

## Economic Impact Statement

LSA Document #14-507

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

This memorandum is submitted in accordance with [IC 4-22-2.1](#) and formalizes the Family and Social Services Administration (FSSA), Division of Disability and Rehabilitative Services (DDRS), Bureau of Rehabilitation Services (BRS), Vocational Rehabilitation Services (VRS) Program's analysis of the small business economic impact of the attached rule.

Audrey Roberts filed a Petition for Judicial Review of the DDRS's final agency action denying her new hearing aids through the VRS Program. The American Civil Liberties Union (ACLU), in conjunction with the Indiana Protection and Advocacy Services (IPAS), amended Ms. Roberts' Complaint to assert a class action suit seeking declaratory and injunctive relief, based on the allegation that the Vocational Rehabilitation Policy and Procedural Manual (PPM) has not been lawfully promulgated into rule. The ACLU also joined another Vocational Rehabilitation judicial review asserting the same rule promulgation theory. These cases are consolidated in Robert Bryant v. IFSSA, DDRS, et al., Cause No. 49D12-1205-MI-019254.

The plaintiffs agreed to stay their proceedings to provide the FSSA – DDRS an opportunity to promulgate the policy manual into rule. Pursuant to the agreed stay, FSSA – DDRS is to draft the rule by October 2014 and complete the rule promulgation by October 2015.

**Impact on Small Business**

The following section provides responses to the following questions outlined in [IC 4-22-2.1-5](#):

**1. An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.**

[IC 5-28-2-6](#) defines a small business as a business entity that satisfies the following requirements:

- (1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.
- (2) The majority of the employees of the business entity work in Indiana.

The VRS Program utilizes small business vendors across the state of Indiana to provide services to program participants. Small business ownership and operation is also an employment outcome available to program participants through the VRS Program. Though the exact number of small business vendors and program participants that will be subject to the new rule is unknown, it is currently estimated that there are approximately 288 small businesses that may be affected by the rule. It is anticipated that the economic impact to any of the small businesses as a result of this rule is minimal because the proposed rule promulgates existing VRS program policies.

**2. An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.**

Compliance with the proposed rule will not impose any new or additional administrative costs to small businesses because the proposed rule promulgates existing VRS Program policies that affect small business vendors and program participants.

**3. An estimate of the total annual economic impact that compliance will have on small businesses subject to the rule.**

The economic impact for small businesses will be minimal as a result of compliance with the proposed rule because the proposed rule promulgates VRS Program policies already in place.

**4. A statement justifying any requirement or cost that is imposed by the rule and not expressly required by law. The statement must reference any data, studies, or analyses relied upon by the agency in determining imposition of the requirement or cost is necessary.**

The proposed rule is consistent with the DDRS statutory rulemaking authority to promulgate rules necessary to carry out the functions of the division pursuant to [IC 12-8-8.5-4](#) and [IC 12-9-2-3](#). The proposed rule is also necessary to comply with the terms of the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al.

**5. Any regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the same purpose.**

The DDRS did not perform any regulatory flexibility analysis. This rule is consistent with DDRS statutory rulemaking authority, and it is necessary to comply with the terms of the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al.

**A. Establishment of less stringent compliance or reporting requirements for small businesses.**

The DDRS did not consider establishing less stringent compliance or reporting requirements for small businesses. This proposed rule promulgates existing VRS Program policies, as required by the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al. The proposed rule will have no additional

impact on already existing compliance or reporting requirements for small businesses in current policies.

**B. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.**

The DDRS did not consider establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses. This proposed rule promulgates existing VRS Program policies, as required by the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al. The proposed rule will have no additional impact on already existing compliance or reporting requirements for small businesses in current policies.

**C. Consolidation or simplification of compliance or reporting requirements for small businesses.**

The DDRS did not consider consolidating or simplifying reporting requirements for small businesses. This proposed rule promulgates existing VRS Program policies, as required by the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al. The proposed rule will have no additional impact on already existing compliance or reporting requirements for small businesses in current policies.

**D. Establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.**

The DDRS did not consider establishing performance standards for small businesses affected by this rule. The proposed rule promulgates existing VRS Program policies, as required by the stay agreement entered in Robert Bryant v. IFSSA, DDRS, et al.

**E. Exemption of small businesses from part or all of the requirements or costs imposed by the rule.**

The DDRS did not consider exempting small businesses that provide services to program participants from any of the requirements or costs imposed by the rule.

If there are any programmatic or fiscal questions, please contact Elizabeth Adedokun at (317) 234-7815 or [elizabeth.adedokun@fssa.in.gov](mailto:elizabeth.adedokun@fssa.in.gov). Questions regarding any other aspect of the proposed changes should be addressed to Shanida Sharp-Byrnes at (317) 232-1282 or [shanida.sharp-byrnes@fssa.in.gov](mailto:shanida.sharp-byrnes@fssa.in.gov).

Please contact Shanida Sharp-Byrnes at (317) 232-1282 or [shanida.sharp-byrnes@fssa.in.gov](mailto:shanida.sharp-byrnes@fssa.in.gov) regarding OSBE's comments about this rule amendment. The public hearing will be scheduled after receipt of authorization from Legislative Services Agency. Ms. Sharp-Byrnes will then contact you to provide the date of the hearing for your convenience.

*Posted: 04/15/2015 by Legislative Services Agency*

An [html](#) version of this document.