

**FISCAL YEAR 2010
MONITORING REPORT ON THE
VOCATIONAL REHABILITATION AND
INDEPENDENT LIVING PROGRAMS
IN THE STATE OF
NEW MEXICO**



**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION**

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INTRODUCTION AND RSA REVIEW PROCESS

Introduction

Section 107 of the Rehabilitation Act of 1973, as amended (Act), requires the commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Act to determine whether a state vocational rehabilitation (VR) agency is complying substantially with the provisions of its State Plan under section 101 of the Act and with the evaluation standards and performance indicators established under section 106. In addition, the commissioner must assess the degree to which VR agencies are complying with the assurances made in the state plan Supplement for Supported Employment (SE) Services under Title VI, part B, of the Act and the independent living (IL) programs offered under Title VII of the Act are substantially complying with their respective state plan assurances and program requirements.

To fulfill its monitoring responsibilities, RSA:

- reviews the state agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment and independent living outcomes;
- identifies strengths and challenges related to the agency's performance, areas of consistently high or improved performance and those areas of performance in need of improvement;
- recommends strategies to improve performance;
- requires corrective actions in response to compliance findings; and
- provides technical assistance to the state agency to enable it to enhance its performance, meet its goals and fulfill its state plan assurances.

Review Process

Pursuant to the Act, RSA reviewed the performance of the following programs administered by the New Mexico Division of Vocational Rehabilitation (NMDVR) and the New Mexico Commission for the Blind (NMCB):

- the VR program, established under Title I;
- the SE program, established under Title VI, part B;
- the IL program authorized under Title VII, part B; and
- the independent living services program for older individuals who are blind (OIB), established under Title VII, Chapter 2.

Information Gathering and Review Process Activities

During FY 2010, RSA began its review of NMDVR and NMCB by analyzing information from a variety of sources, including but not limited to, RSA's various data collections, the VR and IL state plans and the agencies' State Rehabilitation Councils (SRC) Annual Reports. After completing its internal review, the RSA review team:

- engaged in numerous teleconferences and other information gathering activities with representatives of NMDVR and NMCB, the SRCs, NMDVR's Commission Board, Statewide Independent Living Council (SILC), Client Assistance Program and other stakeholders to gain a greater understanding of the agencies' strengths and challenges related to the administration and performance of the VR, SE, IL and OIB programs;
- conducted an on-site monitoring visit from April 26 through May 7, 2010, during which it met with representatives of NMDVR, the SRC, NMCB Commission Board, SILC and other stakeholders. The first week of the review was primarily focused on NMDVR and the second week on NMCB.

Through the on-site visits, the review team further gathered and analyzed information and provided technical assistance in areas already identified by the review team and the agencies.

Data Used During the Review

RSA's review of NMDVR and NMCB began in the fall of 2009 and ended in the summer of 2010. For the purpose of this review, RSA notes that its data collections are finalized and available at different times throughout the year. Consequently, the data collections for the fiscal year that ended immediately preceding that in which the review began (i.e., FY 2009) were not yet available when the review process began. Therefore, this report relies primarily on those data collections available for a completed fiscal year prior to the beginning of the review (i.e., FY 2008) as the sources of data describing the performance of NMDVR and NMCB. However, when FY 2009 data became available toward the end of the review period, and if these data signaled a significantly different level of performance than the previous five year trend, RSA included the FY 2009 data in the report.

Results of Review Activities

At the conclusion of all monitoring activities, the RSA review team:

- identified areas of consistently high or improved performance;
- identified promising practices;
- identified performance areas for improvement and recommended that NMDVR and NMCB undertake specific actions to improve their performance;
- identified compliance findings and required that NMDVR and NMCB take corrective action; and
- in collaboration with the agencies, determined whether RSA would provide technical assistance to improve their performance or correct compliance findings.

Review Team Participants

Members of RSA's New Mexico review team included representatives from each of the five functional units within the State Monitoring and Program Improvement Division. The team included the following individuals: Sean Barrett (Independent Living Unit); Carol Dobak, Brian Miller and Jessica Spataro (Vocational Rehabilitation Unit); Fred Isbister (Technical Assistance Unit); David Steel (Fiscal Unit); and Steven Zwillinger (Data Collection and Analysis Unit).

PART I: REVIEW OF NEW MEXICO DIVISION OF VOCATIONAL REHABILITATION (NMDVR)

EXECUTIVE SUMMARY

During fiscal year (FY) 2010, the Rehabilitation Services Administration (RSA) reviewed the performance of the following programs authorized by the *Rehabilitation Act of 1973*, as amended (the Act) in the state of New Mexico:

- the vocational rehabilitation (VR) program, established under Title I; and
- the supported employment (SE) program, established under Title VI, part B.

New Mexico Administration of the VR and SE Programs

NMDVR is the designated state unit (DSU) organized under the New Mexico Public Education Department, the designated state agency (DSA), and administers the VR program and SE program in New Mexico. There are five units within NMDVR: Rehabilitation Services, Program Development and Supports, Administrative Services, Information Services, and Disability Determination Services. NMDVR provides VR and SE services through nine area districts across the state organized under the Rehabilitation Services Unit.

NMDVR Performance over the Past Five Years

Based on data provided by NMDVR through various RSA reporting instruments, the agency's employment rate increased from 56.88 percent to 60.19 percent during the period beginning in FY 2004 and ending in FY 2008. Over this same period, the number of applicants for VR services decreased from 6,356 to 6,308, the number of individuals who received services under an individualized plan for employment increased from 6,874 to 7,101, and the number of individuals the agency assisted to achieve employment increased from 1,513 to 1,692. From FY 2004 through FY 2008, the average hourly earnings of those individuals who achieved employment increased from \$9.33 to \$11.41. Additionally, of those individuals who achieved an employment outcome, the number who achieved a supported employment outcome increased from 73 to 106. The average hourly earnings for these individuals increased from \$5.90 to \$7.27.

Observations of the Agency and Stakeholders

Through the course of the review, agency personnel and representatives of stakeholders, such as the State Rehabilitation Council (SRC) and the Client Assistance Program (CAP), shared information concerning the administration and performance of the NMDVR VR and SE programs. During the review, they observed that:

- NMDVR works collaboratively with the SRC and the CAP;
- extended supports are readily available for individuals with developmental disabilities;

- postsecondary support is not as prevalent for older consumers and those with prior degrees as it is for younger or first-time college attendees;
- transition planning in the schools could be strengthened;
- the agency could increase its provision of assistive technology devices, computers, and vehicle modifications; and
- VR counselors could benefit from training in effective methods for assisting individuals who have traumatic brain injuries.

Strengths and Challenges:

Based on the observations from the agency and its stakeholders and other information gathered through the review process, RSA concluded that NMDVR exhibited a variety of strengths that enhanced, and experienced a number of challenges that inhibited, its ability to improve the performance of its VR and SE programs.

The agency's strengths included the strong collaborative relationships that have been developed with the SRC and CAP. NMDVR has developed an effective partnership with the SRC, which results in a strong working relationship between the two entities. Additionally, a high level of cooperation exists between the CAP and NMDVR. The agency meets with CAP on a quarterly basis to address systemic issues in each area office that can be resolved at the lowest level possible.

NMDVR has experienced consistently high performance in the area of self-employment. NMDVR requires viable business plans, approved by a supervisor, prior to approving all self-employment plans and uses a business development center through the small business association to assist with business plan development. Due to the rural and remote nature of the state, NMDVR will support most business ideas, as long as the client can produce a viable business plan.

NMDVR contracts with Community Outreach Program for the Deaf (COPD), a private non-profit organization that focuses on the coordination and delivery of services to VR consumers in New Mexico who are deaf. The centers are open to the deaf community for drop in visits, and serve as a nexus for networking among the deaf community. VR counselors at NMDVR who specialize in working with individuals who are deaf expressed a very strong conviction about the positive role of COPD in the successful achievement of vocational goals for consumers who are deaf. Similarly, COPD staff spoke very favorably of their working relationship with the VR counselors at NMDVR, expressing their appreciation for the high level of language and cultural expertise that NMDVR counselors brought to their work with this particular community.

However, NMDVR staff indicated that the agency has had difficulty in developing collaborative relationships with many of the state's school districts, which has had a negative impact on the planning for, and provision of, transition services. To address this challenge, in part, NMDVR developed specialized transition caseloads, but has not yet been able to evaluate the performance of and effectiveness of the specialized transition caseloads.

NMDVR has faced difficulties in obtaining extended supports for individuals with mental health disabilities. The agency has a cooperative agreement with the state developmental disabilities agency in

order to provide extended supports for individuals with developmental disabilities. However, the agency does not have the same working relationship with the state mental health agency.

NMDVR has experienced challenges in obtaining feedback and input regarding the agency's direction from all levels of staff. Some NMDVR staff reported feeling isolated in their respective field offices and could not communicate the agency's overarching vision. This isolation has resulted in some area offices interpreting policies in a manner inconsistent with that of agency leadership.

NMDVR has also faced challenges in coordinating and developing the VR state plan and the agency's strategic planning process. The agency engages in separate planning processes for development of these two documents, resulting in goals and strategies that are not congruent.

Finally, the agency experienced several challenges related to the fiscal management of the VR program. The agency did not have the ability to properly account for the time staff devoted to the programs it administers; consequently, the VR program bore a disproportionate share of these costs attributable to other grants, such as the agency's independent living programs. In addition, the agency had not engaged in the monitoring of its contractors, compromising its ability to ensure that the purchases and expenditures under the contracts were allowable and that the contractors were meeting their performance goals.

Acknowledgement

RSA wishes to express appreciation to the representatives of NMDVR, the SRC and the stakeholders who assisted the RSA monitoring team in the review of NMDVR.

CHAPTER 1: VOCATIONAL REHABILITATION AND SUPPORTED EMPLOYMENT PROGRAMS OF THE NMDVR

VR and SE Program Systems

The following sections of this chapter describe the manner in which NMDVR administers and operates the VR and SE programs through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance and planning.

Service Delivery

New Mexico is the fifth largest state geographically with a population of two million people. NMDVR is the DSU organized under the New Mexico Public Education Department. There are five units within NMDVR: Rehabilitation Services, Program Development and Supports, Administrative Services, Information Services, and Disability Determination Services. NMDVR provides VR and SE services through nine area districts across the state organized under the Rehabilitation Services Unit. Each of the nine area districts has one to three satellite offices. There are a total of 24 offices across the state and one administrative office located in Santa Fe. The satellite offices are generally located in the rural and remote areas of the state and house one VR counselor, one rehabilitation technician and one rehabilitation field secretary. NMDVR has specialized caseloads focused on mental health (three VR counselors), traumatic brain injury (TBI) (one VR counselor), and hearing impairments (two VR counselors), all of which are located in Albuquerque.

NMDVR reorganized its area offices in 2008, to better align the area offices with the geography of the state. The agency added two area offices, for a total of nine, thereby decreasing the ratio of staff to managers and improving opportunities for career advancement within the agency. NMDVR senior management consists of an Executive Director, five Deputy Directors for each of the five units, and three Field Operation Directors under the Rehabilitative Services Unit.

NMDVR maintains cooperative arrangements with approximately 30 CRPs throughout the state to provide employment services, such as assessment, evaluation, on the job training, job coaching and follow-along services. The agency utilizes milestone contracts with its CRPs based on five payment tiers. In addition, the agency has developed partnerships with the four American Indian Vocational Rehabilitation Services (AIVRS) programs in the state to facilitate the provision of services to Native Americans residing on or near these reservations. In addition, NMDVR contracts with a center for independent living in Santa Fe to administer the Native American liaison program. The liaisons are assigned to one of the 19 pueblos or two apache reservations and maintain connections to the pueblos and reservations through education and outreach.

NMDVR also contracts with a CRP to provide services through the community outreach program for the deaf (COPD). Services include job development, training, and placement for individuals who are deaf or severely hard of hearing in the greater Albuquerque area. Through the use of ARRA funding, NMDVR has expanded COPD into Santa Fe and Las Vegas.

NMDVR participates in a cooperative agreement through a Memorandum of Understanding with the New Mexico Department of Health, Developmental Disabilities Support Division (DOH/DDSD) to provide supported employment services to individuals with the most severe disabilities. At the time of the review, there were 263 statewide providers contracted with DOH/DDSD. NMDVR does not have cooperative agreements with the state mental health agency as it does with DDSD. In FY 2008, of the 106 individuals closed with a supported employment outcome 68 individuals (64 percent) had cognitive impairments (above the national average of 50 percent) and 26 individuals (25 percent) had mental / psychosocial impairments (below the national average of 34 percent).

The agency was one of several defendants in a class action lawsuit, *Jackson, et al. v. Los Lunas Hospital and Training School*, filed in 1987 by the parents and guardians of 21 individuals with developmental disabilities (DD) to correct unconstitutional conditions at two state DD institutions and to remedy violations of the Rehabilitation Act. The court ordered the parties to negotiate a corrective action plan to remedy the violations. As of 2004, there were 411 individuals in the class. NMDVR currently provides VR and SE services to members of the *Jackson* class and tracks their progress as part of the negotiated corrective action plan.

NMDVR provides direct transition services and works with all of the state's 89 school districts. VR counselors are assigned to every high school, and generally start working with students in their senior year. NMDVR has established three specialized transition caseloads located in Albuquerque, Las Cruces and Santa Fe. In FY 2008, NMDVR served 792 transition-age youths, 28 percent of all individuals served that year. That year, 413 transition-age youths achieved an employment outcome, resulting in an employment rate of 52 percent. Of the 413 transition-age youths who achieved an employment outcome, 407 (98 percent) were in competitive employment. Of the 407 who achieved competitive employment outcomes, 249 were working at least 35 hours per week and 98 were receiving employer-provided medical insurance.

Personnel

NMDVR employs 289 employees. Table 1.1 below presents the breakdown of the number of staff and vacancies for each position. Of the total, 61 are VR counselors. NMDVR also employs 33 rehabilitation technicians and 21 caseload secretaries who provide services directly to individuals. New Mexico is currently operating under a statewide hiring freeze. However, NMDVR has been able to obtain exemptions from the freeze to hire VR counselors.

**Table 1.1
NMDVR Personnel Data: Job Categories and Number of Staff for Fiscal Year 2008**

Position	Number of Staff Positions Filled	Number of Vacancies
NMDVR Director	1	0
Unit Manager / CFO / Division Director	11	2
Rehabilitative Services Program Manager	10	1
VR / IL Services Coordinator	8	2
Rehabilitation Counselor	61	6
Rehabilitation Technology / Community and Social Services Specialist	47	4
Rehabilitation Field Secretary	20	2
Administrative Assistants	16	1
Benefits Advisor	2	1
Financial Specialist	7	2
Human Resources Staff	4	0
Information Technology Staff	13	2
Appliance Technology	1	0
Grants Accountant / Auditor	3	1
Grants / Budget Manager	4	1
Purchasing Agent	4	0
Training and Development Specialist	1	1
Clerk	0	1
Claim Adjusters / Hearing Officers	64	6
Business Operation Specialist	11	5
Lawyer	1	0
Total	289	38

To ensure a high standard of competency and credentials for its qualified rehabilitation professionals under the comprehensive system of personnel development (CSPD), NMDVR developed state licensure for VR counselors through its umbrella organization, the New Mexico Public Education Department, in 2001. This licensure was codified by the New Mexico Public Education Department and is required of all VR counselors working for NMDVR. Through the licensure, NMDVR requires its counselors to possess a master's degree in rehabilitation counseling or counseling.

As reported in the FY 2010 VR State Plan, NMDVR employs 52 licensed VR counselors and 10 counselors whose licenses are in progress. Most, if not all, new hires for VR counselor positions have master's degrees. In the rare occasion in which someone is hired without a master's degree, especially

in rural areas of the state, the new hire is required to immediately begin working toward a master's degree to meet the highest standards of the state. Newly hired VR counselors with related master's degrees must work for one year to qualify for licensure. NMDVR requires that new hires who do not qualify for a license at the time they are hired will obtain their license in vocational rehabilitation counseling one year after being hired.

Data and Case Management

NMDVR has well organized data systems and is able to utilize information resources to respond to any question for which data is required or requested. Agency personnel quickly and competently prepare detailed and complete responses to complex information requests. Limited staff resources, however, restrict the amount of analysis that is undertaken to increase understanding of organizational effectiveness. Most of the analysis undertaken is in response to specific short term requests. There is no systemic collection or sharing of vendor performance with counselor staff. The planned training in NMDVR's Leadership Institute may provide increased data analysis skills to agency staff.

Quality Assurance

NMDVR engages in a thorough case review system, with 24 cases reviewed per year per counselor. The agency undertakes a customer satisfaction survey; although, at the time of the review, it was limited to consumers with cases closed after the provision of services. NMDVR has had experiments to capture consumer experiences but due to staff limitations, these activities were curtailed. There is no formal QA system outside of the case review process.

Planning

NMDVR, the SRC and the SILC have a very positive and mutually supportive relationship for addressing planning issues. The VR state plan, while meeting RSA's standards of acceptability, is not sufficiently developed to help guide the agency in making resource allocation decisions or in helping to guide the agency in addressing program improvement issues. NMDVR has a separate state-focused strategic planning function in addition to the RSA prescribed VR state plan process. The bifurcation between these two planning activities is a barrier to NMDVR implementing an integrated approach to planning and performance management.

Promising VR and SE Program Practices

Throughout the review process, RSA solicited input from NMDVR and its stakeholders regarding promising practices undertaken by the agency in the administration and operation of the VR and SE programs. The RSA review team substantiated the positive outcomes generated by the practices in the course of conducting monitoring activities. One of these practices includes:

1. Community Outreach Program for the Deaf (COPD)

NMDVR contracts with COPD, a private non-profit organization that focuses on the coordination and delivery of services to VR consumers in New Mexico who are deaf. COPD is headquartered in Tucson, Arizona, and operates a community center in Albuquerque, New Mexico. Through the use of ARRA

funding, NMDVR has expanded COPD into Santa Fe and Las Vegas. The centers are open to the deaf community for drop in visits, and serve as a nexus for networking among the deaf community.

COPD began working with NMDVR in 1994, and has since maintained a close working relationship. Among the services COPD provides to NMDVR consumers are: interpreter services; on the job training; job coaching; work skills developments; job search services; remedial education; and transportation. Services are very specialized and intensive. COPD has deep connections in the deaf community, and serves as a crossroads of activities, information, and contacts that appear to support VR consumers even after they have exited the VR program. All COPD counselors are fluent in American Sign Language, and are knowledgeable about deaf culture. Approximately 80 percent of COPD VR clients have secondary disabilities.

The program consists of three successive placements, which in total may last up to two years. Clients begin by learning the hard skills of the job site, the soft skills in phase two, and then a longer placement brings both aspects together into a position that typically leads to full time placement and closure. COPD counselors meet with clients once a week, connect them with deaf mentors, and conduct weekly meetings with NMDVR counselors to provide progress reports. Once a month COPD and NMDVR meet to discuss all the clients currently being served, and to assess the progress clients are making toward achieving their vocational goal.

VR counselors at NMDVR who specialize in working with individuals who are deaf expressed a very strong conviction about the positive role of COPD in the successful achievement of vocational goals for consumers who are deaf. Similarly, COPD staff spoke very favorably of their working relationship with the VR counselors at NMDVR, expressing their appreciation for the high level of language and cultural expertise that NMDVR counselors brought to their work with this particular community.

With the establishment of a specialized counselor unit focusing on deaf services, and the contract with COPD, NMDVR has increased the percentage of individuals it serves who are deaf or hard-of-hearing. The employment rate for this population has also increased, demonstrating that the relationship between NMDVR and COPD is yielding positive benefits for this population. See Table 1.2 below.

Table 1.2
NMDVR Consumers Served with Communicative Impairment Fiscal Year 2004 through 2008

Individuals Served with Communicative Impairment	2004	2005	2006	2007	2008
With employment outcomes	249	339	453	383	417
Without employment outcome	79	73	91	91	65
Percent of total individuals served	12.3%	14.1%	17.8%	16.8%	17.1%
Employment rate	75.9%	82.3%	83.3%	80.8%	86.5%

VR and SE Program Performance

The following table provides data on the performance of the VR and SE programs administered by NMDVR in key areas from FY 2004 through FY 2008.

Table 1.3
NMDVR Program Highlights

Program Highlights	2004	2005	2006	2007	2008
Total funds expended on VR and SE	\$22,937,886	\$23,002,870	\$23,073,954	\$24,382,584	\$24,703,851
Individuals whose cases were closed with employment outcomes	1,513	1,705	1,942	1,705	1,692
Individuals whose cases were closed without employment outcomes	1,147	1,226	1,112	1,113	1,119
Total number of individuals whose cases were closed after receiving services	2,660	2,931	3,054	2,818	2,811
Employment rate	56.88%	58.17%	63.59%	60.50%	60.19%
Individuals whose cases were closed with supported employment outcomes	73	94	95	52	106
New applicants per million state population	2,956	2,771	2,732	2,711	2,821
Average cost per employment outcome	\$3,290	\$3,534	\$3,556	\$3,571	\$3,447
Average cost per unsuccessful employment outcome	\$2,039	\$2,063	\$2,110	\$2,104	\$1,874
Average hourly earnings for competitive employment outcomes	\$9.39	\$9.98	\$10.41	\$10.87	\$11.46
Average state hourly earnings	\$14.89	\$15.59	\$16.31	\$17.23	\$18.04
Percent average hourly earnings for competitive employment outcomes to state average hourly earnings	63%	64%	64%	63%	64%
Average hours worked per week for competitive employment outcomes	31.7	31.8	32.3	32.2	32.0
Percent of transition age served to total served	27.29%	26.68%	29.08%	28.39%	28.18%
Employment rate for transition population served	52.34%	51.92%	55.63%	50.75%	52.15%
Average time between application and closure (in months) for individuals with competitive employment outcomes	18.5	18.3	18.2	18.3	17.7
Performance on Standard 1 (Pass/Fail)		P	P	P	P
Performance on Standard 2 (Pass/Fail)		P	P	P	P

Sources: RSA-2, RSA-113, RSA-911

Areas of Consistently High or Improved Performance

1. Self-Employment

As indicated by Table 1.4 below, NMDVR has had consistently high performance in the area of self-employment, as can be seen by a comparison with their peer agencies for fiscal years 2004-2008. NMDVR requires viable business plans, approved by a supervisor, prior to approving all self-employment plans. NMDVR uses a business development center through the small business association to assist with business plan development. Due to the rural and remote nature of the state, NMDVR will support most business ideas, as long as the client can produce a viable business plan. Self-employment businesses developed by individuals served by NMDVR include, but are not limited to, artists, jewelry makers, hairdressers, mechanics, farmers, photographers, architects and plumbers.

Table 1.4
Self-Employment Outcomes: NMVDR and Peer Agencies FY 2004 through 2008

VR Agency	2004	2005	2006	2007	2008	5- year average
NMDVR	101	121	121	74	86	101
Connecticut Bureau of Rehabilitation Services	5	6	5	6	2	5
Idaho Division of Vocational Rehabilitation	64	93	98	86	63	81
Nebraska Division of Rehabilitation Services	25	18	17	21	12	19

Source: RSA-911

Note: Figures do not include the Business Enterprise Program

VR/SE Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that NMDVR take specific steps to improve the agency's performance associated with each of the observations.

