

60-Day Comment Response Summary

Earnings and Employment

Comments:

One commenter submitted comments on behalf of the State agencies that are responsible for administering, along with other Federal programs, the programs under the Randolph-Sheppard Act. With respect to Section 1, the commenter believes data requested on lines 18 (“Number of Other Persons with Visual Disabilities Employed” and line 19 (“Number of Others with Disabilities Employed”) are time consuming and potentially inaccurate. The commenter requested an explanation from the Department why such data are needed.

Response:

The purpose of the State’s Randolph-Sheppard program is to provide employment and to enlarge the economic opportunities of people who are blind. The data reported in Section I of the RSA-15 on line 18 (“Number of Other Persons with Visual Disabilities Employed”) and line 19 (“Number of Others with Disabilities Employed”) allow States to demonstrate how individuals participating in the State’s Randolph-Sheppard program are contributing to the goal of providing employment for individuals with disabilities.

In addition, there is a close nexus between the Randolph-Sheppard Act program and the (vocational rehabilitation) VR program authorized under Title I of the Rehabilitation Act of 1973, as amended (Rehabilitation Act). Under the VR program, State VR agencies, which also administer the Randolph-Sheppard program, are permitted to use Federal VR funds, as well as non-Federal funds used for match and maintenance of effort (MOE) purposes under the VR program, to provide services to groups of individuals with disabilities who operate vending facilities under the Randolph-Sheppard Act. Therefore, the data reported on lines 18 and 19 of Section I of the RSA-15 further demonstrate that Federal VR funds and non-Federal funds used for match and MOE purposes are indeed benefitting groups of individuals with disabilities.

Finally, as the State agency administering the VR program as well as the Randolph-Sheppard program, the agency is in a position to maximize opportunities for individuals with disabilities to find competitive integrated employment with vendors participating in the Randolph-Sheppard program. Under Section 503 of the Rehabilitation Act, the U.S. Department of Labor established a utilization goal of seven percent at 41 C.F.R. § 60-741.45 for the employment of qualified individuals with disabilities by those Federal contractors and subcontractors required to affirmatively employ individuals with disabilities. Although RSA understands that vendors are not necessarily in the same category as these other Federal contractors, the data reported on line 18 and line 19 provide information RSA can use to compare the rate at which vendors employ individuals with disabilities as compared to other Federal contractors.

Despite the programmatic importance of this data, the Department is sensitive to the data collection burden issues raised by the commenter and the potential for inaccurate or inconsistent reporting. For this reason, we have reconsidered the programmatic need for this data and have determined that we need to collect only aggregate data regarding the number of other individuals with disabilities employed by the vendors. In other words, because of the concerns expressed by

the commenter, we have determined it is not essential that we collect the more specific “Number of Persons with Visual Disabilities Employed” (previously reported on line 18 of Section I). We believe the aggregate number of “Other Individuals With Disabilities Employed” by the vendor will be sufficient for States to demonstrate whether a State’s Randolph-Sheppard program is contributing to the goal of providing employment for individuals with disabilities. During its review of these data elements in light of the comments received, the Department has also determined the data previously reported on line 20 (“Number of Persons Having No Disability Employed”) are not essential as a separate data element. Instead, the Department has determined we can satisfy our programmatic needs by collecting data on the number of other individuals with disabilities employed by the vendor and the total number of individuals employed by the vendor (previously line 21). From those two data elements, we will be able to calculate on our own the number of individuals without disabilities who are employed by the vendor.

Changes:

The Department deleted line 18, the line for reporting the Number of Other Persons with Visual Disabilities Employed and line 20, the line for reporting the Number of Persons Having No Disability Employed. We are renumbering Line 19 (“Number of Other Persons with Disabilities Employed”) and line 21 (“Total Employed in the Program”) as line 18 and line 19, respectively.

