

Third-party Cooperative Arrangements (TPCAs)

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Third-party Cooperative Arrangements (TPCAs)

Topics

- TPCA Background and Requirements;
- Allowable and Unallowable Match via TPCAs;
- Supporting Documentation for Match via TPCAs;
- Monitoring and Oversight of TPCAs; and
- Review of Common TPCA Findings.

TPCA Background

The purpose of TPCAs under the VR program is to leverage public resources to improve or expand VR services for applicants and recipients of services from the DSU.

Since the 1960s, TPCAs between VR agencies and other State and local agencies have been used to expand VR services to individuals with disabilities and establish cooperation and understanding between agencies. The arrangements also provide States matching funds that otherwise may not have been available to the VR program.



TPCA Background (cont.)

- In 1978, GAO issued a Report to Congress raising questions as to the legality and effectiveness of the TPCA. GAO recommended termination of TPCAs.
- In response, the regulations and requirements related to VR agency responsibilities for TPCA funds, cooperating agency staff, and certified expenditures were strengthened.

TPCA Requirements - Framework - 34 C.F.R. § 361.28

The DSU may enter into a TPCA for providing or contracting for the provision of VR services with another State or local public agency that is providing part or all of the non-Federal share. The VR agency must ensure that:

1. The services are new or modified services with a VR focus (361.28(a)(1));
2. Services are only available to applicants and recipients of VR services (361.28(a)(2));

TPCA Requirements - Framework - 34 C.F.R. § 361.28

3. Program expenditures and staff providing services under the TPCA are under the administrative supervision of the VR agency (361.28(a)(3));
4. State plan requirements, including those pertaining to order of selection, apply (361.28(a)(4)); and
5. TPCA services must be provided Statewide unless the VR agency is granted a waiver of the requirement (361.28(b)).

TPCA - Reminders

- The State VR agency must have written policies and procedures governing the administration and provision of services under a TPCA, as well as procedures for determining allowability of costs (34 C.F.R. § 361.50 and 2 C.F.R. § 200.302(b)(7)).
- VR agencies must use TPCAs as a mechanism for providing VR services directly to VR applicants and recipients of services. As a result, VR agencies may not use TPCAs as a mechanism for obtaining administrative services on their behalf, such as case management activities. VR agencies may contract with an entity to perform case management services on its behalf, but such contracts would not be TPCAs under 34 C.F.R. § 361.28.

TPCA – Reminders (cont.)

- The DSU may only pay for costs that are directly related to the provision of VR services to applicants and recipients of the VR program.
- Before entering into a TPCA, the DSU must determine if the other entity is already providing the desired services to other individuals. If the agency is already providing the desired services, then the cooperating agency will need to change or modify the provision of those services for the benefit of VR applicants and recipients because services provided under a TPCA may not be the usual services already provided by the cooperating agency.

TPCA – Reminders (cont.)

- The DSU may only pay for the allocable costs to the VR program based upon the relative benefit received by the VR program.

Example: The DSU reimburses the entity for a portion of their travel costs to provide VR services; however, the individual is providing services to both VR recipients and individuals who are not VR clients at the same location. In this situation, they may only reimburse the entity for the allocable portion that benefits the VR program.

TPCA – Reminders (cont.)

Example: The DSU reimburses the entity for a portion of their travel costs to provide VR services; however, the individual is providing services to both VR recipients and individuals who are not VR clients at the same location. In this situation, the VR agency may only reimburse the entity for the allocable portion that benefits the VR program. In other words, if the total travel cost incurred is \$30, but only 10 of the 20 students receiving the service are VR recipients (half of the individuals served at the location), the VR agency may pay only \$15 of the total travel cost incurred (half of the cost) since that is the amount proportional to the number of VR recipients served at that location.

TPCA Requirements - Provision of Pre-employment Transition Services

1. TPCAs may be used as a mechanism for providing pre-employment transition services to students with disabilities, regardless of whether they have applied or been determined eligible for the VR program.
2. DSUs must be able to differentiate between the provision of:
 - 1) all other VR services to students with disabilities under an IPE, and
 - 2) pre-employment transition services (regardless of whether those services are provided under an IPE).

TPCA Requirements -Provision of Pre-employment Transition Services (cont.)