1. VR Performance and Quality of Employment Outcomes

Observation: More than half of all individuals who exit the VR program with an employment outcome do so in less than one year. NMDVR has maintained relatively steady rates of service and employment outcomes, with the exception of FY 2007, including an employment rate of 60 percent, slightly higher than the national average for general VR agencies. However, individuals move through the program very quickly, and receive relatively few significant VR services. Many individuals receive restoration and medical treatment, such as hearing aids, as their primary VR service apart from counseling and guidance, and a significant number of individuals served are employed at application. As a result of focusing on this population of consumers, the agency may experience a significant and negative impact on the program's performance if NMDVR is required to implement an order of selection due to diminishing fiscal resources.

- In FY 2008, 56 percent of all individuals who exited the program with an employment outcome did so in one year or less from application to closure. The overall average time between application and closure for individuals with an employment outcome dropped from 18 months in FY 2002, to 17 months in FY 2008, a significantly shorter timeframe than NMDVR's peers which averaged 23 months, or the national average for all general VR agencies of 26 months. For individuals who achieved an employment outcome of self-employment in FY 2008, the average time from application to closure was 14 months. This short time from application to closure also held true for transition-age youths who achieved an employment outcome.
- As table 1.5 shows, NMDVR achieved modest gains in the average wage earned by individuals who exited the program with an employment outcome. The average VR wage rose from \$9.82 in FY 2004 to \$11.41 in FY 2008, which was slightly higher than the national average for all general VR agencies of \$10, but slightly below the peer average of \$12.71. Between FY 2004 and FY 2008, NMDVR passed RSA's indicator 1.5 that measures the ratio of the average wage earned by VR clients closed as employed and the state average wage, achieving 0.63 in FY 2008, compared to the minimum standard of 0.52.
- NMDVR's performance in FY 2008 was roughly equivalent to its peers and the national average for other general agencies on those indicators that measure the quality of employment outcomes. For example, in FY 2008, 57 percent of individuals achieved a competitive employment outcome who earned above the social security's benchmark of substantial gainful activity (SGA) and worked more than 35 hours in a week. Twenty-eight percent of those individuals who were competitively employed received medical benefits from their employer.

Table 1.5
NMDVR Quality of Competitive Employment Outcomes FY 2004 through FY 2008

Competitive Employment Outcomes	2004	2005	2006	2007	2008	Change from 2004 to 2008
Mean hourly earnings for competitive employment outcomes						
Agency	\$9.39	\$9.98	\$10.41	\$10.87	\$11.46	\$2.08
General Agencies	\$9.57	\$9.81	\$10.17	\$10.63	\$10.96	\$1.39
Closed with competitive employment outcomes at SGA level at 35 or more hours per week						
Agency	827	947	1,107	949	947	14.5%
Percent	55.8%	56.5%	58.4%	57.1%	56.9%	1.2%
General Agencies	65,007	60,108	58,940	58,270	58,073	-10.7%
Percent	60.8%	59.5%	58.5%	58.1%	56.9%	-3.9%

Closed with competitive employment outcomes with employment employer-provided medical insurance						
Agency	444	433	552	452	454	2.3%
Percent	29.9%	25.8%	29.1%	27.2%	27.3%	-2.6%
General Agencies	30,014	28,694	28,033	28,017	28,217	-6.0%
Percent	28.1%	28.4%	27.8%	27.9%	27.7%	-0.4%

Source: RSA-911

- NMDVR’s total expenditures for FY 2008 amounted to \$27 million, of which, 40 percent was for the purchase of services for VR consumers. This level of expenditures on purchased services remained constant between FY 2004 and FY 2008, and is in the same range as its peer agencies. Of the 40 percent expended for purchased services, the two most frequently purchased services were training at 33 percent, and physical or mental restoration at 12 percent of all purchased services.
- The second most frequently purchased service (after training) was restoration and medical treatment of an impairment. In FY 2008, NMDVR reported almost \$1.3 million in expenditures in this service category. While the provision of physical and mental restoration services through the VR program is allowable, individuals can achieve better quality employment when these services are provided along with other substantial VR services, including counseling and guidance, transportation, education and vocational training, and assistive technology. Many VR counselors and managers expressed concern that NMDVR is perceived in the community as a medical provider rather than a vocational rehabilitation program.
- In FY 2008, 29.5 percent of those individuals who achieved an employment outcome were employed with earnings at the time of application. The employment rate for this cohort was 77.8 percent and 52.8 percent for those not employed at application. This indicates that the agency’s overall employment rate of 60 percent is bolstered in part by the successes achieved with assisting individuals to retain or advance in employment. It is unclear as to the fate of the 23 percent of those who were employed at application but exited NMDVR without an employment outcome. This does not mean, of course, that the individual was unemployed after receiving services from NMDVR, just that they did not achieve the vocational goal stated on their IPE.
- All VR counselors are given the same budget to work with at the beginning of each year, approximately \$120,000 per counselor. Some VR counselors and managers described the process of requesting more funds as arduous and daunting, and that sometimes there are delays in the delivery of services as VR counselors wait to prepare their requests for funds. Given the high cost of some VR services, such as vehicle modifications, post-secondary education, and self-employment start-up expenses, VR counselors expressed that they sometimes find it difficult to reconcile the provision of such services in light of the agency’s limited resources.
- The comparatively short time on average that an individual receives services from NMDVR, coupled with the data on the nature and scope of services purchased by the agency, indicates that

a substantial number of the individuals NMDVR serves move through the VR program very quickly, and receive only a few substantial services.

- During the review, RSA discussed at length with NMDVR managers and staff the VR performance data noted above indicating the short time in status and the purchased services. Some of the reasons offered by NMDVR to explain these data include:
 - the lack of an order of selection, and the requirement to serve all eligible individuals irrespective of the significance of their disability;
 - the agency's strong emphasis on employment outcomes and the rehabilitation rate to measure VR counselor and field office performance;
 - the challenge of reconciling VR counselor budgets, set at \$120,000, with the high cost of some significant VR services such as vehicle modifications and self-employment start-up costs (See Observation 2 for a more detailed discussion of this issue);
 - NMDVR and New Mexico's fiscally conservative culture resulting in a reluctance to obligate VR dollars;
 - outreach efforts to populations such as individuals with hearing impairments who come to NMDVR for assistance in acquiring assistive technologies such as hearing aids;
 - the presence of a relatively high percentage of individuals served by the agency who are already employed and do not require many significant services over an extended period of time; and
 - the reputation of NMDVR in many communities as a provider of medical services.
- At the time of the RSA review, NMDVR had not implemented an order of selection. The agency's leadership and staff stressed their strong desire to avoid the need for an order and the resulting limitation of services to individuals with the most significant disabilities. Nevertheless, the challenging economic environment and projected budgetary shortfalls may leave the agency with few options. As such, the closing of categories under an order of selection would result in a significant contraction of the number of individuals served given the current profile of the average NMDVR consumer. Furthermore, the cost containment efforts under way within the agency that are part of a strategy to avoid an order of selection may prove untenable if the agency also wishes to fulfill its statutory mandate to serve individuals with significant disabilities who require substantial VR services.

Recommendation 1: RSA recommends that NMDVR:

- 1.1 develop and implement performance indicators that measure the quality of employment outcomes;
- 1.2 develop and implement goals with measurable targets that will allow the agency to track progress toward improving the quality of its outcomes;

- 1.3 review and revise, as appropriate NMDVR's policies and procedures for the provision of diagnosis and treatment of mental or physical impairments services, often referred to as medical restoration services;
- 1.4 provide training to VR field staff on the appropriate role of medical restoration services in the context of an individualized plan for employment;
- 1.5 analyze the differential in the employment rate between those employed with earnings at application and those without employment at application and develop goals based on this analysis to increase the employment rate for this latter population;
- 1.6 identify the most common reasons for individuals who were employed at application for leaving the VR program without achieving their vocational goal, and develop and implement goals and strategies to increase the employment rate for this population;
- 1.7 review the process for requesting more funds when a VR counselor's budget is not sufficient to meet the VR service needs (see RSA Observation 2 below);
- 1.8 review NMDVR's outreach strategies to ensure a better understanding of the vocational purpose of the VR program, de-emphasizing the provision of medical services wherever it may be highlighted to avoid confusion on the part of the public, particularly employers to whom NMDVR may be targeting in its outreach efforts; and
- 1.9 develop a contingency plan in the case that NMDVR needs to implement an order of selection, which should include projections of the impact on performance measures due to the inability to serve all eligible individuals.

2. VR Service Policies

Observation: NMDVR is in the process of revising several of its VR service policies in order to maximize agency resources, increase financial participation on the part of VR consumers, and encourage cost-effective practices on the part of VR counselors. This effort reflects a strong desire on the part of NMDVR to avoid the necessity of implementing an order of selection so that it can continue to serve all eligible individuals. Additionally, the application of existing service policies is not always consistent from field office to field office according to the input received from stakeholders, and based on observations made by RSA while visiting some of the area offices. As a result of the agency revising its service policies, the agency should see more consistent implementation of the policies across the state, but consumers may experience what they perceive as barriers to services they were able to obtain more easily prior to the revisions.

- NMDVR expects to revise the following policies:
 - Vehicle modifications – NMDVR will revise its policy to strongly encourage VR consumers to explore all options for the transportation necessary as part of an individual's training, including the purchase of used vehicles that have already been modified for previous owners. VR consumers are also urged to explore all transportation options apart from vehicle modifications. New Mexico currently has only one provider of vehicle modification services, and no providers for driver assessments, resulting in the need for VR consumers to travel out of state to be assessed for their modification needs. VR counselors expressed concern over the rising cost of vehicle modifications, as one modification can absorb 50-75 percent of an individual counselor's initial annual service budget.

- Post-secondary education training – NMDVR will revise its policies such that VR consumers will be encouraged to attend community college in their local community before transferring to a four year institution, including the University of New Mexico in Albuquerque. NMDVR managers believe that consumers will be better served by the students with disabilities services offices at community colleges, and that consumers will benefit from the style of instruction typically found in the community college classroom. NMDVR asserts that students will be more successful in the community college environment. The agency also expects to maximize service dollars through this approach to providing post-secondary services.
- Personal computers – The agency’s service policies permit the provision of only one personal computer for an individual, unless there is a specific need related to an individual’s disability. Students are required to utilize computer labs on campuses whenever possible.
- Self employment – NMDVR will revise its policy pertaining to services provided to individuals whose vocational goal is that of self employment. NMDVR will establish thresholds of review by supervisors and area managers based on the dollar amount needed for business start-up costs. The intent is to better monitor and control costs of self-employment plans in order to maximize the agency’s service dollars.
- Comparable benefits – NMDVR provided training to VR counselors and field staff regarding the agency’s current policy on comparable benefits and financial participation on the part of VR consumers. NMDVR area managers are considering expanding the application of the requirement of financial participation with the goal of achieving 20 percent participation in the cost of services for which financial participation is allowable.
- RSA discussed NMDVR’s service policies with the New Mexico CAP representative and other community stakeholders. The CAP noted to RSA that there were some inconsistencies with respect to the application of existing service policies from one field office to another, particularly with respect to self-employment, presumption of eligibility based on social security benefits, ticket to work, purchase of personal computers, and reimbursement for mileage expenses. The CAP representative indicated that the CAP had shared all of their observations with the NMDVR leadership, and that some of these issues had been resolved by the time of the RSA on-site review. The CAP presented to RSA a table indicating which field offices tended to generate more requests for assistance from CAP regarding service policies. The CAP shared this information with NMDVR as well.
- RSA will review any new service policies to ensure they comply with the requirements of the Rehabilitation Act and its implementing regulations, specifically, 34 CFR 361.50 which prohibits the arbitrary limitation of services to individuals in their pursuit of a vocational goal.

Recommendation 2: RSA recommends that NMDVR:

- 2.1 ensure that any new service policies do not significantly curtail or limit consumer choice through the implementation of cost containment measures built into the new policies;
- 2.2 provide clear guidance as it implements new policies to ensure that all VR staff understand the mechanisms for requesting exceptions to any nominal limitations in the range and scope of services provided to VR consumers;
- 2.3 develop and implement a strategy to expand the availability of vehicle modification resources in the community, including the ability for consumers to receive driving assessments in-state, and establishing fee schedules for modifications that contain costs while respecting consumer choice;
- 2.4 provide clear guidance to VR counselors and staff about the agency's expectations for financial participation of VR consumers and the application of comparable benefits. NMDVR should not set hard targets for financial participation, but rather ensure the maximizing of resources based on the individual consumer's abilities, needs and informed choice;
- 2.5 ensure that policies are consistently applied across the state by developing mechanisms for the regular delivery of policy guidance that is available to all field offices and fosters communication and the sharing of policy questions to maximize the benefit of staff training and on-going support from senior management and area supervisors; and
- 2.6 develop routine procedures to capture service policy delivery issues, broken down by office, in order to identify those issues that are systemic in nature and require agency-wide solutions.

3. Staff Training and Program Development

Observation: NMDVR field office staff rarely have an opportunity to interact with one another, resulting in lack of consistency of the availability of supervision, access to training and expertise, and application of agency policies across the state. Conversely, the uniformity of VR counselor performance expectations and budgets does not adequately reflect the diversity of consumer demographics, economic opportunities, and staffing resources unique to each field office and community. As a result, VR counselors do not have performance standards that take into account their geographic location and type of caseloads, and they feel isolated in their respective geographic areas.

- RSA reviewers visited several field offices during the course of the on-site review, including the Santa Fe, Las Vegas, Roswell, and Albuquerque special services offices. At all four locations, RSA met with VR counselors, counselor assistants, and area managers during separate face-to-face sessions.
- During these office visits, and in the course of other review activities and meetings, RSA received the following input from NMDVR managers and staff:
 - VR staff operate in relative isolation from other area offices, particularly those offices outside the area of responsibility for a given regional manager.
 - NMDVR used to conduct yearly statewide trainings with all VR staff, but due to budget constraints, this practice was curtailed. Counselors also reported that they have limited opportunities to seek training and professional development outside of the in-service provided by the agency.

- Online training and information resources are restricted by technological limitations and network security concerns. This includes critical materials and resources needed by VR counselors with specialized caseloads, such as those who work with individuals who are deaf or hard-of-hearing.
- VR counselors have fixed caseload budgets of around \$120,000 for the year. Many counselors and staff admitted that the process of requesting more money is sufficiently rigorous such that they often hold off on requesting more funds to pay for services, resulting in delays of the delivery of services and payment to vendors. Furthermore, VR counselors are evaluated on the degree to which they meet their “budget goals,” which may also serve as a disincentive to seek more caseload funds.
- The emphasis on operating within office and counselor caseload budgets results in a concern on the part of NMDVR field office staff as to whether they will have sufficient resources to work with clients with significant disabilities who require more dollar-intensive VR services.
- Managers were more diverse in their opinions regarding the degree to which budgets play a role in the delivery of services. Nevertheless, managers agreed generally that resources were a constant concern, and offices that expended more funds on services are strongly encouraged to be more fiscally prudent.
- All VR counselors are expected to achieve at least 27-29 employment outcomes each year, irrespective of the nature of their caseload, the local economic and demographic conditions, and experience level of the VR counselor. The exception to this is the special caseload office counselors in Albuquerque who work with individuals with mental illness or TBI. Even in the special caseload office, VR counselors who work exclusively with individuals who are deaf and hard-of-hearing, or transition-age youths, are expected to achieve the same number of outcomes as their colleagues with general caseloads. Field offices have outcome expectations that are set according to the number of FTEs assigned to that office, rather than the actual number of case-carrying VR counselors on staff. Most field offices had VR counselor vacancies at the time of RSA’s on-site visit to the state. Supervisors and VR staff cover the caseloads of vacant positions as best they can.
- Field staff observed that NMDVR senior management and supervisors strongly emphasize employment outcomes and rarely credit counselors for the quality of these outcomes in terms of wages, significance of disability of the individual, or other factors apart from the closure status. NMDVR recognizes VR counselors who assist more than 40 individuals to achieve an employment outcome with a “Road Runner” award. However, NMDVR has no equivalent benchmark status for other kinds of VR counseling achievements.
- Supervisors are responsible for large geographic areas with multiple office locations. Supervisors are often only able to make day trips to their outlying offices, sometimes as infrequently as every three or four months. In 2008, NMDVR reorganized its regional structure to better geographically align offices that area managers supervise.

Nevertheless, area managers still oversee offices that are two and three hour drives away, and are often unable to remain in satellite locations overnight, further limiting their ability to effectively manage these staff.

- Supervisors and staff observed that the agency would operate more cohesively if senior management transmitted a mission statement and clarified agency values beyond efficiency and outcome orientation.

Recommendation 3: RSA recommends that NMDVR:

- 3.1 develop a long-range strategy for creating a cohesive VR program across the state that allows for maximum staff interaction across all field offices;
- 3.2 establish ad hoc or standing focus groups that would bring staff together to discuss how to maximize resources, and share strategies for success that can be replicated in other offices;
- 3.3 explore the use of technologies that would expand access by staff to online resources that provide training and professional development when fiscal resources or time preclude traveling for such purposes;
- 3.4 explore the expansion of online access to specialized tools and resources for VR counselors who work with unique populations, such as individuals who are deaf and hard-of-hearing. This would allow NMDVR to maximize limited fiscal resources and expand the range, scope, and quality of services to VR consumers;
- 3.5 review the process by which VR counselors and managers request additional funds for VR services to ensure that the delivery of services or the payment of invoices to vendors are not delayed or even avoided in order to stay within assigned budgets;
- 3.6 clarify to all staff that individual counselor budgets are not intended to be a barrier to serving individuals with significant disabilities or to providing VR services. Senior managers should consider whether individual VR counselor budget goals are an effective practice for maximizing resources and is not a practice that inadvertently results in the avoidance of the provision of high-cost services;
- 3.7 develop a more flexible approach to establishing outcome and performance targets for both VR counselors and field offices to better reflect the diversity of economic, demographic, and human resources available in local communities;
- 3.8 incorporate evaluation strategies that consider the quality of employment outcomes achieved by individuals, including such factors as significance of disability and wages and benefits earned;
- 3.9 provide greater resources to supervisors who are responsible for managing offices in a large geographic area, such as greater access to technologies, and other resources that would allow supervisors to spend more time in all area offices to ensure effective supervision across an entire region; and
- 3.10 clarify its mission statement and program values to ensure that all staff understand the agency's direction, goals, and priorities.

4. Specialized Transition Caseloads

Observation: NMDVR provides transition services, in part, through the use of specialized transition caseloads. NMDVR has not evaluated whether the use of specialized transition caseloads is effective in providing high quality transition services. As a result, it is not clear whether the specialized transition

caseloads lead to better employment outcomes for the transition-age youths who are served through them. Additionally, the unique aspects of the specialized transition caseloads are not taken into account when evaluating the performance of the specialized transition VR counselors. As a result of the uniform evaluation process, the transition VR counselors rarely meet performance standards.

- NMDVR works with all of the state’s 89 school districts to provide transition services. Traditional caseload VR counselors have some transition cases, and at least one VR counselor is assigned to each school. Additionally, NMDVR has three specialized transition caseloads located in Albuquerque, Las Cruces and Santa Fe.
- NMDVR leadership informed the RSA team that the agency has been trying, without success, to develop a method to evaluate the effectiveness of having specialized transition caseloads. NMDVR indicated that it is difficult to standardize the evaluation method for the specialized transition caseloads to determine whether the dedicated transition caseloads are successful and to evaluate the performance of the dedicated transition VR counselors.
- All VR counselors at NMDVR are evaluated based on the same criteria, except for certain VR counselors who carry specialized caseloads based on disability classification (see Observation 3 above). The VR counselors who carry specialized caseloads for transition-age youths do not have different evaluation criteria than the VR counselors who carry traditional non-transition caseloads. NMDVR leadership and VR counselors agreed that the performance criteria for the dedicated transition VR counselors do not align with the unique aspects that make up the specialized transition caseloads. For example, according to NMDVR staff, transition cases generally take longer than non-transition cases, especially if a consumer attends post-secondary education or training; yet this aspect of the transition cases is not taken into account when evaluating the performance of the transition VR counselors.
- NMDVR leadership recognizes that they need to collect and analyze data in order to manage the transition caseloads well and to evaluate the effectiveness of having specialized transition caseloads. NMDVR leadership informed the RSA team that they are eager to develop the data elements, and collect and analyze that data to manage and evaluate the program.

Recommendation 4: RSA recommends that NMDVR:

- 4.1 develop and collect data elements that will accurately capture the effectiveness of the specialized transition caseloads;
- 4.2 analyze the data collected in 4.1 to determine the effectiveness of the specialized transition caseloads;
- 4.3 compare and analyze the transition cases that are assigned to specialized transition VR counselors versus regular VR counselors to determine the effectiveness of the specialized transition caseloads; and
- 4.4 develop and implement standardized performance evaluation criteria for the specialized transition VR counselors. Such criteria should take into account the unique nature of the specialized transition caseloads.

5. Data Use

Observation: Some NMDVR staff use agency performance data in a meaningful manner. NMDVR does not use performance data as an effective measure of internal operations and CRP performance. As a result, the agency does not incorporate data-based decision making into all areas of agency operations.

- NMDVR has readily accessible data. Analysis of NMDVR data appears to be undertaken in response to certain limited questions, most often as a result of looking at caseloads by type and size in order to make comparisons between counselors and caseloads.
- Staffing limitations, lean organization management philosophy and competing priorities are all barriers to increasing the emphasis placed on data analysis as a tool to analyze organizational successes in order to establish a quantitative approach to improving agency performance.
- NMDVR has not developed standards for CRP performance reporting. There is no integrated system to collect fiscal and programmatic data to describe successes achieved by CRPs. NMDVR does not maintain a database to track the CRPs' quality of services, performance outcomes or efficiency of services provided to individuals with disabilities. The lack of a vendor performance report makes it difficult for counselors to use prior performance information (apart from their own personal knowledge) in selecting a vendor to provide VR services to a consumer.

Recommendation 5: RSA recommends that NMDVR:

- 5.1 increase training opportunities for staff to learn about NMDVR data resources and how they can be used to view agency and caseload performance;
- 5.2 provide a mechanism for VR counselors and staff to share ways of using the case management system to gain an increased understanding of caseloads and outcomes;
- 5.3 analyze available data about consumers who do not complete the VR process to determine if there are discernable patterns in their backgrounds or experiences that might led to successful interventions;
- 5.4 assemble vendor performance information so that VR counselors can make informed decisions about referring consumers for services. Routine data collection from CRPs, would assist NMDVR in monitoring the efficiency and effectiveness of services provided;
- 5.5 increase the level of technical skills relating to the presentation of data (e.g. graphs and tables) so that data can be more easily assimilated by NMDVR staff; and
- 5.6 develop an organized series of management reports for different management levels of NMDVR that show program performance for the present period, with comparisons to annual goals and to the same period in the prior year to provide a context for interpreting management information.

6. Planning

Observation: NMDVR maintains two planning systems: a strategic planning system for state purposes and a planning process for the state VR plan required by RSA. These two plans are developed independently of each other and do not have overlapping goals or priorities. As a result, the agency engages in two vigorous planning processes each year resulting in two separate plans, rather than consolidating resources and engaging in one overarching planning process to cover all areas.