Reporting Expenditures**Comments:**

One commenter submitted comments on behalf of the State agencies that are responsible for administering, along with other Federal programs, the programs under the Randolph-Sheppard Act. The commenter sought clarification regarding how each agency should report its Randolph-Sheppard program expenditures, particularly with respect to those incurred for the purchase, maintenance, and replacement of equipment (Section IV, lines 1 through 3) and the refurbishment and acquisition of vending facilities (Section IV, lines 4a and 4b), to ensure accurate and consistent reporting by State agencies nationally. Specifically, the commenter concluded that “refurbishment of facilities” (line 4a) would encompass expenditures for the purposes of renovating or otherwise altering and improving existing site facilities, while “acquisition” (line 4b) would include only those expenses incurred when acquiring facilities new to the State’s Randolph-Sheppard program. However, the commenter also stated that distinctions become less clear when considering how expenditures should be reported across these two lines or assigned to lines 1 through 3 (i.e., purchase, maintenance, and replacement of equipment) and raised several questions. For example, is equipment and work required for the initial setup of a facility, such as wiring and other modifications, considered a purchase of new equipment (line 1), a refurbishment of the newly acquired facility (line 4(a)) or part of the initial acquisition cost of that facility (line 4(b))? Do costs incurred while changing the function of a current facility from a cafeteria to a micro market, for example, constitute refurbishment (line 4a) or acquisition expenses (line 4b)?

The commenter also sought clarification about the allowability and reporting of expenditures incurred to make a vending facility operational again after a natural disaster, such as a hurricane, fire, or even the COVID-19 pandemic. The commenter stated that some vending facilities were forced, in Federal fiscal year (FFY) 2020, to make modifications to reopen. These ranged from

minor modifications (e.g., adding pandemic-oriented signage, blocking off or removing seating to ensure social distancing, and providing hand sanitizer stations) to major modifications (e.g., removal and replacement of equipment and furnishings that have sustained water damage). The commenter asked how such costs should be reported on the RSA-15. In addition, the commenter sought clarification as to whether these expenditures would be allowable expenditures under the VR program or would be considered on-going operating expenses and, thus, not allowable with VR funds and non-Federal funds used for match and MOE purposes under the VR program.

Another challenge with the current classifications of expenditures in Section IV, as noted by the commenter, is the length of time it takes to receive prior written approval to acquire new, or refurbish current, facilities. The commenter recommended altering the process for prior written approvals to allow State agencies to include all equipment purchases, whether new, replacement, or related to facility acquisition, within a single streamlined request for prior written approval, as opposed to requiring them to itemize each proposed cost in the submitted request. The commenter believed this would make the process for prior written approval more efficient and would minimize delays.

Finally, the commenter encouraged the Department to include explicit guidance on all the cost categories in Section IV to ensure consistent interpretation and implementation nationwide.

Response:

The Department appreciates the interest the commenter has demonstrated in ensuring that State agencies report accurate and consistent data nationally with respect to expenditures incurred for the benefit of vending facilities established under the Randolph-Sheppard Act and funded predominately under the VR program. To that end and in response to the comments received, the Department has added clarifications to the instructions for various cost items in Section IV of the RSA-15 to assist State agencies in reporting expenditures properly. Specifically, the Department has added clarifying instructions to all the lines requesting data in Section IV of the RSA-15.

In addition, at the commenter's request for more clarity in Section IV, the Department assessed the need for the information in this section of the RSA-15 and how we were requesting it. As a result of this assessment, we have made other changes to improve clarity. In particular, the Department assessed whether it was necessary to require States to report information separately for the purchase of new equipment (line 1) and the purchase of replacement equipment (line 3) when the information requested pertained to the purchase of equipment in general. Although the Randolph-Sheppard Act distinguishes between the two types of equipment, there is no Federal requirement that reporting for these different types of equipment be separate, and the purchase of both types of equipment (new and replacement) is allowable under all sources of funding. Therefore, the Department has combined the data previously reported on line 1 ("Purchase of New Equipment") and line 3 ("Replacement of Equipment") into one data element that collects the amount of expenditures for all equipment purchased for the vending facilities, regardless of whether they are for new equipment or for replacement equipment. State agencies no longer will need to distinguish between the two types of equipment when reporting expenditures on the RSA-15 incurred for the purchase of equipment.

When the Department added clarifying instructions to ensure the accurate reporting of expenditures, as requested by the commenter, we identified a programmatic and fiscal need for a separate data element that would collect the amount of expenditures incurred for operating expenses for the initial establishment period of a vending facility. These expenditures may be paid with Federal VR funds, non-Federal State funds used for match and MOE purposes under the VR program, set-aside funds, and Federal vending machine income. Because there has not been a dedicated line specific for the reporting of these allowable initial operating expenses, it appears that State agencies have been reporting these expenditures on various lines in the past (e.g., “Refurbishment” (line 4), “Management Services,” (line 5), “Initial Stock and Supplies” (line 10), and “All Other Expenditures” (line 11)). Because these are allowable expenditures for the initial six-month period of a vending facility, as distinguished from management services which have no time limit, it is impossible to know under the existing form whether States have been reporting only those expenditures allowed for initial operating costs of a vending facility. To that end, we have created a line that would collect this data specifically and would make clear that these expenditures are only allowable for a six-month period. In so doing, we can ensure fiscal compliance that funds are used only for allowable purposes.

