served last.

If VR does not have adequate funding to serve all applicants within a certain category (e.g., all applicants within the second tier of *significantly disabled*), then said applicants will be placed on a wait list by order of application and receive a status update letter every 90 days, along with information and referrals to other social services available to them to assist them in pursuing employment goals until VR services are available to them. As soon as funding is available, applicants are notified and served. Order of selection affects all programs of service within VR, including those currently being provided by its five Third Party Cooperative Arrangements.

About 28 states are in an order of selection status; Nevada is not one of those states. Once in an order of selection status, it is difficult for a state to revert from that status due to the large financial investment it takes to have the ability (i.e., match requirements) to serve *all* applicants on the wait list, as well as all new and forthcoming applicants.

Section 110 Federal Grant Summary

The impact to VR has been:

- 1) The inability of Nevada to fully match its federal Section 110 grant resulting in the re-allotment of \$9.5 million in FFY17 alone.
- 2) The inability for Nevada to access federal VR grant funding that could have been matched in the first year of the Section 110 grant and then spent in the second year due to Section 7 of the Appropriations Act. Nevada is the only state required to expend its 2-year federal grant in one year.
- 3) Shrinking state budget authority to expend Section 110 grant funding due to base budgeting and the restriction on increasing General Fund or other sources of funding used for match.
- 4) With a heavy reliance on non-General Fund sources of match, especially soft match, when the match source no longer exists, VR has two options:
 - a. Request additional General Fund funding, and/or
 - b. Reduce expenditures, which could slowly force Nevada toward an order of selection status.