- The documents required for state and federal planning requirements could represent a common planning process but they are independent. The VR plan produced for RSA does not include the same goals and priorities as the plan produced for the state. Maintaining two separate planning systems is not cost-effective or efficient nor does it reflect an integrated approach to planning and performance management. The plans could share content. The goals for NMDVR should be consistent regardless of audience.
- The RSA monitoring team did not observe an integrated fiscal and program planning process. The coordination of program data and fiscal data is not apparent in the agency's strategic planning, program evaluation or resource allocation activities.
- The agency has strong working relations with the SRC and the SILC. These relationships can be used to improve NMDVR's planning, and enhance the SRC's identification of recommendations for NMDVR so they can be considered in a planning context.

Recommendation 6: RSA recommends that NMDVR:

- 6.1 combine the currently separate state and federal planning processes into a single agency planning process and to the extent that the state and federal reporting requirements overlap, use the same material in both sets of plans;
- 6.2 use the planning process to address agency goals;
- 6.3 use the planning process to formally determine priorities for resource allocation;
- 6.4 integrate SRC recommendations and CSNA findings into the goal development process to ensure that all relevant sources are used in high level planning processes;
- 6.5 integrate program and fiscal planning processes into a single comprehensive process; and
- 6.6 consult with the SRC to identify the most useful format for SRC recommendations to the agency. Some recommendations are actionable and some are not. To the extent practical, both NMDVR and the SRC will want to maximize the former and minimize the latter.

7. Quality Assurance

Observation: NMDVR engages in limited QA activities. The primary sources of QA are case reviews and consumer satisfaction surveys. As a result, there is no systemic organized QA function for agency operations.

- NMDVR maintains a well organized case review process with targets for accuracy against which case files are reviewed. NMDVR appreciates the value of capturing information about consumer experiences but has had to curtail two pilot programs to capture this information as they were resource intensive.
- NMDVR does not distribute satisfaction surveys to consumers who leave the agency prior to receipt of services.
- A strategically focused quality assurance function could address, beyond case reviews, contract monitoring, contract administration, federally required financial and performance reports, client

and employee satisfaction surveys, case management system functionality, as well as training and implementation of strategic goals and priorities.

Recommendation 7: RSA recommends that NMDVR:

- 7.1 address QA as a focus of the state VR plan in order to gain the benefits that currently are derived from case management QA to other areas of agency operation and management; and
- 7.2 create a formal QA function to ensure that QA is fully addressed in agency operations. As a part of a QA function, conduct cost benefit evaluations of selected agency services to begin to determine how to optimize results.

Technical Assistance and Continuing Education

This section of the chapter describes the technical assistance provided by RSA to NMDVR, and the continuing education needs of agency staff identified during the course of the review. The technical assistance requested by the agency to enable it to carry out the recommendations set forth above is contained in Appendix A to this report titled “Agency Response.”

Technical Assistance Provided

During the review of the VR and SE programs, RSA provided technical assistance to NMDVR regarding:

- strategic planning;
- development of state plan goals and objectives;
- criteria by which to measure the performance of those VR counselors who have specialized caseloads; and
- appropriate coding for individuals who were employed with or without supports.

Continuing Education

During the course of the review, NMDVR and stakeholder representatives, including the SRC, requested that agency personnel receive continuing education in the areas of:

- job development;
- ethics; and
- medical aspects of VR services.

CHAPTER 2: FISCAL MANAGEMENT OF THE VOCATIONAL REHABILITATION AND SUPPORTED EMPLOYMENT PROGRAMS

RSA reviewed NMDVR's fiscal management of the vocational rehabilitation (VR) and Supported Employment (SE) programs. During the review process, RSA provided technical assistance to the state agency to improve its fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agency's cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

Fiscal Management

The New Mexico Public Education Department is made up of two distinct appropriated entities and nine component units - the Public Education Department, the Division of Vocational Rehabilitation, and nine state-chartered schools. NMDVR is responsible for the administration and provision of all VR programs and services through seven areas and thirteen satellite offices statewide.

The Public Education Department's activities are grouped into functional programs. Its Education activities are funded from federal revenues provided primarily by the U.S. Department of Education. Its Health and Welfare activities include the VR program and the Disability Determination Services program, both administered by NMDVR. NMDVR has two major funds. The Vocational Rehabilitation fund receives the majority of its funding from federal grants requiring state matching funds. The other fund is the Disability Determination Services fund, which receives all of its funding from a federal grant that does not require a state match.

The Administrative Services component of NMDVR is primarily responsible for the Central System of financial accounts, budget, audit, expenditure transactions, human resources and contract management.

NMDVR Fiscal Performance

The data in the following table are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of the agency's fiscal management practices. Data related to the VR program matching requirements are taken from the fourth quarter of the respective fiscal year's SF-269 report. The data pertaining to the VR program maintenance of effort requirements are derived from the final SF-269 report of the fiscal year (two years prior to the fiscal year to which they are compared). Fiscal data related to VR program administration, total expenditures, and administrative cost percentages are taken from the RSA-2.

**Table 2.1
Fiscal Data for NMDVR for FY 2004 through FY 2008**

New Mexico (G)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$17,259,672	\$17,641,062	\$17,641,922	\$18,628,198	\$18,488,163
Federal Expenditures	\$17,259,672	\$17,641,062	\$17,641,922	\$18,628,198	\$18,488,163
Required Match	\$4,671,296	\$4,774,519	\$4,774,751	\$5,041,685	\$5,003,785
Actual Match	\$4,671,296	\$4,774,518	\$4,774,751	\$5,041,684	\$5,003,785
Over (Under) Match	\$0	-\$1	\$0	-\$1	\$0
Carryover at 9/30 (year one)	\$0	\$0	\$0	\$0	\$0
Program Income	\$760,927	\$342,790	\$412,781	\$468,201	\$967,402
Maintenance of Effort (MOE)	\$4,397,454	\$4,471,264	\$4,671,296	\$4,774,518	\$4,774,751
Administrative Costs	\$3,374,576	\$3,205,868	\$2,544,287	\$2,764,542	\$2,974,056
*Total Expenditures	\$22,937,886	\$23,002,870	\$23,073,954	\$24,382,584	\$24,703,851
Percent Admin Costs to Total Expenditures	14.71%	13.94%	11.03%	11.34%	12.04%

*Includes Supported Employment Program Expenditures.

Fiscal Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that NMDVR is required to undertake. NMDVR must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist NMDVR to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action, including recovery of Title I VR funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of EDGAR.

1. Periodic Certification – Staff Working Solely on One Program

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 80.20(a) states:

(a) A State must exp[e]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:

- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix B, in pertinent part, states:

- 8.h.3 Where employees are expected to work solely on a single federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee.

Finding: NMDVR is not in compliance with 2 CFR part 225, Appendix B, paragraph 8.h.3, because the agency does not conduct periodic certifications for employees working solely on one federal grant program or cost objective. In failing to comply with this requirement, NMDVR is not able to ensure that the VR program is administered properly and efficiently, and that all VR funds are accounted for properly, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

As a recipient of VR funds, NMDVR is required to administer the program properly and efficiently (34 CFR 361.12 and 34 CFR 80.20(a)). NMDVR's administration of the VR program must ensure that VR funds are properly accounted for and that accurate data are collected and reported (*Id.*). In ensuring the proper administration of the VR program and accountability of VR funds, NMDVR must be able to document the time its staff spend on the VR program. Federal cost principles set forth requirements for ensuring the proper accounting of staff time, both for staff working full-time on one program and for staff splitting their time on multiple programs. In particular, 2 CFR part 225, Appendix B, paragraph 8.h.3, requires NMDVR employees or their supervisors to certify, at least semi-annually, that the employee worked solely on one grant program, or cost objective, during the period covered by the certification.

While onsite, RSA noted that NMDVR does not conduct semi-annual certifications for staff who work solely on one program, as required by 2 CFR part 225, Appendix B, paragraph 8.h.3. Furthermore, NMDVR does not require its staff to track their time to specific programs. Instead, the personnel documentation that RSA reviewed on-site indicated that NMDVR staff report their hours worked, but do not attribute those hours to any benefiting grant, regardless of whether the hours worked were attributed to one single grant or multiple grants, which made it impossible for RSA to determine which staff worked on a single grant. RSA's review of this matter is consistent with findings contained in the state's A-133 Audit Report, *State of New Mexico, Public Education Department Schedule of Findings and Questioned Costs* for the year ending June 30, 2006 (06-12). As part of that audit, the auditors reviewed 10 programs funded through the U.S. Department of Education and noted that all 10 of those programs were not in compliance with 2 CFR part 225, Appendix B, paragraph 8.h.3. Although the auditors did not specifically review NMDVR's VR program, the same requirement is applicable to the VR program.

Given this failure to ensure that the staff's time is certified at least twice a year, NMDVR has not complied with 2 CFR part 225, Appendix B, paragraph 8.h.3. By not complying with this certification

requirement, as well as not requiring its staff to track their time in accordance with the program worked, NMDVR also has not complied with 34 CFR 361.12 and 34 CFR 80.20(a), because NMDVR cannot ensure that the VR program has been administered properly and efficiently or that VR funds have been expended solely on allowable VR personnel costs.

Corrective Action 1: NMDVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with staff certification requirements set forth at 2 CFR part 225, Appendix B, 8.h.3; and
- 1.2 develop procedures that ensure, at a minimum, semi-annual certifications are completed for all employees working solely on one federal grant program, or cost objective, as required by 2 CFR part 225, Appendix B, paragraph 8.h.3.

2. Assigning Personnel Costs – Staff Working on Multiple Programs

Legal Requirements:

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that allowable expenditures made with Title I VR funds must be used solely for providing VR services to eligible consumers or administering the VR program.

34 CFR 361.5(b)(2) defines administrative costs for purposes of the VR program as those incurred in the performance of administrative functions under the program. The definition gives many examples of administrative costs, including those expenditures incurred for administrative salaries (including for those personnel who support these administrative functions).

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 80.20(a) states:

- (a) A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:
 - (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix A, in pertinent part, states:

- C.1 Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
 - a. Be necessary and reasonable for proper and efficient performance and administration of Federal Awards...
 - b. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

- F.1 General. Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs within a governmental unit department or in other agencies providing services to a governmental unit department. *Indirect cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived* (emphasis added)

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix B, paragraph 8, in pertinent part, states:

- 8.h.4 Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) ... Such documentary support will be required where employees work on: (a) more than one federal award; and (b) A federal award and a non-federal award.
- 8.h.5 Personnel activity reports or equivalent documentation must meet the following standards: (a) they must reflect an after-the-fact distribution of the actual activity of each employee; (b) they must account for the total activity for which each employee is compensated; (c) they must be signed by the employee; and (d) budget estimates or other distribution percentages determined before services are performed do not qualify as support for charges to federal awards but may be used for interim accounting purposes.

Findings: NMDVR is not in compliance with 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5, because personnel costs are not allocated appropriately using personnel activity reports to each program. As a result, the VR program bears a disproportionate share of the personnel costs that arise under other programs administered by NMDVR. Given this, NMDVR has not complied with 34 CFR 361.12 and 34 CFR 80.20(a), which requires NMDVR to administer the VR program in such a manner that ensures the proper expenditure and accounting of VR funds.

While onsite, RSA reviewed NMDVR's time distribution methodologies for personnel who work on more than one federal grant program or cost objective. RSA's review indicates that NMDVR does not require its employees to track their time according to the program worked or submit personnel activity reports or other supporting documentation. Instead, employees simply record the total number of hours worked. RSA's findings during this review are consistent with those found by the state auditor during

the state's A-133 Audit. As described in Finding 1 above, the auditor reviewed 10 programs funded by the U.S. Department of Education. The *State of New Mexico, Public Education Department Schedule of Findings and Questioned Costs* for the year ending June 30, 2006 (06-12) noted that all 10 of those programs audited also not complied with 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5. Although the auditors did not specifically review NMDVR's VR program, the same requirement is applicable to the VR program.

As part of this monitoring, RSA reviewed the personnel costs for those NMDVR administrative staff who perform work for multiple programs, including the VR, IL part B, Social Security Disability Determination Unit (DDS), and other grant awards/programs. According to the documentation RSA reviewed, NMDVR pays the total costs for these staff positions with VR funds. NMDVR then seeks reimbursements from those programs that are subject to an indirect cost rate. For example, DDS is housed within NMDVR and the DDS administrative functions are performed by NMDVR personnel. As stated earlier, NMDVR uses VR funds to pay the DDS personnel costs. However, NMDVR then charges DDS an indirect cost rate of 14.9 percent to reimburse the VR program for those personnel costs. NMDVR maintains no supporting documentation (e.g., personnel activity reports) to ensure that the 14.9 percent indirect cost rate charged to the DDS program is sufficient to reimburse the VR program in full for the personnel costs paid for the DDS unit.

Regulations at 34 CFR 361.3 require that VR funds must be used solely for the provision of VR services or for the administration of the VR program. To constitute an administrative cost under the VR program, the expenditure must be incurred in the performance of administrative functions of the VR program (34 CFR 361.5(b)(2)). Administrative salaries, including those for clerical and other support staff who work under the VR program, constitute a VR-related administrative cost (34 CFR 361.5(b)(2)(xi)). Personnel costs arising under the DDS or IL-part B programs, or other programs, do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, administrative expenditures for other programs are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds. Likewise, the allowable costs incurred to administer the DDS or IL-B program should be charged to that program. Given that NMDVR does not require its employees who work on multiple programs to submit personnel activity reports that accurately reflect the actual time spent on each program, NMDVR has not complied with 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5. Although NMDVR seeks reimbursement for the personnel costs paid with VR funds from some programs, such as the DDS, it does not ensure that the money collected is sufficient to reimburse the VR program for the full amount paid on that program's behalf. Therefore, NMDVR is using VR funds to cover administrative costs that should not be borne by the VR program and, As a result, NMDVR has not ensured that it administers the VR program in a proper and efficient manner and accounts for all funds accurately or has the controls in place necessary to ensure the proper disbursement of and accounting for those funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 2: NMDVR must:

- 2.1 cease using Title I funds for personnel costs that do not arise under the administration of the VR program and that are not supported by documentation (e.g., personnel activity reports), pursuant to 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5;
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it

will comply with section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3, by ensuring that VR funds are spent solely on allowable VR expenditures; NMDVR must assure that it will comply with 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5, by ensuring that staff working on multiple programs complete personnel activity reports and that the programs are charged an appropriate and allocable amount for personnel costs; and NMDVR must assure that it will comply with 34 CFR 361.12 and 34 CFR 80.20(a), by ensuring that the VR program is administered in such a manner that ensures the proper expenditure and accounting of VR funds;

- 2.3 submit a spreadsheet that details the non-VR personnel costs expended with VR funds for FY 2005 through FY 2010; and
- 2.4 submit a plan, including timelines, describing the corrective actions that will be taken to ensure:
 - a) personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs to the appropriate program for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and,
 - b) personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by NMDVR (excluding the SE program under Title VI-B, which can legally be charged to the VR program).

3. Financial Reporting – Failure to Submit Timely Reports

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 364.34 states:

In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 80.20(a) states:

- (a) A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
 - (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.41(b), in pertinent part, states:

- (b) Financial Status Report—(1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with §80.41(e)(2)(iii).

- (3) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.
- (4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

Finding: NMDVR is not in compliance with 34 CFR 80.41(b), because DVR has not submitted required financial and statistical reports in a timely manner for the VR, SE, and IL programs. In failing to submit these reports as required, NMDVR has not complied with 34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a), which require the agency to administer the programs in a manner necessary to ensure the proper disbursement of and accounting for Federal funds in accordance with federal requirements, including those for reporting.

Federal regulations require that all recipients of federal funds must accurately report the results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). Financial reporting requirements are set forth at 34 CFR 80.41(b). NMDVR, as a recipient of federal VR, SE, and IL funds, must comply with the requirements of 34 CFR part 80, including the reporting requirements (34 CFR 361.4(a)(5), 34 CFR 363.5(a)(4), and 34 CFR 364.3(a)(6)). RSA requires that agencies submit VR program “Financial Status Reports,” SF-269/SF-425, on a quarterly basis (34 CFR 80.43(b)(3)). The SF-269/SF-425 for the VR program is due 30 days¹ after the end of each reporting quarter (e.g., 10/30, 1/31, 4/30, and 7/30). SF-269/SF-425s must be submitted for the IL Part B and SE programs on an annual basis (34 CFR 80.41(b)(3)). The SF-269/SF-425s are due no later than 90 days after the end of the grant period (e.g., 12/30) (34 CFR 80.41(b)(4)). Final reports for all programs are due no later than 90 days after the expiration of the grant support (*Id.*). The reports may be submitted electronically through RSA’s Management Information System (MIS).

NMDVR has not submitted, or was late in submitting, required SF-269/SF-425 reports for the following fiscal years:

- FY 2008 – Final SF-269 report for IL was submitted 6/30/2010. It should have been submitted no later than 12/30/09 (90 days after the end of the carryover year);
- FY 2008 – Final SF-269 report for SE has not been submitted (due 12/30/09);
- FY 2009 – Annual SF-269 reports for IL and SE have not been submitted (due 12/30/09);
- FY 2010 - First quarter SF-425 report for VR has not been submitted (due 2/15/10).

¹ Pursuant to the instructions for completing the SF-425, grantees required to submit the form on a quarterly basis must do so within 45 days of the end of the applicable quarter. This means that the SF-425s for the VR program are due 11/15, 2/15, 5/15, and 8/15. The SF-425s for those grantees reporting on an annual basis are still due 90 days after the end of the grant period (e.g., 12/30).

RSA utilizes financial reports, such as the SF-269 and SF-425, as the basis for establishing national data trends and norms from which to compare agencies. Therefore, NMDVR's failure to submit the required reports affects RSA's ability to develop accurate databases from which to conduct program analyses and develop reports, as required by sections 12 and 13 of the Rehabilitation Act. By failing to submit reports for certain years NMDVR has not complied with the requirements of 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41.

Corrective Action 3: NMDVR must:

- 3.1 cease not submitting or submitting untimely financial and statistical reports, namely the SF-269 and SF-425;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the timeliness of future financial and statistical reports submitted on behalf of the VR, SE, and IL-part B programs, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41(b);
- 3.3 submit all required SF-269/SF-425s for FYs 2008 through 2010; and
- 3.4 submit a plan, including timelines, describing the steps NMDVR will take to ensure timeliness of the financial and statistical reports, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41(b).

4. Internal Controls – Failure to Monitor Contractors and Verify Certain Expenditures

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 80.20(a), in pertinent part, requires that:

(a) A state must exp[e]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.36(a) states:

(a) *States.* When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other grantees and subgrantees will follow paragraphs (b) through (i) in this section.

34 CFR 80.40(a) states:

- (a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

Findings: As a recipient of federal funds, NMDVR must have procedures in place so it can administer the VR program and carry out all required functions properly and efficiently (34 CFR 361.12). These procedures must enable NMDVR to ensure accurate financial accountability for the VR program (*Id.*). NMDVR must have fiscal controls in place that enable it to expend and account for the VR funds to such a degree that it can trace the funds for each activity to ensure that the funds were expended in accordance with federal requirements (34 CFR 80.20(a)). NMDVR is permitted to use federal funds awarded under the VR grant to procure goods and services from another entity. In doing so, NMDVR must comply with the same policies and procedures it would follow in procuring goods and services with non-federal funds (34 CFR 80.36(a)). Regardless of whether DVR provides goods and services directly or procures them from another entity, NMDVR is required to monitor and manage the day-to-day operations of all grant-supported activities (34 CFR 361.40(a)). NMDVR contracts for VR services constitute a grant-supported activity and must be monitored by NMDVR to ensure compliance with all Federal requirements and performance goals are achieved.

- A. During the monitoring process, RSA reviewed several contracts that NMDVR has entered into with various entities. While most of the contracts establish performance goals that must be achieved, RSA saw no evidence while onsite that NMDVR actually monitors the contractors, as required by 34 CFR 80.40(a). For example, RSA reviewed a contract that NMDVR entered into with New Vistas to improve outreach to 19 Pueblos and 2 Apache tribes. The contract took effect July 1, 2006, and covered a four-year period. In that contract, NMDVR agreed to pay New Vistas \$300,000 per year for services rendered. The contract was very specific about the performance goals to be achieved by New Vistas. RSA reviewed at least one of the monthly progress reports submitted by New Vistas to NMDVR. In that report, covering February 2010, New Vistas submitted data demonstrating that it substantially complied with most of the performance goals. However, there were a few performance goals for which New Vistas appeared to fall (or be falling) short of the required goals. For example:
- New Vistas was required to perform a minimum of two monthly education and awareness outreach activities at each Pueblo or Reservation. Given that the agreement required New Vistas to serve 19 Pueblos and 2 Apache Tribes, New Vistas should have performed 42 education and awareness outreach activities each month ($2 \times 21 = 42$). In the February 2010 progress report, New Vistas reported only providing two education and awareness outreach activities statewide – 40 less than it was required to do that month.
 - The contract required New Vistas to average two successful closures per Pueblo/Tribe per each fiscal year. This would mean that New Vistas would have 42 successful closures by the end of each fiscal year. According to the February 2010 progress report submitted by New Vistas to NMDVR, New Vistas had only achieved six successful closures for the period of July 1, 2009 through February 28, 2010. At this rate and with only four months left in the state fiscal year covered by that contract year, New Vistas appeared to be falling significantly short of achieving that performance measure by the end of the fiscal year.

RSA saw no evidence, nor did NMDVR provide such evidence, that NMDVR monitored New Vistas to address those performance measures for which New Vistas was falling short of meeting the required goals, such as those described above. As a recipient of federal funds, NMDVR must monitor all grant-supported activities, including those performed by New Vistas, to ensure compliance with federal requirements and that performance goals are achieved (34 CFR 80.40(a)). By failing to provide this monitoring and oversight, NMDVR cannot ensure the VR program is administered in a proper and efficient manner and that funds are spent and accounted for properly (34 CFR 361.12 and 34 CFR 80.20(a)).

- B. RSA also reviewed NMDVR's practice of providing payment of funds directly to consumers. As part of that review, RSA noted that NMDVR does not maintain receipts or other documentation supporting that the consumers used the payments for appropriate VR expenditures. For example, in those instances where DVR provided money for gas, the consumer was not required to submit mileage logs to verify that the funds were spent for that purpose. Similarly, consumers were not required to submit receipts for housing expenses or other expenses for which NMDVR had provided funds. Furthermore, RSA saw no evidence, nor was any provided by NMDVR, that NMDVR monitors the payments it made to consumers, to ensure that the funds were spent on allowable VR costs. In failing to conduct the monitoring of these payments, as required by 34 CFR 80.40(a), or obtaining documentation to verify that VR funds were used solely for allowable purposes, NMDVR cannot ensure that the VR program is administered properly and efficiently and that funds are spent solely on allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 4: NMDVR must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); NMDVR also must assure that it will monitor all grant-supported activities, including those performed by contractors, to ensure Federal requirements are satisfied and that performance goals are met, as required by 34 CFR 80.40(a); and
- 4.2 develop and implement procedures to ensure that:
 - fiscal controls permit the tracking of expenditures necessary to ensure that the funds are not used in violation of restrictions and prohibitions of applicable statutes;
 - internal controls are in place to ensure that all program assets are maintained and accounted for, and used solely for authorized purposes; and
 - NMDVR monitors all grant-supported activities.

5. Questioned Costs and Failure to Monitor – Office of African American Affairs Agreement

Legal Requirements:

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that allowable expenditures made with Title I VR funds must be for providing VR services to eligible consumers or administering the VR program.