With respect to the comments received related to the allowability of expenditures incurred to make a vending facility operational again after a natural disaster, including the COVID-19 pandemic, the Department believes this issue is beyond the scope of this information collection. To the extent the Department can provide clarification as to the reporting of those expenditures, to the extent they are allowable, we have done so in revisions made to the instructions that accompany the RSA-15. If the commenter wants more specific guidance, the Department encourages the commenter to contact the Department separately from the information collection process because each situation would need to be handled case-by-case. The commenter also might find the Department’s general guidance with respect to allowable expenditures helpful, which is posted at <https://rsa.ed.gov/whats-new>.

With respect to the comments received related to projected expenditures that must be submitted as part of a State agency’s request for prior written approval, the Department believes this comment is beyond the scope of the RSA-15 information collection process. Rather, 2 C.F.R. § 200.407 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) requires Federal grantees to obtain prior written approval before incurring certain expenses, such as for equipment and other capital expenditures. The Department’s Office of Special Education and Rehabilitative Services (OSERS) issued guidance applicable to all its grantees on October 29, 2019, at <https://rsa.ed.gov/whats-new/frequently-asked-questions-faqs-prior-approval>. In that guidance, OSERS explains why certain requests for prior approval, particularly those associated with the refurbishment or acquisition of a vending facility, must be submitted in separate prior approval requests. For more specific technical assistance related to this issue, please contact the Department separately from the information collection process.

Changes:

The Department deleted the line (former line 3) asking for reporting of expenditures for Replacement of Equipment and is now requiring States to report the expenditures for the purchase of all equipment—new and replacement—together on line 1. As a result of this

deletion, the Department has renumbered lines 4a through 10 to read as lines 3a through 9, respectively. The Department also added a new Line 10 for the reporting of the operating expenses for the initial establishment period of a vending facility (“Initial Operating Costs”) to ensure State agencies accurately report these expenditures. Finally, the Department added clarifying text to the instructions for all the cost items in Section IV in response to the comments received.

Timing of Implementation; Burden

Comments:

One commenter, on behalf of the State agencies that administer the Randolph-Sheppard programs, recommended that the proposed change to the RSA-15 take effect at the start of the next program year, rather than mid-way through the current year. The commenter explained that the additional proposed data elements will require States to adjust how their data systems code, collect, and process information needed for the report. If changes are made effective with the start of the next program year, States will have adequate time to prepare to collect the information needed. In the alternative, the commenter explained that State agency staff would need to do much of the calculations manually if the change were implemented mid-year, thereby increasing the time burden of the proposed change.

With respect to the time burden to complete the RSA-15, the commenter stated that it was widely held by its membership that the estimated time burden of 13.5 hours is “extremely low.” According to the commenter, in a national survey of National Council of State Administrators for the Blind (NCSAB) members, only 11 percent of States estimated that it would take less than 20 hours to fill out form RSA-15. The expected burden varies by State as a result of unique State systems, the number of locations, and a number of other factors, with 21 percent of States estimating that it would take between 20 and 40 hours to complete the form, 50 percent saying between 40 and 60 hours, and 18 percent expecting it to take more than 60 hours.

The commenter noted that the time burden to prepare the form will increase in the first year as administrators work with their fiscal departments to set up coding to account for the new line items in Section IV and subsequent changes to coding/reporting in lines 1, 2, and 3. The time burden to accomplish these changes is not included in the estimate.

Finally, the commenter noted several areas where functionality of the form could be improved if it were created to auto-populate certain data fields. The commenter stated there are several areas of the form in which certain data fields should be duplicated. The commenter recommended that the Department either auto-populate the duplicate data fields to prevent errors from occurring or build in a data check to catch inaccurate data entries.

Response:

The Department recognizes the fiscal and data management system adjustments that will need to be made to account for the proposed changes to the RSA-15, particularly with respect to the separation of former line item 4 into two separate line items: 3a for the reporting of expenditures related to the refurbishment of vending facilities and line 3b for expenditures incurred for the acquisition of vending facilities. We also recognize that implementation of this change mid-year

would increase the burden estimate unnecessarily. For this reason, RSA will implement the changes, as proposed in the RSA-15, at the start of FFY 2022. This means, State agencies will begin collecting and reporting data, as reflected in the revised RSA-15, on October 1, 2021. This will give State agencies the time necessary to make the changes necessary to the fiscal and data management systems to account for the disaggregation of the one data element into two. It will also give State agencies the time needed to make the changes to their fiscal and data management systems to account for other streamlining changes proposed in this revised RSA-15 that are the result of the Department's assessment of the data collected in light of the comments received.