3. The amount required to be reserved and expended for the provision of pre-employment transition services is based on the State's Federal allotment – at least 15 percent of the Federal allotment (34 C.F.R. § 361.65(a)(3)(i)).
4. Non-Federal funds are not used in calculating the amount of funds that must be reserved and expended for the provision of pre-employment transition services. The amount to be reserved is based solely on the Federal allotment amount.

Allowable TPCA Sources of Match (34 C.F.R. § 361.28(c))

1. Cash transfers to the designated State unit;
2. Certified personnel expenditures for the time cooperating agency staff spent providing direct VR services under the TPCA. This may include the allocable portion of staff salary and fringe benefits based upon the amount of time cooperating agency staff directly spent providing services under the arrangement; and
3. Other direct expenditures incurred by the cooperating agency for the sole purpose of providing services under the agreement; and
 - i. Meets the requirements of 34 C.F.R. § 361.28;
 - ii. Are verifiable as being incurred under the TPCA; and
 - iii. Do not meet the definition of third-party in-kind contributions (2 C.F.R. § 200.96).

Allowable TPCA Sources of Match – Certified Personnel Expenditures

Certified time is only allowable as match for *third-party cooperating agency staff directly providing, or arranging for, the provision of services* under the TPCA (34 C.F.R. § 361.28(c)). This would not include program directors, administrative staff, supervisors, etc., who are not delivering the new/expanded VR services under the TPCA to VR applicants and recipients.

Unallowable TPCA Sources of Match - Certified Personnel Expenditures

Example 2:

Three teachers provide VR services detailed in the TPCA to applicants or recipients of VR services. However, as part of every teacher's responsibilities at the school, teachers are required to provide bus duty and recess duty. The time the teacher spends providing any services that are not allowable VR services (such as bus or recess duty) would not be allocable to the program and may not be certified as allowable match or reimbursed with Federal VR funds.

TPCA - Match Note

Expenditures associated with certified time under a TPCA are NOT reported as non-Federal expenditures until AFTER the certified time has been worked, verified, and reported to the VR agency. If an agency has a signed TPCA contract that states a third-party cooperating entity will provide X amount in certified time over the period of the contract, the X amount is NOT considered to be non-Federal share until the actual time has been worked and reported to the VR agency as having been worked (34 C.F.R. § 361.60(a). Pursuant to 34 C.F.R. § 76.707, an obligation for personnel services is incurred at the time the work is performed. At that time, the certified TPCA staff time may be used for match purposes under the VR program)

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Allowable TPCA Sources of Match – Other Direct Expenditures

Additional direct expenditures used for match purposes under the VR program must be incurred:

1. specifically for the purpose of the TPCA;
2. in accordance with the terms and conditions of the contract ; and
3. within the TPCA contract period.

All of the expenditures used for match purposes under the VR program must be verifiable by supporting documentation from the cooperating agency.

Allowable TPCA Sources of Match – Other Direct Expenditures

- Other direct expenditures used for match purposes under the VR program may not include those costs that the State or local public agency would otherwise normally incur, regardless of the arrangement.

Allowable TPCA Sources of Match – Other Direct Expenditures (cont.)

Example:

School District A enters into a TPCA with the VR Agency. School District A needs to purchase instructional materials to provide new or expanded services specifically authorized under the TPCA contract, and those materials are not already available to School District A.

Those expenditures may be an allowable source of match if purchased within the TPCA contract period and used solely to provide a new or expanded VR service that is not customarily provided by School District A.

Unallowable Sources of TPCA Match (non-exhaustive)

Third-party in-kind contributions (34 C.F.R. § 361.60(b)(2))

- An in-kind contribution means the value of non-cash contributions like property or services that benefit a Federally assisted project or program and are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award (2 C.F.R. § 200.96). Certified time for other staff not directly providing services (like principals, vice principals, secretaries and supervisors) that are not charged to the VR program.
- Certified expenditures for staff time, absent a TPCA contract with a State or local public entity.
- Expenditures made for goods or services prior to the implementation, or outside the scope, of the TPCA contract and donated for use under the TPCA.

Unallowable Sources of TPCA Match (cont.)