34 CFR 361.5(b)(2) defines administrative costs for purposes of the VR program as those incurred in the performance of administrative functions under the program. The definition gives many examples of administrative costs, including those expenditures incurred for administrative salaries (including for those personnel who support these administrative functions).

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 361.49(a)(6) states:

(a) The designated State unit may also provide for the following vocational rehabilitation services for the benefit of groups of individuals with disabilities:

(6) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual. Examples of those other services might include the purchase or lease of a bus to provide transportation to a group of applicants or eligible individuals or the purchase of equipment or instructional materials that would benefit a group of applicants or eligible individuals.

34 CFR 80.20(a) states:

(a) A State must exp[er]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix A, paragraph C, in pertinent part, states:

C.1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

- a. Be necessary and reasonable for proper and efficient performance and administration of Federal Awards...
- b. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

- 3.a. A cost is allocable to a particular cost objective if the goods and services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.

Finding: From SFY 2004 through SFY 2007, NMDVR entered into an agreement with the New Mexico Office of African American Affairs (OAAA). The purpose of the agreement was to “fulfill

activities identified in the NMDVR State Plan to provide and increase services to potential clients of NMDVR in seeking jobs in unserved and underserved areas” (SFYs 2005 through 2007 Agreements, p. 1). The agreement each year focused on seven areas identified as unserved and underserved in the state of New Mexico (*Id.*). The Scope of Work for each agreement was related to “education, employment, and youth at risk for delinquency, school dropout, drug and other substance abuse” (*Id.* at Exhibit A). The SFY 2004 agreement made it clear that the individual who would perform the activities under the agreement was a NMDVR employee temporarily assigned to OAAA (SFY 2004 Agreement, page 1). The NMDVR employee provided to OAAA was responsible for performing specific activities, including:

- Meet with community members to review the specific concerns of each community.
- Collect population and demographic information, including the number of students in the individual high schools, the ethnicity of the students, student assets, and risk behaviors.
- Contact and collaborate with key individuals in the African American community.
- Identify African American high school students in terms of whether they are at risk for drop out, delinquency, drugs, and possible entry into the criminal justice system; and/or whether they are in regular education, or receiving special education or section 504 services;
- Conduct student/parent nights to provide information, including information about rights;
- Collaborate with staff in the Juvenile Justice system to identify youth who are at risk of entering the system – conduct assessment mapping. Assist youth who are already in the Juvenile Justice system with job placement, to help ensure a smooth transition into society.
- Work in conjunction with DVR and TRACE (Transition into Registered Apprenticeship Careers and Employment) to assist with school to work transition and job placement services.
- Conduct a Job Fair and/or Workshop which will address how to find a job, resume writing, job placement, etc.; and
- Foster a relationship with employers and the Department of Labor to identify jobs in the community and set up job banks (SFYs 2005 through 2007 Agreements, at Exhibit A).

In all but one year, OAAA provided “the funding necessary to support the activities” outlined in the scope of work (*Id.* at page 1).

As a recipient of VR funds, NMDVR must ensure that the VR program is administered in a proper and efficient manner that permits the proper expenditure and accounting of VR funds (34 CFR 361.12 and 34 CFR 80.20(a)). VR funds must be used solely for the administration of the VR program and for the provision of VR services (34 CFR 361.3). Administrative costs can include salaries for staff working on VR program matters, including clerical and other support staff (34 CFR 361.5(b)(2)(xi)). Funds spent for the provision of VR services may be spent in providing services to individual consumers pursuant to an IPE (34 CFR 361.48) and to groups of individuals with disabilities (34 CFR 361.49). Furthermore, the federal cost principles require that costs must be necessary and reasonable for carrying out the program in order to be allowable (2 CFR part 225, Appendix A, paragraph C.1).

In this case, the activities described above are clearly not related to any individual’s IPE and, therefore, do not satisfy the requirements of 34 CFR 361.48. It is unclear whether the activities performed under the agreements constitute services to groups of individuals for purposes of the VR program pursuant to 34 CFR 361.49. While it appears that some of the activities could benefit groups of individuals with disabilities, the target population served under the agreements does not appear to be limited to

individuals with disabilities. According to the agreements reviewed by RSA, the population served under the agreements were individuals in unserved and underserved African American communities. These individuals may or may not be individuals with disabilities. In order to constitute an allowable service to groups under the VR program, the service must be provided to groups of individuals with disabilities and the service must promise to contribute substantially to the rehabilitation of groups of individuals with disabilities (34 CFR 361.49(a)(6)). RSA will need further information regarding the individuals served under these agreements in order to determine whether the funds expended under the agreements were for allowable VR costs.

Similarly, NMDVR must use allowable non-Federal expenditures to meet its match requirement under the VR program (34 CFR 361.60(b)(1) and 34 CFR 80.24(a)(1)). As stated above, it is unclear whether the services provided under the OAAA agreements constituted an allowable VR service. Therefore, RSA will need further information to determine NMDVR's level of compliance with 34 CFR 361.60(b)(1) and 34 CFR 80.24(a), to the extent NMDVR incurred non-Federal expenditures under the OAAA agreements which were used for VR match purposes.

Furthermore, as a recipient of Federal funds, NMDVR must monitor the day-to-day activities of all grant-supported activities (34 CFR 80.40(a)). In this case, Attachment A of each of the agreements required that the employee providing the services under the agreements would provide regular reports to NMDVR and OAAA about her activities. There was no mention in the agreements as to the purpose of these reports and whether NMDVR would use them to monitor her activities to ensure compliance with Federal requirements and ensure that performance goals were achieved. While onsite, RSA questioned NMDVR management about its monitoring activities with regard to the OAAA agreements. As noted in other findings above, NMDVR confirmed that it had not monitored the activities performed under the OAAA agreements, as it was required to do pursuant to 34 CFR 80.20(a).

Corrective Action 5: NMDVR must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that VR funds will be spent solely on allowable expenditures, as required by 34 CFR 361.3, and that non-federal expenditures used for VR match purposes also will be incurred solely for allowable expenditures, as required by 34 CFR 361.60(b)(1) and 34 CFR 80.24(a)(1); NMDVR must assure that it will administer the VR program in a proper and efficient manner that ensures the proper expenditure and accounting of VR funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); finally, NMDVR must assure that it will monitor the day-to-day operations of all grant-supported activities, including those performed by contractors, to ensure compliance with federal requirements and that performance goals are achieved; and
- 5.2 submit detailed fiscal data regarding the OAAA Agreement from SFY 2005 through 2007. Data must include all funds expended – federal and non-federal, including indirect and other administrative costs attributable to the activities performed under the agreements. The data must also include information about the individuals served, differentiating between those individuals served who were not disabled versus those served who were individuals with disabilities.

Technical Assistance

This section of the chapter describes the technical assistance provided by RSA to NMDVR during the course of the review. The technical assistance requested by NMDVR to enable it to carry out the corrective actions set forth above is contained in Appendix A to the report titled “Agency Response.”

Technical Assistance Provided

To enable the agency to improve its fiscal management processes, RSA provided technical assistance to NMDVR during the review process regarding:

- Contract Management and Internal Controls;
- Allocation of Personnel Costs and Participant Activity Reports; and
- Federal Financial Reporting.

PART II: REVIEW OF NEW MEXICO COMMISSION FOR THE BLIND

EXECUTIVE SUMMARY

During fiscal year (FY) 2010, the Rehabilitation Services Administration (RSA) reviewed the performance of the following programs authorized by the *Rehabilitation Act of 1973*, as amended (the Act) in the state of New Mexico:

- the vocational rehabilitation (VR) program, established under Title I;
- the supported employment (SE) program, established under Title VI, part B; and
- the independent living services program for older individuals who are blind (OIB), established under Title VII, Chapter 2.

New Mexico Administration of the VR, SE, and OIB Programs

The New Mexico Commission for the Blind is an independent commission within the state structure of New Mexico and administers the vocational rehabilitation (VR) program, established under Title I; the supported employment (SE) program, established under Title VI, part B; the independent living (IL) program, in collaboration with NMDVR, authorized under Title VII, part B; and the independent living services program for older individuals who are blind (OIB), established under Title VII, Chapter 2.

NMCB Performance over the Past Five Years

Based on data provided by NMCB through various RSA reporting instruments, the agency's employment rate decreased from 53.33 percent to 42.11 percent during the period beginning in FY 2004 and ending in FY 2008. Over this same period, the number of applicants for VR services decreased from 153 to 106; the number of individuals who received services under an individualized plan for employment decreased from 101 to 85; and the number of individuals the agency assisted to achieve employment increased from 40 to 45. From FY 2004 through FY 2008, the average hourly earnings of those individuals who achieved employment increased from \$23.81 to \$24.31. Of those individuals who achieved an employment outcome, the number who achieved a supported employment outcome increased from 0 to 3.

Either directly, or through grants or contracts with centers for independent living (CILs) and other service providers, the number of individuals served through the NMCB OIB Program increased from 350 in FY 2004 to 435 in FY 2008.

Observations of the Agency and Stakeholders

Through the course of the review, agency personnel and representatives of stakeholders, such as the NMCB Commission Board, State Rehabilitation Council (SRC), Statewide Independent Living Council (SILC) and the Client Assistance Program (CAP), shared information regarding the administration and performance of the NMCB VR, SE, IL and OIB programs. During the review, they observed that:

- there is a strong level of collaboration between NMCB and the New Mexico School for the Blind and Visually Impaired (NMSBVI);
- there is a need for better collaboration between NMCB and the New Mexico school districts;
- NMCB assisted individuals to achieve employment with high average hourly earnings over the past several years.

Strengths and Challenges:

Based on the observations from the agency and its stakeholders and other information gathered through the review process, RSA concluded that NMCB exhibited a variety of strengths that enhanced, and experienced a number of challenges that inhibited, its ability to improve the performance of its VR, SE and OIB programs.

NMCB provides a variety of services, including training in the techniques and skills of blindness and postsecondary education that enable individuals to achieve high-quality employment outcomes. Individuals who obtain competitive employment typically earn high hourly wages, work full-time and receive employer-paid medical benefits.

The Commission emphasizes the importance of adjustment to blindness services in enabling individuals to obtain and maintain employment. The agency provides such services through a variety of means and in different settings, depending on the needs of each individual. For example, it operates a nine-month residential training center at which individuals receive orientation and mobility training, assistive technology services and instruction in the use of Braille. This training focuses on the achievement of employment. To ensure that the needs of individuals who do not participate in the residential program are met, NMCB provides opportunities to receive similar services in the community where these individuals reside through persons employed by the agency.

However, during the course of the review RSA identified numerous instances of inaccurate and incomplete reporting of programmatic and fiscal data, severely hindering its ability to effectively and efficiently manage the VR and OIB programs. Lacking this information, the agency cannot address the decline in performance related to the number of individuals applying for and receiving services and the outcomes achieved. In addition, NMCB does not collect specific data related to referral sources, particularly for transition-age youth. Again, without this information it cannot develop an effective outreach strategy and increase the number of students with disabilities it serves.

Finally, NMCB experienced challenges in the fiscal administration of its VR and other grant programs. For example, by not taking the steps necessary to document staff time devoted to individual grants, the agency did not ensure the proper expenditure of grant funds and the VR program bore a disproportionate share of these costs attributable to the IL and OIB programs. In addition, the agency charged costs that were determined to be unallowable and unallocable to the grants to which they were attributed. Furthermore, NMCB demonstrated considerable difficulty in the preparation and submission of accurate and timely financial and statistical reports, limiting its ability to administer its grant programs in a proper and efficient manner.

Acknowledgement

RSA wishes to express appreciation to the representatives of the NMCB, the NMCB Commission Board, SRC and the stakeholders who assisted the RSA monitoring team in the review of NMCB.

CHAPTER 1: VOCATIONAL REHABILITATION AND SUPPORTED EMPLOYMENT PROGRAMS OF THE NMCB

VR and SE Program Systems

The following sections of this chapter describe the manner in which NMCB administers and operates the VR and SE programs through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance and planning.

Service Delivery

The NMCB is an independent commission with a three-member board. Because the board does not meet the federal requirements for the membership of independent commissions, NMCB also has established an SRC, the membership of which meets the requirements of Section 105 of the Rehabilitation Act. The agency's senior management consists of an executive director and four deputy directors -- finance and administration, vocational rehabilitation, independent living services, and the director of the orientation and mobility (O & M) center in Alamogordo, New Mexico. NMCB provides services through four district offices and employs eight VR counselors statewide (four counselors in Albuquerque and four located in each of the four corners of the state), four assistive technology specialists and eight IL teachers.

NMCB operates an orientation center for the blind in Alamogordo, New Mexico, located approximately 3.5 hours south of Albuquerque. The center offers residential adjustment to blindness training with a current capacity of 15 full time students. At the time of the RSA on-site visit to the center, there were 12 full time residential students. There are 15 full time staff positions at the center, including: the acting director, six dormitory staff, and six instructors for O & M, living skills, assistive technology, Braille, and industrial arts. The center is currently short-staffed, with three instructor positions vacant. The annual budget for the center ranges from \$800,000 to \$1 million. The center was reviewed by the Council on Accreditation of Rehabilitation Facilities (CARF) in September of 2009, after which the Center received a one-year conditional accreditation until September, 2010.

NMCB maintains cooperative agreements with approximately ten CRPs across the state for the provision of placement and supported employment services. The CRPs also provide an array of other services that include evaluation and assessment, training, and follow-up services. Though many of the agency's VR counselors directly place individuals into employment, NMCB also contracts with CRPs to provide these services. CRPs provide supported employment and other services through milestone contracts and receive payments when individuals complete the various stages of the VR process, including assessment, placement, four weeks of job-retention, ten weeks of job retention and stabilization and successful rehabilitation, for a total of \$3,800 - \$6,800.

NMCB provides transition services through collaboration with the state's 89 school districts. The Commission offers a summer program, the Students in Transition to Employment Program (STEP) that provides work experiences and skills training to approximately 35 transition students each summer (15 in the O & M center, 10 community placements around the state and 12 placements in Albuquerque). Typically, the agency's counselors begin working with transition students at the age of 14, attending IEP

meetings and providing assistive technology services to students in the junior or senior year of high school. VR counselors provide career guidance and counseling and may provide community-based work experiences, participation in the O & M center, as well as placement and follow-up services. In FY 2008, 26.6 percent of NMCB's total caseload consisted of transition-age youths, higher than the peer average of 15 percent as well as the national average for blind agencies of 14.33 percent. The employment rate for this population was reported at 42.11 percent for FY 2008, lower than the national average for blind agencies of 53.39 percent, and lower than the peer average of 60 percent.

Personnel

NMCB employs 78 staff, the breakdown of which is presented in Table 1.1 below.

Table 1.1
NMCB Personnel Data: Job Categories and Number of Staff in Each Category FY 2008

Position	Number of Staff
Rehabilitation Counselor	8
Rehabilitation/IL Teachers	8
IT Network Specialist	1
HR, Training, and Labor Specialist	1
Assistive Technology Specialist	4
Receptionist	1
Business Enterprise Director	1
Business Operations Specialists	4
Orientation Center Instructors	6
Orientation Center Dormitory Staff	6
Reader/Drivers	4.5
Director of Budget and Finance	1
Financial Specialists	3
Executive Director	1
Administrative Assistant	1
Secretaries	11
Deputy Directors	4
Staff Manager for VR Programs	1
Holloman AFB Switchboard	8.5
Maintenance and Repair Worker	3
Total	78

To ensure a high standard of competency and credentials for its qualified rehabilitation professionals under the CSPD, NMCB requires a master's degree in rehabilitation counseling, state licensure or certified rehabilitation counseling (CRC) certification. At present, three of the agency's eight counselors have CRC certification, one has alternative state licensure and is eligible to sit for the CRC, and one has state licensure. The remaining three counselors have recently completed a master's degree in rehabilitation counseling and were planning to sit for the CRC examination in calendar year 2010 and 2011.

Data and Case Management

The use of quantitative data is not well integrated into NMCB's processes. The Commission does not disaggregate data by types of plans, outcomes or experiences of users to try to discern patterns or commonalities in performance that may lead to a better understanding of the effectiveness of the VR process. The comprehensive statewide needs assessment (CSNA) is conducted at a broad level; opportunities exist for addressing a broader range of data than is currently the case.

Quality Assurance

NMCB's quality assurance system focuses primarily on case management practices. NMCB conducts statewide case reviews every three years as part of its quality assurance efforts. NMCB leadership selects 12 cases from each caseload with a total sample of 692 cases. In addition, each manager reviews and scores 2 cases per month as an ongoing effort to maintain high-level casework. NMCB does not have an evaluation process for CRP performance. NMCB's Orientation Center is accredited by CARF and the National Blindness Professional Certification Board.

Planning

NMCB engages in the VR program planning required pursuant to the Rehabilitation Act independently of the strategic plan process required by the state of New Mexico. The state planning process focuses upon short-term (one year or less) objectives and does not address long-term planning. In addition, the Commission's VR State Plan includes three annual goals related to the number of quality employment outcomes for blind or visually impaired consumers, the average hourly wages for individuals achieving employment and the number of employment opportunities provided for blind entrepreneurs in different vending and food facilities through the Business Enterprise Program.

VR and SE Program Performance

The following table provides data on the performance of the VR and SE programs administered by NMCB in key areas from FY 2004 through FY 2008.

Table 1.2

NMCB Program Highlights Fiscal Years 2004 through 2008

Program Highlights	2004	2005	2006	2007	2008
Total funds expended on VR and SE	\$5,877,246	\$6,136,206	\$5,226,333	\$5,481,182	\$5,156,627
Individuals whose cases were closed with employment outcomes	40	47	42	42	45
Individuals whose cases were closed without employment outcomes	29	51	40	41	29
Total number of individuals whose cases were closed after receiving services	69	98	82	83	74
Employment rate	57.97 %	47.96 %	51.22 %	50.60 %	60.81 %
Individuals whose cases were closed with supported employment outcomes	—	—	—	1	3
New applicants per million state population	80	81	61	60	53
Average cost per employment outcome	\$12,461	\$8,528	\$14,569	\$15,281	\$15,690
Average cost per unsuccessful employment outcome	\$3,395	\$7,729	\$7,846	\$7,894	\$8,809
Average hourly earnings for competitive employment outcomes	\$19.08	\$16.53	\$14.69	\$17.44	\$20.15
Average state hourly earnings	\$14.89	\$15.59	\$16.31	\$17.23	\$18.04
Percent average hourly earnings for competitive employment outcomes to state average hourly earnings	128 %	106 %	90 %	101 %	112 %
Average hours worked per week for competitive employment outcomes	31.3	32.2	30.0	32.9	32.2
Percent of transition age served to total served	21.74 %	14.29 %	23.17 %	33.73 %	25.68 %
Employment rate for transition population served	53.33 %	21.43 %	36.84 %	57.14 %	42.11 %
Average time between application and closure (in months) for individuals with competitive employment outcomes	43.6	28.2	46.9	49.7	48.4
Performance on Standard 1 (Pass/Fail)		P	P	P	P
Performance on Standard 2 (Pass/Fail)		F	F	F	P

Areas of Consistently High or Improved Performance

1. Average Wages Earned by Individuals who Achieve an Employment Outcome

NMCB has consistently achieved very high performance in the average wages earned by individuals who exit the VR program with a competitive employment outcome. As indicated in Table 1.3 below, between FY 2004 and FY 2008, NMCB passed RSA's primary indicator 1.5 each year. The average VR wage not only exceeded RSA's minimum performance standard for this indicator, but exceeded the state average wage, is the highest among the agency's peers to which it was compared for this review, and higher than any other VR agency.

Table 1.3
NMCB Results for Indicator 1.5: Ratio of Average Hourly VR Wage to Average State Hourly Wage Fiscal Years 2004 through 2008

Calculation	2004	2005	2006	2007	2008
Average hourly wage of competitively employed	\$15.26	\$17.71	\$15.65	\$16.06	\$18.84
State average hourly wage	\$14.61	\$15.27	\$15.93	\$16.77	\$17.65
RSA Minimum Performance Level: .59	1.045	1.160	0.982	0.958	1.067
Pass (P) or Fail (F)	P	P	P	P	P

Note: Calculation for blind agencies is based on data for two consecutive years.

VR/SE Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that NMCB take specific steps to improve the agency's performance associated with each of the observations.

1. VR Performance

Observation: NMCB experienced a decline during the period under review in various outcome performance areas. As a result, NMCB served fewer individuals, did not meet RSA's performance standard 1.2 measuring the ratio of those who exit the program with an employment outcome and those who receive services and exit without an employment outcome, and continued to lengthen the time for individuals to exit the program.

- Between FY 2004 and FY 2008, NMCB experienced a steady decline in the number of applicants, new eligibility determinations, and individuals served, while achieving approximately the same number of employment outcomes each year. Additionally, NMCB consistently performed at a lower rate than its peer agencies to which it was compared for this review. In FY 2008, the average time individuals remained in the program was 55 months for all closures, and 48 months for those who exited with an employment outcome.

- From FY 2004 to FY 2008, NMCB experienced a decline of new applicants from 152 to 106, with a parallel decline in the number of individuals determined eligible for services during that period from 126 in FY 2004 to 87 in FY 2008. The average number of new applicants for NMCB's peers in FY 2008 was 168. Similarly, the average number of new individuals in an individualized plan for employment (IPE) was 85 for NMCB, and 120 for its peers, with only Iowa blind reporting slightly fewer new individuals in a plan.
- NMCB's employment outcomes remained relatively consistent over five years, from FY 2004 to FY 2008, with 40 individuals exiting the program with an employment outcome in FY 2004, and 45 in FY 2008 (the agency achieved 45 employment outcomes in both FY 2009 and in FY 2008, resulting in the agency passing RSA performance indicator 1.1 for FY 2009). However, this was the lowest performance among its peers, at less than half of the peer average of 93.
- Of the 45 individuals who achieved an employment outcome in FY 2008, 37 were placed in competitive employment without supports, well below the peer average of 81. Of the 37 competitively employed individuals placed by NMCB, 19 were employed at application, and another five had received services and achieved employment during the previous three years. This resulted in the lowest performance among its peers for the average number of employment outcomes per NMCB staff at 0.74 compared to 2.38, and the highest cost per employment outcome at \$114,591 compared to the peer average of \$59,714.
- Despite maintaining a relatively steady number of employment outcomes, NMCB continued to fail RSA's performance standard 1.2 that measures the ratio of those who exit the program with an employment outcome, and those who receive services and exit without an employment outcome. The performance standard for agencies serving the blind is a ratio of 0.68, and in FY 2008, NMCB achieved a ratio of 0.55. In FY 2009, the ratio declined to 0.37.
- NMCB's average time for an individual to navigate through the VR process, from application to closure, continued to lengthen. In FY 2004, the average time between application and case closure for those individuals who achieved an employment outcome was 40 months, and by FY 2008, the average time increased to 45 months, while the peer average was 33. The overall average number of months from application to closure for all individuals who exited NMCB grew to 55 months by FY 2008, including an average of 62 months for those who were placed through the business enterprise program (BEP), 67 months for those individuals employed with supports (in FY 2008, only three individuals were closed as employed with supports).
- RSA recognizes NMCB's strong commitment to the individuals it serves, and the success the agency has had with those who do achieve an employment outcome. For example, NMCB consistently passed RSA performance standard 1.5 that measures the ratio of the average VR wage to the average state wage. In FY 2008, the average VR wage for individuals achieving a competitive employment outcome was \$20.15, higher than the state average wage of \$17, and much higher than its peer average of \$12.90 an hour.
- Additionally, more than half of the individuals closed in competitive employment, 20 of 37, worked more than 35 hours per week and earned above what the Social Security

Administration considers substantial gainful activity (SGA), and 22 of the 45 individuals received medical benefits from their employer.