Although the estimated 13.5 burden hours was consistent with the burden estimation used for the RSA-15 in the past, the Department recognizes the additional burden that State agencies will have, particularly in the first year, as they make the necessary changes to their fiscal and data management systems. Therefore, we agree that an increase in the burden estimate is warranted. However, because the Department has also deleted three data elements, while adding one for a total net loss of two data elements, we think that the reduction in time the State will spend in providing the data for those two elements should be taken into account as well. In sum, in response to the comments received, the Department has increased the burden estimation by 10 hours to 23.5 hours per respondent.

Finally, during FFY 2020 the Department upgraded the reporting database system used to collect the RSA-15 and other similar information collections. As part of that process, the Department built in edit checks for the RSA-15 to inform State agencies when inconsistent data are entered into the form. These edit checks will be operational for the FFY 2020 annual report submission due December 30, 2020. The Department believes these edit checks will improve data reporting accuracy and functionality of the form.

Changes:

The Department will delay implementation of the revised RSA-15 until the start of FFY 2022 (i.e., October 1, 2021). The Department has also increased the estimated number of hours to complete the RSA-15 to 23.5 hours per respondent.

Additional Recommendations**Comments:**

One commenter, on behalf of the State agencies that administer the Randolph-Sheppard programs, provided additional comments and recommendations regarding the RSA-15.

- With respect to data required by Section II of the RSA-15, the commenter believes the instructions result in data that are confusing, minimize the number of vending facilities, and undercount the number of blind vendors in either Federal or State properties when blind vendors have facilities in both types of properties. The commenter recommends the word "primary" be deleted and that State agencies be allowed to report all vendors who operate facilities on Federal, public, and private property respectively, regardless of the relative profit of their facilities.
- Across the country, State Randolph-Sheppard program staff conduct outreach to Federal properties as part of the effort to secure new, improved, or expanded locations for

management by vendors. The commenter recommended adding an optional comment box to Section IV of the RSA-15, where State agencies could identify any current challenges with other Federal agencies or governing bodies regarding the exercise of the Randolph-Sheppard priority. The commenter believes this information would be helpful at both the State and Federal levels.

- Finally, the commenter recommends that the Department make public an easily accessible and end-of-year report of national RSA-15 data so State agencies could review data from around the country without having to request data individually from other States.

Response:

In developing instructions for the completion of Section II of the RSA-15 data collection instrument, RSA has weighed the importance of the information being reported between a more accurate number of the individuals participating in the State's Randolph-Sheppard program and the accurate number of facilities that have a vending facility under the Randolph-Sheppard Act. In prior years, when vending facilities on multiple types of locations were counted, it led to incorrect data being reported on the actual number of individuals participating in the program because individuals were counted multiple times since many operated multiple vending facility locations. Errors on the actual number of vendors not only affect the data concerning the number of individuals participating but also lower the national average income of blind vendors in the Randolph-Sheppard program. The Average Vendor Income has effects that reach further than the RSA-15 report, as the National Average Income concerns the amount of Vending Machine Income that each individual vendor is eligible to receive under 34 C.F.R. § 395.8(a). Based on the important consequences of how an actual count of individuals participating in the State's Randolph-Sheppard program directly affects provisions related to the remunerative income of individuals, RSA believes that the current instructions best meet our current objectives of the data collection instrument. Therefore, we will not be making any changes as a result of this comment.

The Department does not believe it necessary to add a comment section to Section IV, as recommended by the commenter. The RSA-15 report already contains a field for "notes or Explanations" after Section VIII of the report. In that section, respondents are permitted to include any notes necessary to clarify the data reported. The Department encourages State agencies to contact RSA if they encountered any challenges or barriers with Federal agency compliance or other compliance issues. These issues should not be reported in the "notes" section of the RSA-15 because they should be addressed on a more time-sensitive basis by RSA.

With respect to the comment suggesting that the Department make public and easily accessible an end-of-year report of national RSA-15 data, the Department believes this comment is beyond the scope of the RSA-15 information collection process. However, RSA recognizes the value of providing data to stakeholders based on the RSA-15 submissions. RSA will consider which elements and the manner of providing this information to stakeholders might be useful and will consider making this information more readily available.

Changes:

None.