Third-party in-kind contributions are an unallowable source of match in the VR program regardless if provided via a TPCA or other mechanism (34 C.F.R. § 361.60(b)(2)). This includes:

- Certified time for individuals not directly providing VR services, such as principals, administrators, secretaries and supervisors; and
- Certified expenditures for the costs incurred by the TPCA not directly for the provision of VR services, such as, indirect costs, depreciation, existing utilities and space, and donated for use under the TPCA.

Unallowable Sources of TPCA Match – Percentage of Expenditures

Requiring a third-party cooperating agency to pay a percentage of each contract amount to be used as non-Federal share could result in unallowable match. This methodology could result in the agency counting costs as match that are not a cash transfer, certified salary expenditures, or other allowable direct expenditures.

Supporting Documentation for TPCA Match

- Each State must expend and account for the Federal award in accordance with State laws and procedures for accounting for the States own funds. But, the financial management system must be sufficient to permit preparation of reports and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the award. (34 C.F.R. § 361.12 and 2 C.F.R. §§ 200.302(a)).
- Grantees must also be able to demonstrate that all expenditures are allowable within the requirements of the award, necessary to the Federal award, reasonable in nature, and appropriately allocated to the Federal award according to the relative benefits received (2 C.F.R. §§ 200.403 through 200.405).

Supporting Documentation for TPCA Match (cont.)

All records must adequately identify the source and application of funds, containing authorizations, obligations, unobligated balances, assets, and expenditures, and be supported by source documentation (2 C.F.R. § 200.302(b)(3)).

This is applicable for all expenditures under a TPCA including certified expenditures used for match purposes and Federal expenditures.

Supporting Documentation for TPCA Match (cont.)

Certified Personnel Expenditures - records for salaries and wages must support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award, a Federal award and a non-Federal award, an unallowable activity and a direct cost activity, etc. (2 C.F.R. § 200.430(i)(1)(vii)).

Supporting documentation received by the VR agency from the State or local public cooperating agency must be able to demonstrate that the certified time is for time and effort in which the staff worked with individuals specified within the TPCA (i.e., VR applicants and recipients and for the VR services outlined in the TPCA).

Supporting Documentation for TPCA Match (cont.)

Supporting documentation requirements in 2 C.F.R. part 200 are applicable to all Federal and non-Federal expenditures incurred under the TPCA.



Supporting Documentation for TPCA Match (cont.)

Example: If the TPCA includes direct Federal reimbursement for the VR agency for travel costs incurred from the State or local public agency directly related to the provision of VR services, those expenditures must also have supporting documentation to demonstrate expenditures were:

1. allowable under the VR program;
2. necessary to the VR program;
3. reasonable in nature; and
4. appropriately allocated to the VR program based on the relative benefits received (2 C.F.R. §§ 200.403 through 200.405).

Monitoring and Oversight of TPCAs (cont.)

The VR agency is “responsible for oversight of the operations of the Federal award supported activities.” Which would include the activities carried out under the TPCAs entered into by the VR agency (2 C.F.R. § 200.328(a)). Additionally, the VR agency “must monitor its activities under Federal awards to ensure compliance with applicable Federal requirements and performance expectations are being achieved” (2 C.F.R. § 200.328(a)).

The VR agency “must establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award” (2 C.F.R. § 200.303(a)).

Monitoring and Oversight of TPCAs (cont.)

As Federal grantees, agencies are required to have written processes and internal controls. This includes written processes for monitoring expenditures, performance, and service provision with respect to all grant-supported activities, including those under TPCAs. This should include VR agency staff responsibilities, including supervision and procedures for:

- Fiscal accountability regarding monitoring expenditures, vouchers, payroll activity reports, etc.; and
- Programmatic accountability including review of service provision, the status of performance goals, and evaluation of effectiveness of the agreements.

Monitoring and Oversight of TPCAs (cont.)

Written processes and internal controls should also include the State or local public agency staff responsibilities, requirements, and procedures for:

- Documentation detailing service provision;
- Documentation of individuals receiving services within the arrangement; and
- Documentation of expenditures within the arrangement and for documenting staff time.