Recommendation 1: RSA recommends that NMCB:

- 1.1 develop and implement program goals designed to increase the number of individuals served by the agency, including outreach efforts to under-served and unserved populations in New Mexico; and
- 1.2 implement quality assurance practices to ensure that individuals move through the VR system in a timely manner.

2. Services to Transition-Age Youths

Observation: NMCB could be serving more transition-age youths and could increase the employment rate for this population. The Commission does not accurately code its referral sources for transition-age youths. NMCB does not have a verifiable outreach strategy to target specific referral sources due to inaccuracies in its coding of referral sources. As a result of inaccurate coding of referral sources, NMCB cannot develop a reliable outreach strategy to increase the number of transition-age youths served by the agency, and some individuals may not be able to access VR program services.

- In FY 2008, 26.6 percent of NMCB's total caseload was transition-age youths, which is higher than the peer average of 15 percent as well as the national average for blind agencies of 14.3 percent. In raw numbers, NMCB served 19 transition-age youths in FY 2008, which is a decrease from 28 transition-age youths served in FY 2007.
- In FY 2008, the employment rate for transition-age youths was 42.1 percent with eight transition-age youths achieving an employment outcome and eleven transition-age youths exiting the VR program without an employment outcome. NMCB's employment rate for transition-age youths in FY 2008 was lower than both the national average for blind agencies of 53.4 percent and the peer average of 60 percent. This is also a decline from FY 2007 when 16 transition-age youths achieved an employment outcome, resulting in an employment rate for transition-age youths of 57 percent during that year.
- In FY 2008, 47.4 percent of referral sources for transition-aged youths were coded as "other," and 15.8 percent were coded as "self-referral." The remaining referrals for FY 2008, 36.8 percent, came from "elementary / secondary schools." Given that over 50 percent of NMCB's referral sources are coded as "other" or "self-referral," NMCB should capture referral sources more accurately.
- NMCB does not have an organized outreach strategy in order to receive referrals with more vocational potential and increase the number of transition-age youths served and rehabilitated. By accurately coding referral sources and obtaining a more precise picture of the agency's referral sources, NMCB will be able to target outreach strategies to those entities that are not referring transition-age youths to NMCB. By more accurately targeting referral sources, NMCB should see an increase in the total number of transition-age youths served and successfully rehabilitated.

Recommendation 2: RSA recommends that NMCB:

- 2.1 more accurately code referral sources;
- 2.2 evaluate referral sources and develop a targeted outreach strategy to entities that are not referring cases to NMCB in order to bring in additional transition-age youths to the agency;
- 2.3 increase the number of transition-age youths served and rehabilitated;
- 2.4 increase the employment rate for transition-age youths by instituting a QA review of closed cases of transition-age youths that were unsuccessfully served, and, as appropriate, identify strategies to improve services to the target population; and
- 2.5 train staff on improved practices and strategies to serve transition-age youths.

3. Residential Training Services at the Orientation Center for the Blind

Observation: Over the course of the past five years, there was a significant decline in the number of individuals receiving residential adjustment to blindness training at the Orientation Center for the blind in Alamogordo. As a result, there are blind individuals in New Mexico who have not benefited from this service. Beginning in FY 2010, NMCB took direct action to reverse this trend, including seeking CARF accreditation, appointing new leadership of the Center, and developing new strategies to rebuild the Center’s profile in the community. NMCB will need to continue its efforts to expand the range and scope of outreach activities and program adjustments in order to maximize the Center as a resource for providing direct services to VR consumers.

- The Orientation Center is located approximately four hours south of Albuquerque in Alamogordo. The Center has a current capacity of 15 full time residential students, and has 12 full time staff, plus three staff vacancies. The annual operating budget, including the provision of direct services, ranges from \$800,000 to \$1 million.
- RSA visited the Orientation Center during the course of the on-site review in May, 2010. While at the Center, RSA reviewers met with the acting director, toured the facilities, and had the opportunity to meet and speak with many of the instructors and students. RSA and the acting director discussed the history of the Center, its role as a key provider of blindness training to Commission clients, and how the Center curriculum embodies the values of the VR agency. The acting director shared with RSA how the Center operates, its budget, the training components of the residential nine-month curriculum, and the various programs provided at the Center, such as the STEP. Additionally, the acting director described some of the efforts the Commission was taking to improve services at the Center, increase the capacity of the Center to provide services, and various outreach activities the Center and Commission are undertaking to recruit more VR clients to receive residential training.
- The facility includes numerous classrooms, a computer laboratory, woodshop, fitness center, kitchen and dining facilities, and staff offices.
- The regular nine-month residential training program operates on an academic schedule from late August to the middle of May. There are two week-long breaks, during which time NMCB offers residential retreats for older individuals who are blind, a program funded by the Title VII independent living grant. During the summer months, NMCB conducts the STEP program for

transition-age youths. Approximately 15 students participate in the STEP program, which lasts eight weeks. STEP participants stay at the Center and are placed at various work sites in the Alamogordo community. Each week of the STEP program includes two days of paid work, two days of blindness training, and one day of recreational activities in which students practice their newly acquired blindness skills.

- At the time of the RSA visit, there were 12 individuals in the full-time residential program. This is an increase from recent years when as few as five or six individuals were receiving training in a given academic year. All individuals who enroll in the nine-month program are VR clients with IPEs, including those individuals who participate in the summer STEP program. Typically, 12-15 students participate in the STEP program offered at the Center. Students may also participate in STEP in their home communities if they prefer, but the Commission strongly encourages transition-age youths to attend at least one summer in Alamogordo.
- The Orientation Center was reviewed by the Council of Accreditation of Rehabilitation Facilities (CARF) in September of 2009, and received a one-year accreditation until September 2010. CARF provided a quality improvement plan to the Center in January, 2010, which the Commission approved in February. Some of the action items in the improvement plan include: establishing an alumni group of former graduates from the Center; adopting an administrative leave policy to allow Center staff to engage in professional improvement activities; developing a more rigorous exit survey instrument; contracting with an independent surveyor to conduct a more comprehensive customer satisfaction survey; and establishing an ad hoc committee within the SRC to review the results of the surveys. These tasks were scheduled to be completed by the summer of 2010.
- At the time of the RSA review, the Orientation Center did not employ a comprehensive system of quality assurance that allowed the Commission to collect and analyze data on the impact of residential training provided by the Center on individuals receiving services from the Commission. The Center gave exit surveys to individuals who completed training, but there was no effort to track the long-term impact of services on the success of an individual toward achieving a vocational goal. Additionally, the Commission does not collect data on those individuals who receive adjustment to blindness training at the Center, but do not complete the nine-month program, or those individuals who receive blindness skills training in their home communities.
- The Orientation Center did not have at the time of the RSA review any established performance measures for the number of VR clients who would successfully complete the residential training program. Similarly, no performance measures exist for participation in the STEP or older blind training programs. The performance of the Center is not linked to the agency's broader QA or planning processes, despite the philosophical importance of the Center.
- The Commission did utilize the information gained from exit surveys to initiate an effort to improve services, to make changes in staffing and leadership, and seek CARF accreditation including the adoption of the quality improvement plan which calls for the development and implementation of more rigorous quality assurance methodologies.

Recommendation 3: RSA recommends that NMCB:

- 3.1 develop a long-range strategic plan that would establish measurable goals for the Orientation Center. This plan should include explicit methods and timelines for achieving these goals, and should be linked to the agency's broader strategic concerns and the VR State Plan. Goals should address questions of the Center's capacity, staffing needs, and outreach efforts to raise the profile of the Center in the community, and to better ensure that the agency maximizes its resource by operating as close to capacity as possible;
- 3.2 establish a quality assurance system to allow the agency to collect and analyze data and survey information about the services provided to VR clients at the Center;
- 3.3 expand the range and scope of customer satisfaction surveys to include individuals who do not successfully complete the residential training program, or receive blindness skills training in their home communities;
- 3.4 develop and administer pre and post skills assessment tests to better measure the impact of the training provided at the Orientation Center;
- 3.5 support the establishment of an alumni group of graduates from the residential program who can serve to assist the Commission in tracking the long-range success of those individuals who complete the program, as well as foster a support network across the state to bolster the Center's activities and raise its profile in the blindness field; and
- 3.6 utilize the information gathered through the above-recommended activities, establish performance targets for successful completion by VR clients of the residential training program, as well as for all of the other training programs offered at the Center in Alamogordo.

4: Data Use

Observation: NMCB's CSNA is primarily focused on public hearings and survey data. The Commission has elevated some of RSA's indicators (the primary indicators used by RSA) while underplaying other RSA indicators in describing performance. Commission staff analyzes the data for individuals who achieve a competitive employment outcome. Little, if any, data are amassed or analyzed about individuals who leave NMCB without a successful employment outcome. As a result, NMCB is unable to develop a reliable action plan to address issues related to individuals who do not achieve a successful outcome.

Recommendation 4: RSA recommends that NMCB:

- 4.1 expand the CSNA to include:
 - a) personal experience/perspectives from consumers beyond those who present information in public hearings;
 - b) analysis of the experiences of consumers who were successfully rehabilitated separately from those who were unsuccessfully rehabilitated instead of treating both populations as a single combined group;
 - c) information about consumers who drop out of the VR program in the consumer survey; and
 - d) quantitative aspects of the survey instead of focusing on qualitative measures so it may be more useful for longitudinal comparisons.
- 4.2 address all RSA performance indicators (standards and indicators) in assessing the agency's performance; and

- 4.3 expand management focus beyond successful employment outcomes. Consumers who drop out both before and after plan development, and those whose cases are closed unsuccessfully represent an opportunity to learn about how service delivery functions, how consumers perceive the agency and the services they receive and how to increase the likelihood of successes for future consumers; and
- 4.4 develop additional skills in the areas of collecting and analyzing data so that data-based decisions can be made in managing the VR program.

Technical Assistance and Continuing Education

This section of the chapter describes the technical assistance provided by RSA to NMCB and the continuing education needs of Commission staff identified during the course of the review. The technical assistance requested by the agency to enable it to carry out the recommendations set forth above is contained in Appendix B to this report titled “Agency Response.”

Technical Assistance Provided

During the review of the VR and SE programs, RSA provided technical assistance to NMCB regarding the regulatory requirements of the SE program, including the nature and scope of time-limited supported employment VR services, the appropriate population to receive supported employment services and the extended services requirements for successfully closing individuals in supported employment. In addition, RSA reviewed the agency’s data reports on supported employment and identified coding errors that resulted in inaccurate reporting on the supported employment program and provided technical assistance to correct these errors.

Continuing Education

During the course of the review, NMCB and stakeholder representatives, including the Commission Board and SRC, requested that agency personnel receive continuing education in the areas of:

- techniques for assessing client potential for self-employment and assessing the viability of proposed business plans;
- techniques for assisting individuals who refuse prescribed medications and those who refuse mental health services;
- strategies to address client motivation;
- eligibility determinations through use of trial work experiences and extended evaluation;
- the conduct of career assessments related to careers in the arts;
- supported employment;
- transition services;
- self-employment; and
- job development and case management skills.

CHAPTER 2: INDEPENDENT LIVING SERVICES PROGRAM FOR OLDER INDIVIDUALS WHO ARE BLIND

Program Systems

The following sections of this chapter describe the manner in which NMCB administers and operates the independent living services program for older individuals who are blind (OIB), authorized pursuant to Title VII, Chapter 2, of the *Rehabilitation Act*, through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance and planning.

Program Administration and Service Delivery

NMCB provides OIB services throughout New Mexico with a network of 17 full time employees. Independent living and adjustment training and services comprise the majority of services provided. Direct service staff typically are assigned to geographic areas although some flexibility can occur in emergent situations. This geographic focus allows staff to build necessary relationships with partner agencies located in their service area.

Personnel

In FY 2009, 10 of the 17 OIB staff were assigned to direct service duties with the remaining seven assigned to administrative or support duties. Four of the 17 staff were people with disabilities and seven staff were from racial or ethnic minorities.

Data Management/ Quality Assurance

Direct staff meet periodically to discuss emerging trends and issues. Additionally, administration reviews service reports to identify specific issues. These are either addressed with specific staff or larger groups of staff, depending on whether or not issues are systemic in nature. Resolution of issues may require training and/or collaboration with other aspects of the NMCB agency or outside collaborations.

Planning

NMCB utilizes the practices described above to plan OIB services. Additionally, the NMCB director plays an active role on the New Mexico SILC. This collaboration allows NMCB access to information and potential partnerships across New Mexico and its variety of IL services. This information plays an important role in the planning and implementation of IL/OIB services at NMCB.

OIB Program Performance

The following table provides data on NMCB OIB program performance in key areas from FY 2004 through FY 2008.

Table 2.1
New Mexico OIB Program Highlights for FY 2008 and FY 2009

New Mexico Commission for the Blind Expenditures, Performance, and FTEs	2008	2009
Title VII, chapter 2 expenditures	225,000	225,000
Total expenditures (including chapter 2)	800,222	768,759
Total served older individuals who are blind	350	435
Total FTEs	15.00	17.00
Total FTEs with disabilities	3.00	4.00

OIB Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that NMCB take specific steps to improve the agency's performance associated with each of the observations.

1. Reporting

Observation: NMCB did not accurately complete the RSA 7-OB report, which was missing information for at least the previous four fiscal years. Discussions with NMCB staff indicated a lack of understanding that there were omissions. Additionally, some staff were aware of their individual reporting responsibilities, but not aware of how other aspects were completed, including who had overall responsibility or if there were any quality assurance methods to check the report before or after submission.

Recommendation 1: NMCB should develop an internal reporting process which delineates clear responsibilities, including that of final review and submission. Training and follow up should subsequently occur to assure all necessary parties are aware of their individual and group responsibilities.

CHAPTER 3: FISCAL MANAGEMENT OF NMCB VOCATIONAL REHABILITATION, SUPPORTED EMPLOYMENT AND THE INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND PROGRAMS

RSA reviewed NMCB's fiscal management of the vocational rehabilitation (VR), Supported Employment (SE) and Independent Living Services for Older Individuals Who are Blind (OIB) programs. During the review process, RSA provided technical assistance to the state agency to improve its fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agency's cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

Fiscal Management

The State Legislature makes annual appropriations to NMCB. Annual budgets are adopted each fiscal year for all funds. Expenditures may not legally exceed appropriations at the object expenditure classification level. All appropriations lapse at the end of the State Fiscal Year (SFY), although cash balances at the end of the SFY do not revert back to the State General Fund.

The accounts of NMCB are organized on a fund basis, each of which is considered a separate accounting entity. The operations of each fund are accounted for with a separate set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues, and expenditures, or expenses as appropriate.

NMCB Fiscal Performance

The data in the following tables are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of the agency's fiscal management practices. Data related to the VR program matching requirements are taken from the fourth quarter of the respective fiscal year's SF-269 report. The data pertaining to the VR program maintenance of effort requirements are derived from the final SF-269 report of the fiscal year (two years prior to the fiscal year to which they are compared). Fiscal data related to VR program administration, total expenditures, and administrative cost percentages are taken from the RSA-2. OIB program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the programs' SF-269s and the RSA-7OB report. IL program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the program's SF-269s and the RSA-704 report. The tables below include only the current data entered by the agency. They have not been adjusted in accordance with the compliance findings contained in this report.

**Table 3.1
Fiscal Data for NMCB for FY 2004 through FY 2008**

New Mexico (B)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$4,217,840	\$4,004,413	\$4,251,945	\$4,232,935	\$4,245,963
Federal Expenditures	\$4,217,840	\$4,004,413	\$4,251,945	\$4,232,935	\$4,245,964
Required Match	\$1,141,550	\$1,083,786	\$1,150,781	\$1,145,636	\$1,149,162
Actual Match	\$1,141,550	\$1,083,786	\$1,150,781	\$1,187,488	\$1,149,161
Over (Under) Match	\$0	\$0	\$0	\$41,852	-\$1
Carryover at 9/30 (year one)	\$0	\$0	\$0	\$0	\$0
Program Income	\$436,623	\$110,895	\$0	\$298,520	\$0
Maintenance of Effort (MOE)	\$1,046,795	\$1,105,402	\$1,141,550	\$1,083,786	\$1,150,781
Administrative Costs	\$1,185,957	\$1,185,690	\$1,037,168	\$1,538,040	\$1,257,908
*Total Expenditures	\$5,877,246	\$6,136,206	\$5,226,333	\$5,481,182	\$5,156,627
Percent Admin Costs to Total Expenditures	20.18%	19.32%	19.85%	28.06%	24.39%

*Includes Supported Employment Program Expenditures.

**Table 3.2
NMCB OIB Program Fiscal Data for FY 2004 through FY 2008**

New Mexico (B)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$225,000	\$225,000	\$225,000	\$225,000	\$225,000
Federal Expenditures	\$225,000	\$225,000	\$225,000	\$225,000	\$225,000
Required Match	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000
Actual Match	\$250,000	\$25,000	\$25,000	\$25,000	\$25,000
Over (Under) Match	\$225,000	\$0	\$0	\$0	\$0

**Table 3.3
NMCB IL Program Fiscal Data for FY 2004 through FY 2008**

New Mexico (B)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$52,902	\$54,814	\$54,266	\$54,266	\$53,318
Federal Expenditures	\$52,902	\$54,814	\$54,266	\$54,266	\$53,318
Required Match	\$5,878	\$6,090	\$6,030	\$6,030	\$5,924
Actual Match	\$5,878	\$6,090	\$6,030	\$6,030	\$5,924
Over (Under) Match	\$0	\$0	\$0	\$0	\$0

Fiscal Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that NMCB is required to undertake. NMCB must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist NMCB to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action as it deems appropriate, including the recovery of Title I VR and Title VII IL-Part B and OIB funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of EDGAR.

1. Periodic Certification – Staff Working Solely on One Program

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 364.34 states:

In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 80.20(a) states:

- (c) A State must exp[e]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:
 - (5) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (6) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix B, paragraph 8, in pertinent part, states:

- 8.h.3 Where employees are expected to work solely on a single federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the

employee or supervisory official having first-hand knowledge of the work performed by the employee.

Finding: NMCB is not in compliance with 2 CFR part 225, Appendix B, paragraph 8.h.3, because the agency does not conduct periodic certifications for employees working solely on one federal grant program. In failing to comply with this requirement, NMCB is not able to ensure that the VR, IL, and OIB programs are administered properly and efficiently and that all program funds are accounted for properly, as required by 34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a).

As a recipient of VR, IL, and OIB funds, NMCB is required to administer the programs properly and efficiently (34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a)). It must ensure that federal funds are properly accounted for and that accurate data are collected and reported (*Id.*). In ensuring the proper administration of the programs and accountability of funds, NMCB must be able to document the time its staff spend on the VR, IL and OIB programs. Federal cost principles set forth requirements for ensuring the proper accounting of staff time, both for staff working full-time on one program and for staff splitting their time on multiple programs. In particular, 2 CFR part 225, Appendix B, paragraph 8.h.3 requires NMCB employees or their supervisors to certify, at least semi-annually, that the employee worked solely on one grant program during the period covered by the certification.

While onsite, RSA found that NMCB does not conduct semi-annual or any certifications for staff who work solely on one program, as required by 2 CFR part 225, Appendix B, paragraph 8.h.3. Furthermore, NMCB does not require its staff to track their time to specific programs. RSA's finding regarding personnel certification requirements is consistent with findings contained in NMCB's A-133 Audit Report for the year ending June 30, 2010 (Section III – Federal Awards Findings). In that report, the auditors noted that “wages and benefits charged to some federal programs by the administration and various departments are based on management estimates, not actual time activity reports” (Audit, p. 64). The auditor recommended that NMCB establish procedures to ensure employees comply with periodic certification for employees working solely on one program and implement personnel activity reports for employees working on multiple programs. The auditor's recommendations are consistent with the requirements of 2 CFR part 225, Appendix B, paragraph 8, which are applicable to NMCB. Given this failure to ensure that the staff's time is certified at least twice a year, NMCB has not complied with 2 CFR part 225, Appendix B, paragraph 8.h.3. In failing to comply with this certification requirement, as well as NMCB's failure to require its staff to track their time in accordance with the program worked, NMCB also has not complied with 34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a), because NMCB cannot ensure that the VR, IL, and OIB programs have been administered properly and efficiently or that funds have been expended solely on allowable personnel costs.

Corrective Action 1: NMCB must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with staff certification requirements set forth at 2 CFR part 225, Appendix B, 8.h.3; and
- 1.2 develop procedures to ensure that, at a minimum, semi-annual certifications are completed for all employees working solely on one federal grant program, or cost objective.

2. Assigning Personnel Costs – Staff Working on Multiple Programs

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 364.34 states:

In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 80.20(a) states:

- (b) A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:
 - (3) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (4) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix A, paragraph C.3, in pertinent part, states:

C. Basic Guidelines

3. Allocable costs.

- a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
- b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
- c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix B, paragraph 8, in pertinent part, states:

- 8.h.4 Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5). Such

documentary support will be required where employees work on: (a) more than one federal award; and (b) A federal award and a non-federal award.

- 8.h.5 Personnel activity reports or equivalent documentation must meet the following standards: (a) they must reflect an after-the-fact distribution of the actual activity of each employee; (b) they must account for the total activity for which each employee is compensated; (c) they must be prepared at least monthly and must coincide with one or more pay periods; (d) they must be signed by the employee; and (e) budget estimates or other distribution percentages determined before services are performed do not qualify as support for charges to federal awards but may be used for interim accounting purposes.

Finding: NMCB is not in compliance with 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5, because NMCB does not require its staff, who work on multiple programs, to complete personnel activity reports to document the actual time spent working on each program. As a result, there is no procedure in place to ensure the proper expenditure and accounting of federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

As also discussed in Finding 1 above, NMCB does not have procedures in place that require staff to record and keep track of the time they spend working on various programs. NMCB does not require staff to complete personnel activity reports, as it is required to do pursuant to 2 CFR part 225, Appendix B, paragraph 8.h.4. Instead, staff simply record the number of hours worked without attributing those hours to a particular program. During its onsite review of NMCB's accounting of personnel costs, RSA found that, in FY 2009, NMCB implemented procedures for allocating personnel costs based upon an estimated percentage of time these employees work on a particular award/program – not on actual after-the-fact time spent on each program as documented in a personnel activity report or similar supporting documentation. This practice of using estimated times was confirmed in an email, dated July 26, 2010, sent by the NMCB Executive Director to the RSA Commissioner: “the Commission did not maintain time distribution records in compliance with OMB Circular A-87. However, we can substantiate that any variances from the actual personnel costs charged to the various grants are insignificant.” Furthermore, the NMCB Executive Director asserts in that email that position descriptions and “work products” provide sufficient evidence that staff were providing primarily VR services.

As a recipient of VR, SE, IL, and OIB funds, NMCB must administer the programs properly and efficiently (34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a)). Its administrative procedures must ensure that Federal funds are properly accounted for and that accurate data are collected and reported for each program (*Id.*). Federal funds for each of these programs must be spent solely on costs allowed under each program (34 CFR 80.22(a)(1)). While administrative costs are allowed under each program, the administrative costs allowed are only those that actually arise under the administration of that program. For example, allowable administrative costs under the VR program must be incurred while carrying out activities under that program (34 CFR 361.5(b)(2)(xi)). Similarly, allowable administrative costs under the IL-part B or OIB program must be incurred in carrying out activities under the respective program. Therefore, in order to ensure the proper administration of the programs and accountability of funds, NMCB must be able to document the time its staff spend on the VR, SE, IL, and OIB programs.

Federal cost principles set forth requirements for ensuring the proper accounting of staff time, both for staff working full-time on one program and for staff splitting their time on multiple programs. In

particular, 2 CFR part 225, Appendix B, paragraph 8.h.4 requires NMCB employees, who split their time on multiple programs, to document the time spent working on each program via personnel activity reports. These reports must reflect an after-the-fact documentation of the actual time spent on each program (*Id.* at 8.h.5). The Federal cost principles make it clear that budgeted estimates of time spent working on a program are not sufficient for supporting charges to Federal awards (*Id.* at 8.h.5(e)).

As the executive director confirmed in his July 26, 2010 email, NMCB used estimated times for allocating personal costs – not actual after-the-fact time documented in personnel activity reports or other such reporting mechanisms as it is required to do pursuant to the Federal cost principles. NMCB’s failure to do so results in non-compliance with 2 CFR part 225, Appendix B, paragraph 8. Furthermore, in not maintaining time records as required, NMCB has not complied with 34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20, which requires the proper and efficient administration of the VR, SE, IL, and OIB programs to , ensure proper accounting of expenditures and record-keeping.

Corrective Action 2: NMCB must:

- 2.1 cease using budgeted or estimated times for allocating personnel costs among the various programs it administers, as prohibited by 2 CFR part 225, Appendix B, 8.h.5(e);
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5, by requiring staff who work on multiple programs to submit personnel activity reports to support the time spent on each program; NMCB also must assure that it will administer the programs properly and efficiently by ensuring that federal funds are spent solely on allowable costs and that the funds are accounted for properly, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.22(a); and
- 2.3 submit a plan, including timelines, describing the steps that will be taken to ensure personnel activity reports are maintained that reflect actual time spent on each program in order to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective.

3. Unallocable Expenditures

Legal Requirements:

Section 100(a)(2) of the Rehabilitation Act and 34 CFR 361.1 of its implementing regulations establish that the purpose of the VR program is to provide services to individuals with disabilities so that they may achieve an employment outcome that is consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 of its implementing regulations require - that Title I VR program funds be used solely to cover the costs of providing VR services and administering the VR program.

34 CFR 361.12 states that:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under

the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 76.560(b), in pertinent part, states:

A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant....

34 CFR 80.20(a) states:

(d) A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:

- (7) Permit preparation of reports required by this part and the statutes authorizing the grant, and
- (8) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

2 CFR Part 225 (formerly known as OMB Circular A-87), Appendix A, paragraph C, in pertinent part, states:

C.1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

- a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
- b. Be allocable to Federal awards under the provisions of this Circular.

- e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.

- 3. a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
- b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
- c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Circular may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.
- d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Attachments C, D, and E.

Finding: Based on RSA's interviews of NMCB staff, while conducting on-site monitoring, review of NMCB's financial and statistical reports and supporting documentation, and information provided by NMCB subsequent to the onsite monitoring, RSA notes the following:

- A. NMCB has not submitted an indirect cost rate proposal to the U.S. Department of Education's Indirect Cost Group since FY 2005. The indirect cost rate proposal should have covered the VR, SE, IL, and OIB programs. In 2007, due to its failure to submit the proposal and obtain an approved indirect cost rate from the Department, NMCB informed the Indirect

Cost Group, by telephone, that NMCB would no longer drawdown federal funds to cover indirect costs. However despite this assurance, NMCB's FY 2008 VR SF-269 for the report period ending September 30, 2008, included an indirect cost rate of 12.6 percent that was applied against a base of \$1,099,175, resulting in a total of \$138,496 in indirect charges against the VR program. Not only had this particular indirect cost rate not been approved, but the Indirect Cost Rate Group had not approved any indirect cost rate for that period or any period since FY 2005.

As a recipient of federal funds, NMCB must administer the VR, SE, IL, and OIB programs, in such a manner that ensures the proper expenditure and accounting of federal funds and the proper collection and reporting of all data (34 CFR 361.12 and 34 CFR 80.20(a)). NMCB must ensure that federal funds are spent solely for allowable costs (34 CFR 80.22(a)) and in a manner consistent with the federal cost principles. Although indirect costs are generally allowable under the VR, SE, IL, and OIB programs, NMCB must have an approved indirect cost rate agreement in place before it can charge indirect costs against these programs (34 CFR 76.560(b) and 2 CFR part 225, Appendix A, paragraph C.3.d). Without such an agreement in place, NMCB is not permitted to charge indirect costs to the VR, SE, IL, and OIB programs. Since NMCB had neither submitted an indirect cost rate proposal nor received approval from the Department of an indirect cost rate, the indirect costs NMCB reported charging against the VR program in FY 2008, at a rate of 12.6 percent, are not allowable or allocable to the VR program. By charging \$138,496 in indirect costs against the VR program that year, NMCB not complied with 34 CFR 76.560(b), 34 CFR 80.22(a), and the federal cost principles. As such, NMCB also not ensured that the VR, SE, IL, and OIB programs were administered in such a manner to ensure the proper expenditure and accounting of Federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

- B. Fiscal spreadsheets provided by NMCB, dated June 29, 2010, indicate that NMCB charged the following IL costs² directly to the VR program, rather than to the IL-part B or IL-OIB program, as it should have done.

Table 3.5
IL Costs Charged to the VR Program

Expenditures	2007	2008	2009
Personnel Services and Benefits	\$316,347	\$292,229	\$81,318
Other Expenditures	\$57,612	\$14,223	\$65,475
Total	\$373,960	\$306,452	\$146,794

As stated above, VR funds must be used solely for the provision of VR services or the administration of the VR program (34 CFR 361.3). In order to be allowable, personnel costs

² The spreadsheets provided by NMCB, which describe expenditures NMCB charged against the VR grant, includes line items for "IL costs" that were charged against the VR program. The spreadsheets refer to the costs as being "IL costs" in general; they do not break the costs down into IL-part B and IL-OIB costs.

must be those that arise while performing activities that benefit the VR program (34 CFR 361.5(b)(2) and the federal cost principles at 2 CFR part 225, Appendix A, paragraph C). Personnel and other costs that arise during the performance of IL-related activities do not constitute allowable VR costs and, therefore, are not allocable to the VR program. NMCB's use of VR funds for IL-part B and OIB expenditures, as demonstrated in the spreadsheets it provided to RSA, is in violation of 34 CFR 361.3, 34 CFR 80.22(a), and the federal cost principles at 2 CFR part 225, paragraph C. By charging IL-related expenditures to the VR program, NMCB has not administered the VR program in a manner that ensures the proper expenditure and accounting of VR funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

- C. During RSA's review of NMCB's accounting records during the monitoring process, RSA noted that NMCB charged numerous non-VR expenditures (e.g., those related to the State-funded emergency eye care program, administrative costs, etc.) initially to the VR program because the expenditures were not associated with the correct project budgets in the agency's fiscal management system, SHARE. As stated throughout this finding, VR funds must be used solely for the provision of VR services or the administration of the VR program (34 CFR 361.3). Expenditures related to non-VR administrative costs or the state-funded emergency eye care program do not constitute VR services or the administration of the VR program, as defined at 34 CFR 361.5(b)(2) and (58). NMCB's use of VR funds for these purposes -- even on a temporary basis -- was not allowable under or allocable to the VR program at the time the charges were made against the VR program, pursuant to 34 CFR 361.3, 34 CFR 80.22(a), and the federal cost principles at 2 CFR part 225, Appendix A, paragraph C). Therefore, NMCB has not complied with 34 CFR 361.12 and 34 CFR 80.20(a), which requires the agency to administer the VR program in a manner that ensures the proper expenditure and accounting of VR funds.

For the foregoing reasons, NMCB has not complied with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 76.560, 34 CFR 80.20(a), 34 CFR 80.22(a), and the Federal cost principles.

Corrective Action 3: NMCB must:

- 3.1 not charge indirect costs to the VR program without first having an approved indirect cost rate or cost allocation plan in place;
- 3.2 cease using VR funds, even on a temporary basis, to pay for expenditures that are neither allowable under nor allocable to the VR program;
- 3.3 submit an assurance within 10 days of the issuance of the final monitoring report that NMCB will administer the VR program in such a manner that ensures the proper expenditure and accounting of VR funds and reporting of VR data, as required by 34 CFR 361.12 and 34 CFR 80.20(a); that VR funds will be spent solely for allowable VR activities, as required by 34 CFR 361.3 and 34 CFR 80.22(a); and, that it will not charge indirect costs to the VR program until it receives an approved indirect cost rate or cost allocation plan from the Department;
- 3.4 determine the methodology that NMCB will use to assign indirect costs (e.g., indirect cost rate or cost allocation plan) and submit the required documentation, pursuant to 34 CFR 76.560, to the Department's Indirect Cost Group for approval within 90 days of the issuance of the final monitoring report; and

- 3.5 submit documentation for FYs 2007 through 2009 detailing the amount of VR funds expended for IL-related activities and the activities associated with those costs. Please be sure to indicate which of these expenditures were incurred during the provision of IL services to VR consumers and which were incurred during the provision of VR services to those consumers, regardless of whether the services were provided by IL Department staff.

4. Failure to Report Program Income Properly

Legal Requirements:

34 CFR 361.63(c)(1) states that:

Except as provided in paragraph (c)(2) of this section, program income, whenever earned, must be used for the provision of [VR] services and the administration of the State plan. *Program income is considered earned when it is received* (emphasis added).

34 CFR 361.12 states that:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 80.20(a) requires that:

- (a) A state must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
- (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

Finding: NMCB is not in compliance with 34 CFR 361.12 and 34 CFR 80.20(a), because it has not reported the receipt of program income accurately in financial reports submitted for FYs 2005 through 2008. These regulatory provisions require the agency to administer the VR program in such a manner that ensures the proper expenditure and accounting of VR funds and reporting of VR data.

In reviewing NMCB's SF-269 data prior to the onsite monitoring visit, RSA noted that, during FYs 2005 through 2008, NMCB's SF-269 reports showed differing amounts of program income received from SSA on the 4th quarter and final reports for some of those years. To resolve the discrepancies, RSA requested clarifying information from NMCB; however, the information provided in response by NMCB was also inconsistent. Due to the inconsistencies contained in NMCB's financial reports and subsequent information, RSA requested data from SSA about the SSA reimbursements paid to NMCB during each of the affected years. SSA provided information to RSA on August 11, 2010, that included dates SSA made payments to NMCB and the amounts of those payments for FYs 2005 through 2009. The table below shows the program income information NMCB reported to RSA via its 4th quarter reports and final reports for each of the affected years, as well as the amounts that SSA reported as paying NMCB in each of those years.

**Table 3.6
Program Income Reporting as of February 2, 2011**

FFY	Reported by NMCB in 4th Qtr. SF-269	Reported by NMCB in Final SF-269	SSA Info. (8/11/2010)
2005	\$110,895	\$150,000	\$110,895
2006	\$0	\$300,000	\$469,959
2007	\$298,520	\$298,520	\$298,520
2008	\$0	\$226,280	\$226,280
2009	\$214,463	\$173,884	\$214,463
TOTAL	\$623,878	\$1,148,684	\$1,320,117

NMCB's 4th quarter FY 2005 report, FY 2007 reports, FY 2008 final report, and FY 2009 4th quarter report are consistent with the information provided by SSA. However, NMCB's final report for FY 2005, the agency's reports for FY 2006, and the FY 2008 4th quarter report do not match the information SSA provided to RSA. As a result of the discrepancies, NMCB reports receiving, according to their final SF-269s submitted for the period, a total of \$1,148,684 in program income from SSA for the years FYs 2005 through 2009, whereas SSA reports paying NMCB a total of \$1,320,117 for that same period. As a result, NMCB underreported the program income received from SSA by \$171,433. The under-reported amount is even larger – a difference of \$696,239 -- when comparing SSA's information to the amount reported by NMCB in its 4th quarter reports for the affected fiscal years.

As a recipient of federal funds, NMCB must maintain procedures to ensure that it administers the VR program in an efficient and effective manner (34 CFR 361.12 and 34 CFR 80.20(a)). Federal regulations require that all recipients of federal funds must accurately account for and report the results of all federally-assisted activities (*Id.*). The requirement that NMCB must properly expend and account for funds applies to program income, as well as the federal grant.

In addition to the proper accounting and expenditure of funds, NMCB also must submit accurate reports in accordance with the requirements of 34 CFR 80.41(b). The SF-269/SF-425s are used to report the receipt and expenditure of funds, both federal awards and program income, for a particular funding period (namely, the fiscal year that coincides with the grant year). Federal regulations governing the VR program require that program income be reported in the fiscal year in which it is earned. For purposes of the VR program, program income is considered earned when it is received (34 CFR 361.63(c)(1)). Therefore, NMCB must report all program income it receives in any given fiscal year on the financial reports that cover that same fiscal year period.

In conclusion, NMCB has not reported program income accurately in FYs 2005, 2006, and 2008. As a result, NMCB has not complied with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a), which requires NMCB to administer the VR program in a manner that ensures the proper accounting of VR funds and reporting of VR information.

Corrective Action 4: NMCB must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in a manner that ensures the proper expenditure and accounting of VR funds and reporting of VR information, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and
- 4.2 revise the 4th quarter and/or final SF-269 reports for FYs 2005, 2006 and 2008 to reflect the accurate program income earned during each of those Federal fiscal years.

5. Inaccurate and Untimely Financial and Statistical Reporting

Legal Requirements:

34 CFR 361.12 states:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 361.63, in pertinent part, states:

- (a) *Definition.* For purposes of this section, program income means gross income received by the State that is directly generated by an activity supported under this part.
- (b) *Use of program income.* (1) ...Program income is considered earned when it is received.

34 CFR 364.34 states:

In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 80.20(a) states:

- (a) A State must exp[en]d and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State... must be sufficient to:
 - (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and
 - (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.41(b), in pertinent part, states:

- (e) Financial Status Report—(1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with §80.41(e)(2)(iii).

- (9) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.
- (10) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

Finding: NMCB is not in compliance with 34 CFR 80.41(b), because NMCB has not submitted required accurate and complete financial and statistical reports in a timely manner for the VR, SE, IL-part B, and OIB programs. By not submitting these reports in a timely and accurate manner as required, NMCB has not complied with 34 CFR 361.12, 34 CFR 364.34, and 34 CFR 80.20(a), which require the agency to administer the programs in a manner necessary to ensure the proper disbursement of and accounting for federal funds in accordance with federal requirements, including those for reporting.

Federal regulations require that all recipients of federal funds must accurately report the results of all federally-assisted activities (34 CFR 80.20(a)). Financial reporting requirements are set forth at 34 CFR 80.41(b). NMCB, as a recipient of federal Title I VR, Title VI SE, and Title VII IL and OIB funds, must comply with the requirements of 34 CFR part 80, including the reporting requirements (34 CFR 361.4(a)(5), 34 CFR 363.5(a)(4), 34 CFR 364.3(a)(6), and 34 CFR 367.4(a)(6)). RSA requires NMCB to submit the SF-269/SF-425 for the VR program on a quarterly basis (34 CFR 80.41(b)(3)). The SF-269/SF-425 for the VR program is due 30 days^[1] after the end of each reporting quarter (e.g., 10/30, 1/31, 4/30, and 7/30). RSA requires NMCB to submit the SF-269/SF-425 for the SE, IL-part B, and OIB programs on an annual basis (34 CFR 80.41(b)(3)). As a result, the SE, IL-part B, and OIB SF-269/SF-425s are due 90 days after the end of the grant year (e.g., 12/30) (34 CFR 80.41(b)(4)). Final reports for all programs are due no later than 90 days after the expiration of the grant support (*Id.*). The reports may be submitted electronically through RSA's Management Information System (MIS).

During the onsite review process and through subsequent communications with NMCB, RSA noted that information contained in the financial reports submitted by the agency did not match previously submitted information. To reconcile the differences and verify the accuracy of the reports, RSA requested and received supporting documentation/spreadsheets. However, these supporting documents contained data that were inconsistent with the information contained on the submitted reports. For example:

- NMCB's FY 2007 spreadsheet, which was provided as supporting documentation for verifying the accuracy of the agency's final FY 2007 SF-269, listed the state's share of the VR program expenses as \$1,145,636. The final VR SF-269 submitted for FY 2007 lists the state's share of expenses as \$1,187,488, a difference of \$41,852. Verifying the accuracy of NMCB's non-

^[1] Pursuant to the instructions for completing the SF-425 (which replaced the SF-269 for all grants awarded after October 1, 2009), grantees required to submit the form on a quarterly basis must do so within 45 days of the end of the applicable quarter. This means that the SF-425s for the VR program are due 11/15, 2/15, 5/15, and 8/15. The SF-425s for those grantees reporting on an annual basis are still due 90 days after the end of the grant period (e.g., 12/30).

federal VR expenses is essential for determining whether the state met its match and MOE obligations under the VR program that year.

- NMCB's 2007 spreadsheet, provided as supporting documentation, reports the total VR expenditures (state and federal) as \$5,378,571. The final VR SF-269 submitted for FY 2007 lists the total VR expenditures as \$5,420,423, a difference of \$41,852, which reflects the same discrepancy shown above in the reported non-federal share amount, demonstrating that inaccurate data can impact the reporting of other data on the same form.
- Line 10j of the 1st quarter FY 2007 VR SF-269 (for the reporting period ending 12/31/2006) lists the federal share of the VR expenditures as \$1,459,326. The spreadsheet provided by the agency, for supporting documentation purposes, lists the federal share for the same period as \$1,425,648, a difference of \$33,678. Verifying the accuracy of this information is essential for determining whether the State met its match and MOE obligations under the VR program that year.
- NMCB's final FY 2007 VR SF-269 covered the reporting period of 10/1/2006 to 9/30/2007. According to the final FY 2007 SF-269, NMCB reported that the agency had expended its entire federal award by 9/30/2007 and had no VR funds remaining to carry over into the next fiscal year. However, according to the Department's grant management system's record of grantee drawdowns, NMCB drew down \$96,418 in VR funds on 10/9/2007 from its FY 2007 grant award (H126A070046), despite the fact that it had reported that all VR grant funds had been expended by 9/30/07. The availability of those funds for drawdown in the RSA grants system demonstrates that funds had not in fact been expended prior to the end of the fiscal year as reported by the agency.

The above-described examples of inaccurate or inconsistent financial reports submitted by NMCB are consistent with similar findings contained in NMCB's A-133 Audit Report for the year ending June 30, 2010, Section III – Federal Awards Findings (10-6). For example, in that report, the auditors noted that NMCB reported inaccurate data about total outlays under the VR program and the federal share of VR expenditures in forms dated 9/30/10 and 6/30/10, respectively. The auditors also noted that NMCB reported that its accounting is done on a cash basis, whereas the supporting documents for those reports are done on an accrual basis. While the auditors explain that the terminology used does not affect the actual reporting of expenditures, this still highlights inaccurate information contained in the financial reports submitted by NMCB to RSA.

In addition to NMCB's failure to submit accurate financial reports, as described above, the agency also has not submitted financial reports in a timely manner as required by 34 CFR 80.41(b). As of February 3, 2011 – approximately nine months after the initial on-site visit in May 2010, NMCB still had not submitted the following SF-269 forms:

- VR quarterly SF-269 reports for FY 2008 (for periods ending: 12/31/2007, 03/31/2008, 06/30/2008, 03/31/2009, 06/30/2009, and 9/30/09); and
- SE annual SF-269 report for FY 2009 (for period ending 09/30/2009).

As of the time of the issuance of this report, the SE annual SF-269 for FY 2009 has been submitted by NMCB and been accepted into the RSA MIS. However, the FY 2008 VR financial reports just mentioned are still not accounted for in the RSA MIS.

In addition to the non-submission of the above-mentioned VR SF-269s for FY 2008, NMCB also was very late in submitting the following required reports to RSA:

- VR SF-269/SF-425s for FYs 2007 and 2009;
- IL-part B SF-269/SF-425s for FYs 2008 and 2009;
- IL OIB SF-269/SF-425s for FYs 2008 and 2009; and
- SE SF-269 for FY 2008.

These particular reports had not been submitted to RSA prior to the onsite monitoring review in May 2010, but were submitted as of February 11, 2011.

As stated earlier, NMCB is required to employ methods of administration that ensure the proper and efficient administration of the program, including accurate data collection and financial accountability (34 CFR 361.12 and 34 CFR 80.20(a)). NMCB has consistently submitted late and/or inaccurate SF-269/SF-425s for the VR, SE, IL, and OIB programs. Due to NMCB's repeated submission of inaccurate and/or late reports, as noted during the monitoring process and described herein, it is not in compliance with 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41(b).

Corrective Action 5: NMCB must:

- 5.1 cease submitting untimely SF-269/SF-425s;
- 5.2 cease submitting inaccurate SF-269/SF-425s;
- 5.3 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the accuracy and timeliness of future financial and statistical reports submitted on behalf of the VR, SE, IL-part B, and IL OIB programs, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a) and 34 CFR 80.41(b);
- 5.4 submit all missing FY 2008 VR SF-269s, as noted above;
- 5.5 submit revised SF-269 to correct errors contained in the FY 2007 VR reports, as noted above; and
- 5.6 submit a plan, including a timeline, for the steps NMCB will take to ensure the submission of accurate and timely SF-269s/SF-425s, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a) and 34 CFR 80.41(b); and

6. Internal Controls and Tracking of Funds

Legal Requirements:

34 CFR 361.12 requires that:

The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under [the VR program]. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 80.20(a), in pertinent part, requires that:

- (a) A state must exp[er]nd and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.24(b)(6), in pertinent part, requires:

Costs...counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors.

Finding: As a recipient of federal funds, NMCB must have procedures in place so it can administer the VR program and carry out all required functions properly and efficiently (34 CFR 361.12). These procedures must enable NMCB to ensure accurate financial accountability for the VR program (*Id.*). NMCB must have fiscal controls in place that enable it to expend and account for the VR funds to such a degree that it can trace the funds for each activity to ensure that the funds were expended in accordance with federal requirements (34 CFR 80.20(a)). Furthermore, NMCB is required to monitor and manage the day-to-day operations of all grant-supported activities (34 CFR 361.40(a)).

While reviewing various aspects of NMCB's internal fiscal controls, RSA included in that review NMCB's practice of providing payment of funds directly to consumers. As part of that portion of the review, RSA noted that NMCB does not maintain receipts or other documentation supporting that the consumers used the payments for appropriate VR expenditures. For example, in those instances where NMCB provided money for gas, the consumer was not required to submit mileage logs or gas receipts to verify that the funds were spent for that approved purpose. Similarly, consumers were not required to submit receipts for housing expenses or other expenses for which NMCB had provided funds directly to the consumer. Furthermore, RSA saw no evidence, nor was any provided by NMCB, that NMCB monitors the payments it makes to consumers, to ensure that the funds were spent on allowable VR costs.