Examples from RSA Monitoring Visits

Examples:

1. The time spent by the transition specialist on services customarily provided by the school, such as special education and related services, were charged to the VR program. TPCA services included those services typically provided to students that are the usual or customary services provided to students by the local educational agency, contrary to what is required by 34 C.F.R. § 361.28(a)(1).
2. The TPCA did not follow the VR agency's order of selection (OOS) as required by 34 C.F.R. § 361.28(a)(4). According to the TPCA, the program curriculum was available to "all" students.

Examples from RSA Monitoring Visits (cont.)

Examples:

3. The State or local public agency contracted with a CRP to provide VR services required pursuant to a TPCA. The VR agency utilized certified time from the CRP as match. This was unallowable because only third party cooperating agency staff can provide certified time to be used for match (34 C.F.R. § 361.28(a)).
4. The time sheets failed to demonstrate activities were allowable activities within the VR program and, thus, allowable under the TPCA, as required by 2 C.F.R. § 200.430(i) and 2 C.F.R. § 200.303.

Examples from RSA Monitoring Visits (cont.)

Examples:

5. The VR agency had no written processes to monitor the provision of services provided by the CRP on behalf of the cooperating public agency, nor do they have any written internal controls to address deficiencies under the TPCA should issues arise, as required by (2 C.F.R. §§ 200.303 and 200.328).
6. The public cooperating agency certified staff time, for VR match purposes, for staff who are not directly providing or arranging for the provision of VR services under the TPCA, as required by 34 C.F.R. § 361.28(c)(2).

Examples from RSA Monitoring Visits (cont.)

Examples:

7. The VR agency reimbursed the State or local public agency for additional expenditures without taking into account the allocation of those additional expenditures based upon the relative benefit received by the VR program, contrary to that required by 2 C.F.R. § 200.405.

Examples from RSA

Monitoring Visits (cont.)

Example (pre-employment transition service TPCA):

Through a TPCA, the DSU provided individualized VR services and pre-employment transition services to students, but the TPCA did not allocate costs or differentiate staff time between the time spent providing pre-employment transition services versus the time spent providing all other VR services, as it should have done pursuant to 2 C.F.R. §§ 200.302 and 200.430(i). Rather, the TPCA only included a list of all services provided under the TPCA.

Examples from RSA

Monitoring Visits (cont.)

- The VR agency used the certified time worked by TPCA staff, reported it as match, and paid the cooperating agency, under the TPCA, an amount equal to that certified time, all of which was paid with funds reserved solely for the provision of pre-employment transition services. Only expenditures incurred in the provision of pre-employment transition services may be paid with funds reserved for that purpose (34 C.F.R. § 361.65(a)(3)(i)). All other staff time under this TPCA should have been paid with the portion of the VR grant not reserved for the provision of pre-employment transition services.

TPCA Red Flags

Determining Proportional Benefit (2 C.F.R. § 200.405):

Example 1: A TPCA contract requires that a specific number of individuals be provided services during the contract period. The third-party cooperating agency does not provide the required services; however, the VR agency pays the total amount of Federal funds pursuant to the contract budget.

Monitoring

With respect to the monitoring examples provided, if the grantees had developed and implemented appropriate internal controls, they could have prevented the issues or quickly become aware of the issues and been able to address them immediately.

TPCA Red Flags (cont.)

This type of situation may result from a VR agency:

1. Attempting to maximize non-Federal share under the contract and neglecting the requirements that the TPCA costs be reasonable, necessary and in proportion to the benefit received by the VR program (2 C.F.R. part 200); and
2. Bring on an Order of Selection and, because the OOS applies to individuals served through TPCAs, fewer VR consumers are served without the VR agency adjusting the TPCA budget and scope of work.

TPCA Red Flags (cont.)

- Like all costs, VR agencies must determine that the TPCA costs are in proportion to the benefit received by the VR program (2 C.F.R. § 200.405).

Example 2: A VR program has TPCA contracts with budgeted line item costs but no criteria for determining whether the costs are reasonable, necessary or in proportion to the benefit received.

TPCA Red Flags (cont.)

- If a VR agency pays for direct service staff and a supervisor under a TPCA, the agency would use its criteria for determining reasonable and necessary costs. Such standards should state what portion of a supervisor's time would be reimbursed with Federal VR funds based on the number of direct service staff funded under the contract providing TPCA services.

Questions



If you have any additional questions, please email them to RSAfiscal@ed.gov.