By not conducting the monitoring of these payments, as required by 34 CFR 80.40(a), or obtaining documentation to verify that VR funds given directly to consumers were used solely for allowable purposes, NMCB cannot ensure that the VR program is administered properly and efficiently and that funds are spent solely on allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 6: NMCB must:

- 6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and that it will monitor all grant-supported activities, including those performed by the agency's own staff, to ensure federal requirements are satisfied, as required by 34 CFR 80.40(a); and
- 6.2 develop and implement procedures to ensure that receipts or other documentation is obtained from consumers to support that VR funds, given directly to consumers, are indeed used for the purpose authorized on the IPE.

Technical Assistance

This section of the chapter describes the technical assistance provided by RSA to NMCB during the course of the review. The technical assistance requested by the agency to enable it to carry out the corrective actions set forth above is contained in Appendix B of this report titled “Agency Response.”

Technical Assistance Provided

To enable the agency to improve its fiscal management processes, RSA provided technical assistance to NMCB during the review process regarding:

- Internal Controls;
- Federal Financial Reporting;
- Allocating Program and Personnel Costs; and,
- Personnel Activity Reports.

PART III: REVIEW OF THE NEW MEXICO INDEPENDENT LIVING PROGRAM

EXECUTIVE SUMMARY

New Mexico Administration of the IL Program

During fiscal year (FY) 2010, the Rehabilitation Services Administration (RSA) reviewed the performance of the independent living (IL) program, authorized under Title VII, part B, of the *Rehabilitation Act, administered by the New Mexico Division of Vocational Rehabilitation (NMDVR)*.

Currently the Statewide Independent Living Council (SILC) in New Mexico is not incorporated as a non-profit organization under Section 501(c)(3) of the Internal Revenue Code, although this was under discussion at the time of the review.

Program Performance over the Past Five Years

Either directly, or through grants or contracts with centers for independent living (CILs) and other service providers, the number of individuals served through the IL Program increased from 106 to 146. Total resources available for the IL program also increased from \$209,848 to \$2,880,804.

Observations of the Agency and Stakeholders

Through the course of the review agency personnel and representatives of stakeholders, such as the SILC, shared information concerning the administration and performance of the IL program. During the review, they observed that:

- services, when available, are beneficial and help increase independence;
- there are large areas of very rural territory within New Mexico where services are significantly limited; and
- the leadership and membership of the SILC has changed frequently in recent years, but at the time of the review was beginning to stabilize.

Strengths and Challenges:

Based on the observations from the agencies and the stakeholders and other information gathered through the review process, RSA concluded that the agencies and the SILC exhibited a variety of strengths that enhanced, and experienced a number of challenges that inhibited their ability to improve, the performance of the IL program.

NMDVR, the DSU for the IL program, has developed a strong working relationship with the centers for independent living in the state, particularly the Independent Living Resource Center with which it contracts its Title VII, Part B, funds.

However, the ability of the SILC to perform its mandated functions was limited at the time of the review. The SILC leadership and membership had changed frequently during the period under review. For instance, the chair and vice-chair had been replaced in the nine months previous to the review, and the Executive Director position was vacant at that time. The members, while enthusiastic, were new to the SILC, and in some cases were not familiar with the IL program.

Acknowledgement

RSA wishes to express appreciation to the representatives of NMDVR and NMCB, NMCB Commission Board, SILC and the stakeholders who assisted the RSA monitoring team in the review of NMDVR

CHAPTER 1: INDEPENDENT LIVING (IL) PROGRAM

IL Program Systems

The following sections of this chapter describe the manner in which NMDVR and NMCB administer and operate the IL program, authorized pursuant to Title VII, Part B, of the *Rehabilitation Act*, through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance and planning.

Program Administration and Service Delivery

NMDVR uses its Title VII, Part B, funds to contract entirely with one center, Independent Living Resource Center, in Albuquerque. New Mexico also provides state general funds for IL services to DVR, which it uses to engage in contracts with all centers in New Mexico. State funds are distributed through a request for proposal process awarded on the state fiscal year calendar.

The New Mexico SILC is established by the Governor's office as a council independent of all state agencies. At the time of the review, the SILC was investigating the merits of becoming a 501(c)(3) non-profit organization.

Personnel

NMDVR administers Title VII, Part B, funds with one full-time employee. At the time of the review, the SILC was without an Executive Director but was actively seeking to fill this position.

Data Management and Quality Assurance

Part B funds are expended after NMDVR receives invoices detailing the activities performed under the contract resulting from the competitive bidding process. If the agency finds inadequacies in this reporting, it will seek clarification and potentially delay payment.

IL Program Performance

The following table provides data on the NMDVR IL program performance in key areas from FY 2006 through FY 2009.

Table 1.1
New Mexico IL Program Highlights for FY 2006 through FY 2009

IL Funding, Performance, and FTEs for New Mexico	2006	2007	2008	2009
Title VII, chapter 1, part B funds	54,266	54,266	60,222	316,869
Total resources (including part B funds)	2,052,192	2,052,192	2,096,848	2,880,804
Total served	117	106	106	146
Total consumer service records closed	42	1	1	73
Cases closed, completed all goals	21	0	1	45
Total goals set	160	109	109	208
Total goals met	52	93	93	120
Total individuals accessing previously unavailable transportation, health care, and assistive technology	24	16	16	67

IL Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that NMDVR take specific steps to improve the agency's performance associated with each of the observations.

1. Developing Membership

Observation: Over the nine months before the review, the New Mexico SILC experienced significant losses in membership, including the Chair, Vice-Chair and the Executive Director. These positions, with the exception of the Executive Director, had been filled at the time of the review.

Through multiple meetings with the SILC it was clear that members were highly enthusiastic and receptive to training, but generally unaware of the roles and responsibilities of the SILC. Additionally, the SILC had not developed a formalized training program for new members.

Recommendation 1: The New Mexico SILC should develop and implement a comprehensive training program to educate members on the roles and responsibility of the SILC. This program would serve as a template for future members.

Technical Assistance

Technical Assistance Provided

During the review of the IL program, RSA provided technical assistance to NMDVR regarding:

- roles and responsibilities of SILC members;
- strategies for effective SPIL development; and
- strategic planning.

CHAPTER 2: FISCAL MANAGEMENT OF THE INDEPENDENT LIVING PROGRAM

RSA reviewed the fiscal management of the Independent Living (IL) program by NMDVR. During the review process, RSA provided technical assistance to the state agencies to improve their fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agencies' cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

Fiscal Performance

The data in the following table are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of their fiscal management practices. Specifically, IL program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the program's SF-269s and the RSA-704 report.

**Table 2.1
Fiscal Data for NMDVR for FY 2004 through FY 2008**

New Mexico (G)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$241,000	\$249,708	\$247,211	\$247,211	#REF!
Federal Expenditures	\$241,000	\$249,708	\$247,211	\$247,211	#REF!
Required Match	\$26,778	\$27,745	\$27,468	\$27,468	#REF!
Actual Match	\$26,777	\$27,745	\$27,468	\$4,354	\$0
Over (Under) Match	-\$1	\$0	\$0	-\$23,114	#REF!

Fiscal Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that NMDVR is required to undertake. NMDVR must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist NMDVR to develop the plan and undertake the corrective actions.

1. Unallowable Costs under Contract

Legal Requirements:

34 CFR 364.4(b)

Advocacy means pleading an individual's cause or speaking or writing in support of an individual. To the extent permitted by State law or the rules of the agency before which an

individual is appearing, a non-lawyer may engage in advocacy on behalf of another individual. Advocacy may –

(2) Be on behalf of –

(i) A single individual, in which case it is individual advocacy;

(ii) A group or class of individuals, in which case it is *systems* (or *systemic*) *advocacy*...

OMB A-122 paragraph 25 - Lobbying in pertinent part states:

a. Notwithstanding other provisions of this Circular, costs associated with the following activities are unallowable:

- (1) Attempts to influence the outcomes of any Federal, State, or local election, referendum, initiative, or similar procedure, through in kind or cash contributions, endorsements, publicity, or similar activity;
- (2) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections;
- (3) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation through communication with any member or employee of the Congress or State legislature (including efforts to influence State or local officials to engage in similar lobbying activity), or with any Government official or employee in connection with a decision to sign or veto enrolled legislation;
- (4) Any attempt to influence: (i) The introduction of Federal or State legislation; or (ii) the enactment or modification of any pending Federal or State legislation by preparing, distributing or using publicity or propaganda, or by urging members of the general public or any segment thereof to contribute to or participate in any mass demonstration, march, rally, fundraising drive, lobbying campaign or letter writing or telephone campaign; or
- (5) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

b. The following activities are excepted from the coverage of subparagraph a:

- (1) Providing a technical and factual presentation of information on a topic directly related to the performance of a grant, contract or other agreement through hearing testimony, statements or letters to the Congress or a State legislature, or subdivision, member, or cognizant staff member thereof, in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the recipient member, legislative body or subdivision, or a cognizant staff member thereof; provided such information is readily obtainable and can be readily put in deliverable form; and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearing.

- (2) Any lobbying made unallowable by subparagraph a(3) to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement.
- (3) Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

EDGAR, Part 82 – New Restrictions on Lobbying at 34 CFR 82.110(d) in pertinent part states:

Any person who requests or received from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal grant;
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant.....

Shall file a certification, and a disclosure form, if required, to the next tier above.

Findings: NMDVR has not taken steps to ensure that its contractor, Independent Living Resource Center (ILRC), is using its federal IL-part B funds in compliance with OMB Circular A-122, paragraph 25(a) because NMDVR's contract with ILRC includes activities that appear to be unallowable activities under the definition of prohibited lobbying contained in OMB Circular A-122. NMDVR contracted with ILRC to provide, "at a minimum, the core Independent Living Services" (p. 1). One of the four core IL services is systemic advocacy, defined in 34 CFR 364.4(b) as pleading a cause on behalf of a group of class of individuals. Lobbying is a particular form of advocacy that is not an allowable expense under federal grants. The four year contract extends from FY 2007 through FY 2010 and is funded with state IL and IL-Part B funds. ILRC's work plan incorporated into the contract, states that ILRC will engage in the following Methods/Actions, listed on page 4 of the contract, to maintain and expand the NM network of CILs:

- The ILRC Executive Director working with the other IL Centers and through the NM SILC will provide IL technical assistance to the New Mexico Legislature regarding state expansion bills initiated and supported by the SILC and other important legislative initiatives.
- The staff will educate consumers on the importance of communicating with their respective legislators to support increased funding.
- The Executive Director and staff will visit with Legislators to make them more aware of the importance of supporting the expansion and resource allocation for a network of Centers.
- Participate in Freedom Day planning and activities with consumer involvement during the legislative session.
- Continue to find ways to work together on national, state and local legislative and policy issues on matters of importance to the disability community....

Goal number 2, listed on page 6 of ILRC's work plan in the contract, is to "develop and implement a resource development plan that explains how additional funding will be sought to expand the organization's financial base"... Action step (3) is to "seek funds legislatively during applicable sessions that will enhance and expand services in ILRC's service area including general procurement funds and procurement funds targeting Native American communities."

A monthly report of contract activities submitted with an invoice for payment stated "The Special Projects Coordinator communicated with disability advocates around the state about an MFP demonstration on the 11th and asked them to call the Governor's office. The Special Projects

Coordinator sent an email to disability advocates at the last-minute logistical details for the demonstration. The Executive Director, Staff of the ILRC, Executive Director of San Juan Center, her staff, consumers and other advocates of the community prepared and participated in the MFP demonstration in front of Bill Richardson for President Headquarters. Protecting [sic] the decision not to implement Money Fallow [sic] the Person... Continue to testify before the State Legislature concerning the state's moral and financial obligation to provide community services for persons with severe disabilities.”

ILRC cannot use the federal IL-part B funds it receives for lobbying activities. Any lobbying activities in which ILRC engages are unallowable costs under the federal grant. NMDVR must ensure that the center either engages in no prohibited lobbying activities or maintains an accounting system that can track federal funds and other funding sources separately and can document that no federal funds were used to engage in prohibited lobbying activities consistent with OMB Circular A-122. In addition, NMDVR's contract with ILRC is not in compliance with 34 CFR 82.110(d) because it does not include the required lobbying certification.

Corrective Actions 1: DVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure compliance with OMB Circular A-122, paragraph 25(a) in any contracts that it provides using IL-Part B funds;
- 1.2 develop policies and revise contracts to ensure that all contracts meet the lobbying certification requirements of 34 CFR 82.110(d); and
- 1.3 submit the total amount of IL-Part B funds, by year, from FY2007 to FY2010 that were expended for unallowable lobbying expenses under OMB Circular A-122, paragraph 25(a).

APPENDIX A: NMDVR RESPONSE

Part I, Chapter 1: DVR Vocational Rehabilitation and Supported Employment Programs

VR/SE Program Performance Observations and Recommendations

1. VR Performance and Quality of Employment Outcomes

Recommendation 1: RSA recommends that NMDVR:

- 1.1 Develop and implement performance indicators that measure the quality of employment outcomes.
- 1.2 Develop and implement goals with measurable targets that will allow the agency to track progress toward improving the quality of its outcomes.

Agency Response: NMDVR will continue to prioritize practices related to meeting the federal standards and indicators as these are required measures that are reviewed by the RSA and established in regulation. NMDVR will review possible qualitative measures as performance indicators. It is in the interest of the agency to ensure that quality services are delivered. Information will be researched including obtaining information from other states and VR programs to identify possible qualitative measures for implementation. NMDVR would be interested in working with RSA to identify performance measures or possibly modify the existing measures.

- 1.3 Review and revise, as appropriate NMDVR's policies and procedures for the provision of diagnosis and treatment of mental and physical impairment services, often referred to as medical restoration services.

Agency Response: NMDVR does not accept this recommendation as the current policies and procedures are consistent with federal regulations. Anecdotal information may have been obtained related to what some perceptions may be related to restoration services; however, the agency policies and procedures are not in need of revision.

- 1.4 Provide training to VR field staff on the appropriate role of medical restoration services in the context of an Individualized Plan for Employment.

Agency Response: NMDVR accepts this recommendation.

- 1.5 Analyze the differential in the employment rate between those employed with earnings at application and those without employment at application and develop goals based on this analysis to increase the employment rate for this latter population.

Agency Response: The agency agrees that this analysis is valid. Given that NMDVR is now under an order of selection, it is expected that there will be a change in the service delivery demographics. NMDVR will evaluate practices in order to maximize employment outcomes for participants declared eligible and moved into service status.

1.6 Identify the most common reasons individuals who were employed at application leave the VR program without achieving their employment goals, and develop and implement goals and strategies to increase the employment rate for this population.

Agency Response: As NMDVR has now entered into an order of selection, there will be on-going analysis of successful and unsuccessful closures. Given that less people will be served, there is an opportunity to do further analysis of developing trends.

1.7 Review the process for requesting more funds when a VR counselor's budget is not sufficient to meet the VR service needs.

Agency Response: NMDVR will continue to monitor the effectiveness of caseload budgeting processes. The agency is committed to ensuring that there is an appropriate allocation of resources where they are needed and that when additional allocations are made, that they remain timely.

1.8 Review NMDVR's outreach strategies to ensure a better understanding of the vocational purpose of the VR program, de-emphasizing the provision of medical services wherever it may be highlighted to avoid confusion on the part of the public, particularly employers to whom NMDVR may be targeting in its outreach efforts.

Agency Response: While anecdotal information was used in preparing this finding [sic], it is not necessarily the case that the general public views the agency as emphasizing medical services. In fact, the majority of DVR funding is devoted to training.

NMDVR is, however, developing tools for communication with employers and the general public emphasizing our partnership with employers and the fact that the Division is a resource on disability related issues. Emphasis will continue to be made on the employment of persons with disabilities.

1.9 Develop a contingency plan in the case that NMDVR needs to implement an order of selection, which should include projections of the impact on performance measures due to the inability to serve all eligible individuals.

Agency Response: The agency has engaged in planning and has developed a series of practices and trained staff related to implementation of an order of selection. This was necessary as the agency entered into an order on February 14, 2011. As part of its planning, the Division is working on developing performance projections and predictive tools for budget management.

Technical Assistance: NMDVR does not request TA.

2. VR Service Policies

Recommendation 2: RSA recommends that NMDVR:

2.1 Ensure that any new service policies do not significantly curtail or limit consumer choice through implementation of cost containment measures built into the new policies.

Agency Response: NMDVR concurs with this recommendation.

2.2 Provide clear guidance as it implements new policies to ensure that all VR staff understand the mechanisms for requesting exceptions to any nominal limitations in the range of the scope of services provided to VR consumers.

Agency Response: Staff training will be provided when new policies are established.

2.3 Develop and implement a strategy to expand the availability of vehicle modification resources in the community, including the ability for consumers to receive driving assessments in-state, and establishing fee schedules for modifications that contain costs while respecting consumer choice.

Agency Response: NMDVR will continue to work with local vendors to enhance the number of resources available to its consumers and staff. However, much of this is market driven and beyond the scope of what the agency can control. Recently, in part through a cooperative effort with NMDVR, the Governor's Commission on disability was successful in facilitating the establishment of a new vendor that will provide driver evaluations and training in New Mexico. NMDVR will work with the vendor to establish a fee schedule, but with a lack of other vendors to compete, the agency's bargaining power will be limited. Even at that, the agency stands to save a substantial amount of money as staff will not have to refer consumers out of state (and incur the additional travel costs) for these services.

2.4 Provide clear guidance to VR counselors and staff about the agency's expectations for financial participation of VR consumers and the application of comparable benefits. NMDVR should not set hard targets for financial participation, but rather ensure the maximizing of resources based on the individual consumer's abilities, needs and informed choice.

Agency Response: The intent of revising this policy is to add some definition to the application of financial needs and consumer participation; however, NMDVR concurs with the spirit of this recommendation.

2.5 Ensure that policies are consistently applied across the state by developing mechanisms for the regular delivery of policy guidance that is available to all field offices and fosters communication and the sharing of policy questions to maximize the benefit of staff training and on-going support from senior management and area supervisors.

Agency Response: NMDVR has a number of avenues available for training and sharing information with staff across the state. With the implementation of new policies and practices, formal training is offered to staff. Program manager meetings are held bi-monthly and offer an opportunity for managers to address any policies or practices that require further interpretation or that may not be applied consistently. Each Area or region of the state holds staff meetings, which provides another option for training and information sharing.

With the implementation of an order of selection, a number of policies and practices have been revisited. This has also offered an opportunity to tighten some practices.

2.6 Develop routine procedures to capture service policy delivery issues, broken down by office, in order to identify those issues that are systemic in nature and require agency-wide solutions.

Agency Response: See response to 2.5. Additionally, information obtained from quarterly meetings with the Client Assistance Program is shared with program managers, who in turn share this information with their staff members.

Technical Assistance: NMDVR does not request TA.

3. Staff Training and Program Development

Recommendation 3: RSA recommends that NMDVR:

3.1 Develop a long-range strategy for creating a cohesive VR program across the state that allows for maximum staff interaction across all field offices.

Agency Response: When resources allow, NMDVR will resume its annual statewide staff meeting. Until that time, NMDVR will continue to facilitate information dissemination through general announcements, through training opportunities, through use of webinars or other venues, and through program manager meetings and information dissemination.

3.2 Establish ad hoc or standing focus groups that would bring staff together to discuss how to maximize resources, and share strategies for success that can be replicated in other offices.

Agency Response: One of the Leadership Institute for Tomorrow (LIFT) project teams is currently working on a project to facilitate communication across agency units in order to improve one or more processes within the fiscal and/or IT units. Another team of service delivery staff from across Albuquerque offices is currently developing a process to centralize fiscal functions in the Albuquerque area (and eventually more globally). This is necessary to address service delivery needs in an environment with less staff due to the state imposed hiring freeze.

Other similar work groups will continue to be explored in order to maximize efficiencies with less staff and monetary resources.

3.3 Explore the use of technologies that would expand access by staff to online resources that provide training and professional development when fiscal resources or time preclude traveling for such purposes.

Agency Response: NMDVR concurs with this recommendation. Technologies such as webinars have recently been used to facilitate training and informational meetings.

3.4 Explore the expansion of online access to specialized tools and resources for VR counselors who work with unique populations, such as individuals who are deaf and hard-of-hearing. This would allow NMDVR to maximize limited fiscal resources and expand the range, scope, and quality of services to VR consumers.

Agency Response: NMDVR is currently in the process of purchasing portable video interpreting devices which can be utilized in rural locations to facilitate service delivery. This is expected to increase access and service delivery capacity. Other types of technology will continue to be explored.

3.5 Review the process by which VR counselors and managers request additional funds for VR services to ensure that the delivery of services or the payment of invoices to vendors are not delayed or even avoided in order to stay within assigned budgets.

Agency Response: NMDVR will continue to monitor the effectiveness of caseload budgeting processes. The agency is committed to ensuring that there is an appropriate allocation of resources where they are needed and that when additional allocations are made, that they remain timely.

3.6 Clarify to all staff that individual counselor budgets are not intended to be a barrier to serving individuals with significant disabilities or to providing VR services. Senior managers should consider whether individual VR counselor budget goals are an effective practice for maximizing resources and is not a practice that inadvertently results in the avoidance of the provision of high-cost services.

Agency Response: It will continue to be emphasized with staff that the expectation is that case service needs are the first priority. In fact, the caseload budgeting system allows for additional requests with this central idea in mind. In FY 10, seven of the 66 caseloads received additional allocations in excess of \$100,000 each because of the number and nature of the clients served on their respective caseloads. The needs of NMDVR participants come first (regardless of cost), but resource management is also an important function of the job. Management staff at all levels within the Division have come to recognize that caseload budgeting is an effective means to managing resources. Additionally, when reviewing how other states implemented order of selection, NMDVR determined that is important to continue with caseload budgeting.

3.7 Develop a more flexible approach to establishing outcome and performance targets for both VR Counselors and field offices to better reflect the diversity of economic, demographic, and human resources available in local communities.

Agency Response: The agency will review this. However, the bottom line will be to meet the federal standards and indicators in an equitable manner. Additionally, it should be noted that agency data reveal that some of the agency's more rural locations are the highest producing ones. It's not uncommon to see performance in smaller communities exceeding that of Albuquerque (larger metropolitan area) offices.

3.8 Incorporate evaluation strategies that consider the quality of employment outcomes achieved by individuals, including such factors as significance of disability and wages and benefits earned.

Agency Response: NMDVR concurs with this recommendation.

3.9 Provide greater resources to supervisors who are responsible for managing offices in a large geographic area, such as greater access to technologies, and other resources that would allow supervisors to spend more time in all area offices to ensure effective supervision across an entire region.

Agency Response: Use of webinars to train and disseminate information has become an option. Other technological options are under exploration. Recently, the Division implemented the use of wireless technology in serving communities itinerantly. As previously mentioned, New Mexico is the fifth largest state in geographic area, with a population of approximately two million people. This creates extraordinary challenges with regard to staffing and supervision of staff. In the last three years, a significant restructuring took place which resulted in the creation of two additional areas or regions (seven to nine). The intent was to reduce the ratio of staff to supervisors, to better align offices geographically, and to reduce the total number of satellite offices that supervisors are responsible for. It should also be noted that some VR counselors have been designated as lead workers. Lead workers assist in providing training and mentoring to less experienced staff. They also review casework in order to expedite services. Lead workers are identified by their superior performance and interest in providing training and support. They also improve timeliness of case reviews and service provision, and are often undergoing development to become future supervisors with the Division. While these initiatives have met with some success, supervision and staffing will always be challenge with a large state and very limited resources.

3.10 Clarify its mission statement and program values to ensure that all staff understands the agency's direction, goals, and priorities.

Agency Response: The Strategic Planning Framework will continue to be shared with all staff. Any changes made to direction or agency philosophy will also be communicated.

Technical Assistance: NMDVR does not request TA.

4. Specialized Transition Caseloads

Recommendation 4: RSA recommends that NMDVR:

4.1 Develop and collect data elements that will accurately capture the effectiveness of the specialized transition caseloads.

Agency Response: NMDVR is in agreement that evaluation of other data elements is a worthwhile pursuit and will be reviewing what data elements other states review.

4.2 Analyze the data collected in 4.1 to determine the effectiveness of the specialized transition caseloads.

Agency Response: NMDVR concurs with this recommendation.

4.3 Compare and analyze the transition cases that are assigned to specialized transition VR counselors versus regular VR counselors to determine the effectiveness of the specialized transition caseloads.

Agency Response: NMDVR concurs with this recommendation.

4.4 Develop and implement standardized performance evaluation criteria for the specialized transition VR counselors. Such criteria should take into account the unique nature of the specialized caseloads.

Agency Response: NMDVR is generally supportive of this idea; however, if NMDVR maintains transition caseloads, the agency will have to carefully analyze whether any adjustment can be made to evaluation criteria for those caseloads. With less staff under a hiring freeze, reducing evaluation criteria related to federal standards and indicators would shift the burden of meeting or exceeding program measures to the remaining counseling staff. This is problematic given that the vacancy rate for VR counselors for FY11 is 18%. Based on budgetary considerations, it's likely to decrease very little for FY 12. NMDVR has a requirement to meet the federal standards and indicators which could become unachievable with an adjustment to any caseload(s). NMDVR will consider this request, but further analysis is necessary and circumstances surrounding vacancy rates will have to be taken into consideration.

Technical Assistance: NMDVR does not request TA.

5. Data Use

Recommendation 5: RSA recommends that NMDVR:

5.1 Increase training opportunities for staff to learn about NMDVR data resources and how they can be used to view agency and caseload performance.

Agency Response: NMDVR agrees with this recommendation. As mentioned above, agency management staff recognizes the importance of acquiring additional data to drive decision making. Resources (financial and staff) are a very real challenge in furthering this effort, but this will continue to be explored. Recently, through use of ARRA stimulus dollars, the agency has initiated steps towards acquiring a data reporting tool aimed at mining case service information. The tool will be relatively user friendly and is intended to prompt further inquiries.

5.2 Provide a mechanism for VR counselors to staff and share ways of using the case management system to gain an increased understanding of caseloads and outcomes.

Agency Response: The AWARE case management system provides caseload information to all staff. This tool is utilized to promote case/case management decision making. A data reporting tool is currently being explored for managers. The possibility of sharing this tool with VR counselors will be explored.

5.3 Analyze available data about consumers who do not complete the VR process to determine if there are discernible patterns in their backgrounds or experiences that might lead to successful interventions.

Agency Response: NMDVR concurs with this recommendation.

5.4 Assemble vendor performance information so that VR counselors can make informed decisions about referring consumers for services. Routine data collection from CRPs would assist NMDVR in monitoring the efficiency and effectiveness of services provided.

Agency Response: Efforts will be made to follow up on this action as soon as possible. Part of the challenge with implementing this is that the agency is experiencing some staffing shortages as a result of the state imposed hiring freeze. As the agency is able to devote more resources to this activity, a greater emphasis will be placed on developing a routine system of data collection to support this effort.

5.5 Increase the level of technical skills relating to the presentation of data (e.g. graphs and tables) so that data can be more easily assimilated by NMDVR staff.

Agency Response: NMDVR concurs with this response. As mentioned, the agency has initiated steps towards acquiring a data reporting tool aimed at mining case service information. The tool will be relatively user friendly and is intended to prompt further inquiries.

5.6 Develop an organized series of management reports for different management levels of NMDVR that show program performance for the present period, with comparison to annual goals and to the same period in the prior year to provide a context for interpreting management information.

Agency Response: This currently exists. The AWARE system provides performance statistics reports that provide data at the overall agency level and drill down to regional and the caseload levels. Through the agency's internal reporting system, the same data can be obtained for the prior fiscal year. This report is utilized for planning and for making comparisons on production. Similar reports are run to obtain comparisons on expenditures.

Technical Assistance: NMDVR does not request TA.

6. Planning

Recommendation 6: RSA recommends that NMDVR:

6.1 Combine the currently separate state and federal planning processes into a single agency planning process and to the extent that the state and federal reporting requirements overlap, use the same material in both plans.

Agency Response: NMDVR agrees that the state and federal planning processes are important, and to the extent that there is overlap between the two processes, the same material will be used in both plans. NMDVR would also point out that the federal state VR plan and the strategic plan serve specific functions. The federal state plan has very prescriptive requirements that don't always lend themselves to other strategic planning activities. Similarly, the strategic plan is part of the agency's state budget submission. As such, the two plans will not always be consistent.

6.2 Use the strategic plan to address agency goals.

Agency Response: The strategic plan does address agency goals, and will continue to do so. NMDVR agrees with this recommendation.

6.3 Use the planning process to formally determine priorities for resource allocation.

Agency Response: The strategic plan and the state plan identify agency and programmatic priorities. These priorities in turn are used in planning staff resource time. In some instances, there are actions or activities that involve the actual expenditure of monetary resources. NMDVR will continue to incorporate resource management into the planning process.

6.4 Integrate the SRC recommendations and CSNA findings into the goal development process to ensure that all relevant sources are used in high level planning processes.

Agency Response: NMDVR concurs with this recommendation. NMDVR obtains endorsement of its state plan and strategic plan from the SRC. Additionally, the SRC takes a lead role in conducting the statewide needs assessment. Recommendations from these sources will be incorporated into agency planning activities.

6.5 Integrate program and fiscal planning processes into a single comprehensive process.

Agency Response: To some extent, program and fiscal planning processes are incorporated into both plans, although more so in the strategic plan. To the extent that there is overlap, they will be incorporated into both the state plan and the strategic plan. The Division will; however, have to maintain dual processes for the completion of each plan.

6.6 Consult with the SRC to identify the most useful format for SRC recommendations to the agency. Some recommendations are actionable and some are not. To the extent practical, both NMDVR and the SRC will want to maximize the former and minimize the latter.

Agency Response: NMDVR will continue to work with the SRC to incorporate their recommendations with regard to planning activities, agency initiatives, and to support the work activities of the SRC. These processes have changed through time, and will likely continue to do so. The agency will continue to prioritize the partnership with the SRC and will explore useful formats as recommended.

Technical Assistance: NMDVR does not request TA.

7. Quality Assurance

Recommendation 7: RSA recommends NMDVR:

7.1 Address QA as a focus of the state VR plan in order to gain the benefits that currently are derived from case management QA to other areas of the agency operation and management.

Agency Response: The agency agrees that this is a good recommendation, and will take a look at possible measures to facilitate this as resources permit.

7.2 Create a formal QA function to ensure that QA is fully addressed in agency operations. As a part of a QA function, conduct cost benefit evaluations of selected agency services to begin to determine how to optimize results.

Agency Response: The agency agrees that this is a good recommendation, and will take a look at possible measures to facilitate this as resources permit.

Technical Assistance: NMDVR does not request TA.

Part I, Chapter 2: Fiscal Management of the DVR Vocational Rehabilitation and Supported Employment

1. Periodic Certification – Staff Working Solely on One Program

Corrective Action 1: NMDVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with staff certification requirements set forth at 2 CFR part 225, Appendix B, 8.h.3; and
- 1.2 develop procedures that ensure, at a minimum, semi-annual certifications are completed for all employees working solely on one federal grant program, or cost objective required by 2 CFR part 225, Appendix B, paragraph 8.h.3.

Agency response to Corrective Action 1.1: NMDVR assures RSA that it is complying with staff certification requirements set forth at 2 CFR part 225 Appendix B, 8.h. 3.

Agency response to Corrective Action 1.2: In July 2010, NMDVR implemented a Time and Effort Policy and Procedure (Attachment 1.2A and 1.2B). All employees working solely on federal grants complete semiannual certifications in July and January. Two certifications have been collected to date. The next certification will be completed in July 2011.

Technical Assistance: NMDVR does not request TA.

2. Assigning Personnel Costs – Staff Working on Multiple Programs

Corrective Action 2: NMDVR must:

- 2.1 cease using Title I funds for personnel costs that do not arise under the administration of the VR program and that are not supported by documentation (e.g., personnel activity reports), pursuant to 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3, by ensuring that VR funds are spent solely on allowable VR expenditures; NMDVR must assure that it will comply with 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5, by ensuring that staff working on multiple programs complete personnel activity reports and that the programs are charged an appropriate and allocable amount for personnel costs; and NMDVR must assure that it will comply with 34 CFR 361.12 and 34 CFR 80.20(a), by ensuring that the VR program is administered in such a manner that ensures the proper expenditure and accounting of VR funds;
- 2.2 submit a spreadsheet that details the non-VR personnel costs expended with VR funds for FY 2005 through FY 2010; and
- 2.3 submit a plan, including timelines, describing the corrective actions that will be taken to ensure:
 - a) personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs to the appropriate program for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and,

- b) personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by NMDVR (excluding the SE program under Title VI-B, which can legally be charged to the VR program).

Agency response: NMDVR appreciates the importance of the issues raised by RSA and is committed to taking appropriate steps to address RSA's concerns. As discussed in the response to finding 1, NMDVR implemented time and effort policies and procedures in July 2010 requiring all employees paid with federal funds, including those paid with state match funds, to maintain time and effort records in accordance with OMB Circular A-87. Copies of the Time and Effort Policies and Procedures were submitted to RSA as separate attachments to this response.

As identified by RSA, NMDVR has been using a cost allocation methodology to allocate administrative costs among the programs it administers. While cost allocation plans are permitted under OMB Circular A-87, NMDVR now recognizes that it should have obtained RSA's prior approval before implementing such a plan. The cost allocation plan, however, did not harm the VR program.

NMDVR's primary responsibility is to administer the VR program. As such, the vast majority of staff effort is devoted to VR. Some of NMDVR's employees also perform administrative services for non-VR programs such as the DDS. To ensure VR is not charged for the portion of time of these employees that benefit other programs, NMDVR used indirect cost recoveries from the other grant programs it administers to offset the VR charges. Those indirect cost recoveries were used to reimburse the VR program for a share of the salaries.

Going forward NMDVR recognizes the need to strengthen the documentation of how it allocates cost.

NMDVR assures RSA it will spend VR funds solely on allowable VR expenditures in accordance with Section 111(a)(1) of the Rehabilitation Act and 34 CFR § 361.3. NMDVR further assures employees supported with federal funds will maintain appropriate time and effort records in accordance with 2 CFR part 225, Appendix B. NMDVR also assures it will administer the VR program in accordance with 34 CFR § 361.12 and 34 CFR § 80.20(a).

NMDVR looks forward to working with RSA on this issue.

RSA response: RSA appreciates that NMDVR implemented time and effort policies and procedures in July 2010, requiring all employees to maintain records in accordance with OMB Circular A-87. RSA understands that NMDVR recovered funds from other programs to offset the indirect costs paid using VR funds. However, NMDVR did not have documentation that the amount recovered was equal to the amount expended by the VR program. Without the necessary documentation, NMDVR is unable to support the assertion that the cost allocation plan "did not harm the VR program." RSA's finding remains unchanged.

Technical Assistance: NMDVR does not request TA.

3. Financial Reporting – Failure to Submit Timely Reports

Corrective Action 3: NMDVR must:

- 3.1 cease not submitting or submitting untimely financial and statistical reports, namely the SF-269 and SF-425;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the timeliness of future financial and statistical reports submitted on behalf of the VR, SE, and IL-part B programs, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41(b) submit all required SF-269/SF-425s for FYs 2008 through 2010; and
- 3.3 submit a plan, including timelines, describing the steps NMDVR will take to ensure timeliness of the financial and statistical reports, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.41(b).

Agency response to Corrective Action 3.1: NMDVR understands the importance of submitting timely reports, and takes this finding seriously.

In 2007, the state of New Mexico implemented a single shared accounting system throughout the state, known as SHARE. All state agencies are required to use the SHARE system, but its implementation has complicated the federal reporting process. In the past, NMDVR was able to obtain the information needed to prepare the SF-269 through a single report in NMDVR's accounting system, but now must run several reports from SHARE and compile an excel workbook in order to prepare the required data for the SF-269 and SF-425.

The SHARE system has a Grants Module available that could streamline NMDVR's reporting, but until the module is fully operational NMDVR will have to continue to compile the data manually. This is a time intensive process, which is exacerbated by budget challenges resulting in ongoing vacancies, work-hour restrictions and furloughs.

While the functionality of the SHARE system is beyond NMDVR's control, the agency has taken several steps to address the reporting process. For example, NMDVR has realigned its Financial Management Unit to better facilitate reporting efforts. Further, NMDVR has taken advantage of the opportunity to participate in SHARE-related training sessions in order to raise awareness of the challenges related to federal reporting.

Agency Response to Corrective Action 3.2:

The following chart provides an update on NMDVR's progress towards submitting the unfiled reports noted in the finding:

Report	Status
FY 2008 Final SF-269 report for SE	Submitted on 7/1/10; however, the status was listed as "Partially Saved." NMDVR resubmitted the report on 5/10/2011.
FY 2009 Annual SF-269 report for IL	Submitted on 5/11/11.
FY 2009 Annual SF-269 report for SE	Submitted on 7/1/10; however, the status was listed as "Partially Saved." NMDVR resubmitted the report on 5/9/11.
FY 2010 First Quarter SF-425 report for VR	Submitted on 5/20/11. Please note the FY 2009 Final report was also submitted at this time.

Agency Response to Corrective Action 3.3: Going forward, NMDVR will:

- Formally request assistance from the Comptroller of the New Mexico Department of Finance and Administration in addressing NMDVR's reporting needs;
- Enlist the assistance of NMDVR's Information Technology Unit to develop automated processes that decrease the amount of time required to run and compile reports from SHARE;
- Seek a waiver from the state's hiring freeze to permit NMDVR to hire a full-time employee dedicated to grant reporting;
- Realign reporting duties to ensure staff can dedicate sufficient time to preparing the required reports; and
- Calendar reporting tasks to facilitate the timely preparation of data required to complete the SF-269 and SF-425.

The change to semi-annual reporting for the SF-425 in FY11 will help to ameliorate the reporting workload, and NMDVR is hopeful it can work with the New Mexico Department of Finance and Administration to resolve some of the systemic challenges. If NMDVR continues to encounter problems it will inform RSA and explore additional appropriate corrective actions.

NMDVR is committed to addressing its ongoing reporting challenges and appreciates RSA's assistance with this matter.

Technical Assistance: NMDVR does not request TA.

4. Internal Controls – Failure to Monitor Contractors and Verify Certain Expenditures

Corrective Action 4: NMDVR must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); NMDVR also must assure that it will monitor all grant-supported activities, including those performed by contractors, to ensure Federal requirements are satisfied and that performance goals are met, as required by 34 CFR 80.40(a); and
- 4.2 develop and implement procedures to ensure that:

- fiscal controls permit the tracking of expenditures necessary to ensure that the funds are not used in violation of restrictions and prohibitions of applicable statutes;
- internal controls are in place to ensure that all program assets are maintained and accounted for, and used solely for authorized purposes; and
- NMDVR monitors all grant-supported activities

Agency Response to Corrective Action 4.1:

(A) Contracts: In August 2008, NMDVR implemented a new Contracts and Agreements Policy and Procedure (Attachment 5.1A and 5.1B) which was the culmination of a three year Contract Improvement Project. During this time 100% of all contract files were reviewed and evaluated for performance and documentation by the Contracts Management and Utilization Team. In December 2007, five-days of training were provided to all contract monitors titled Performance-Based Acquisition. This training was provided by a federal contracting expert and is the same training provided to federal contracting staff. At the end of the training all contract monitors were tested and all passed the test. After the new contract policy was implemented, training was provided to all contract monitors regarding the Contract and Agreement Policy and Procedures.

Every contract or agreement implemented by the NMDVR goes through multiple reviews as indicated by the procedure (this includes an internal review for legal sufficiency and a review by the NM Department of Finance and Administration Contracts Review Bureau). Contracts are not legally in effect without both reviews.

NMDVR has recently received approval from the DFA Contracts Review Bureau to add language to all contracts that use federal funds to address lobbying, disbarment and suspension and drug free workplace, among other additions to the boilerplate. The NMDVR believes that the internal controls outlined in the Contracts and Agreements Policy/Procedure and the changes to the state contract boilerplate meet the federal requirements. However, internal controls can always be improved.

NMDVR appreciates RSA's review of several contracts that identified this instance where the agency contract monitoring requirements was not followed.

This contract was intended to improve outreach, referral and support services for Native Americans associated with the 19 Pueblos and two Apache Tribes in New Mexico. There are clear lessons to be learned from the information provided by RSA regarding this contract, both about the measurements selected and lack of documentation in the file about actions taken by the contract monitor.

Due to budget constraints, the Native American outreach project contract will end June 30, 2011 and will not be renewed.

This RSA Monitoring Report identified another contract with the Community Outreach Program for the Deaf (COPD) as "strength" and a successful project in the strengths section of the report. It is logical given the successful outcomes under the COPD contract and since no other contract examples were provided that the NALP contract issues are an aberration rather than a norm.

In order to assure RSA that the NMDVR administers the VR program to ensure the proper expenditure and accounting of federal funds related to this finding, the NMDVR will:

1. Provide refresher training to all contract monitors and staff with contract responsibilities regarding the policy and procedures.
2. Ensure that contract monitors conduct onsite visits to contractors as part of monitoring responsibilities, where appropriate.
3. Ensure that contract files are audited in compliance with policy and procedure.

(B) Direct Client Payments: Contact with NMDVR direct service staff indicates that some offices routinely obtain receipts from clients when direct payments are issued. In other offices, staff mistakenly believed that no receipts were required. The Rehabilitation Services Unit's (RSU) Program Policy Instruction (PPI) titled Issuing Authorizations Directly to Clients for Other Than Maintenance and Transportation indicates that receipts are required when an authorization is issued directly to the client for services/goods. A copy of this PPI is included as Attachment 5.1C.

Written assurance of NMDVR compliance with 34 CFR 361.12, 34 CFR 80.20(a); and 34 CFR 80.40(a) will be provided within 10 days of the final report.

Agency Response to Corrective Action 4.2:

(A) Contracts: The NMDVR believes that the internal controls outlined in the Contracts and Agreements Policy/Procedure and the additional language in the state contract boilerplate are in compliance with federal requirements. The policy and procedures and contract boilerplate are based on state procurement requirements and are in agreement with requirements per 34 CFR 80.20 Standards for financial management systems,

- (a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its sub-grantees and cost-type contractors, must be sufficient to: (1) Permit preparation of reports required by this part and the statutes authorizing the grant, and (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

NMDVR implemented in August 2008 fiscal controls, internal controls and monitoring policies and procedures. [These new policies were sent to RSA as separate attachments to this response.] In order to further ensure that the policy is enforced, the NMDVR will:

1. Provide refresher training to all contract monitors and staff with contract responsibilities regarding the policy and procedures.
2. Ensure that contract monitors conduct onsite visits to contractors as part of monitoring responsibilities, where appropriate.
3. Ensure that contract files are audited in compliance with policy and procedure.

(B) Direct Client Payments: The NMDVR agrees that receipts are necessary when authorizations are issued directly to clients and is taking the following actions to ensure that receipts and appropriate documentation are obtained:

- Revise PPI 96-01 to reflect requirements to obtain receipts for Maintenance and Transportation as well as goods/services.
- Mileage logs will also be required for clients receiving mileage to insure that transportation is related to IPE goals.
- Train all direct service staff on these requirements in June 2011.
- Require quarterly post audits by administrative support staff of all direct payments to clients and report to the Field Operations Director and Area Managers regarding their findings.
- Seek state approval to create an internal audit position within the financial management unit. This position would be used to ensure that all grant supported activities meet federal and state requirements.

Technical Assistance: NMDVR does not request TA.

5. Questioned Costs and Failure to Monitor – Office of African American Affairs Agreement

Corrective Action 5: NMDVR must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that VR funds will be spent solely on allowable expenditures, as required by 34 CFR 361.3, and that non-federal expenditures used for VR match purposes also will be incurred solely for allowable expenditures, as required by 34 CFR 361.60(b)(1) and 34 CFR 80.24(a)(1); NMDVR must assure that it will administer the VR program in a proper and efficient manner that ensures the proper expenditure and accounting of VR funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); finally, NMDVR must assure that it will monitor the day-to-day operations of all grant-supported activities, including those performed by contractors, to ensure compliance with federal requirements and that performance goals are achieved; and
- 5.2 submit detailed fiscal data regarding the OAAA Agreement from SFY 2005 through 2007. Data must include all funds expended – federal and non-federal, including indirect and other administrative costs attributable to the activities performed under the agreements. The data must also include information about the individuals served, differentiating between those individuals served who were not disabled versus those served who were individuals with disabilities.

Agency Response to Corrective Action 5.1: NMDVR assures RSA that VR funds, including non-Federal expenditures used towards the match, will be spent solely on allowable expenditures and that the VR program will be administered in a proper and efficient manner that ensures the proper expenditure and accounting of VR funds. NMDVR monitors the day-to-day operations of grant supported activities. NMDVR assures RSA that contractors are monitored to ensure compliance with state and federal requirements in order to achieve intended results.

Agency Response to Corrective Action 5.2: RSA determined the activities performed under the Memorandum of Understanding (MOU) with the Office of African American Affairs (OAAA) were unallowable because OAAA did not provide services to individual consumers pursuant to an IPE, or provide services to a group of eligible individuals with disabilities. The purpose of the MOU with the OAAA, however, was for allowable outreach activities to underserved minorities as described in 34 CFR § 361.29(a)(2) and 34 CFR 361.36(b)(1)(iii).

This purpose was made clear by the New Mexico Legislature when it appropriated state funds to support DVR and OAAA's efforts in FY05 and FY06. Language in the appropriation bill for OAAA stated, "The general fund appropriation to the public awareness program of the office of African American affairs in the contractual services category includes twenty-five thousand dollars (\$25,000) to continue the research and assistance activities initiated under the joint agreement with the division of vocational rehabilitation of the public education department." Language in the appropriation bill for the DVR stated, "The general fund appropriation to the rehabilitative [sic] services program of the division of vocational rehabilitation in the personal services and employee benefits category includes sixty thousand dollars (\$60,000) to continue the outreach activities initiated under the joint powers agreement with the office of African American affairs."

As noted in various attachments to New Mexico's State Plans, NMDVR's work with OAAA was critical to reaching unserved or underseved minorities who might not be aware of NMDVR's services.

Outreach activities, such as those performed by OAAA, help to ensure individuals from minority backgrounds have equal access to VR services, a priority goal of the VR program. 34 CFR § 361.82(c)(2), 34 CFR § 361.84(c)(2). Attachment 6.2A include the State Plan references.

Monitoring

RSA determined that DVR did not adequately monitor the OAAA agreement; however, a review of the personnel file for the employee carrying out the agreement documented that monitoring did occur. The individual had performance evaluation plans in effect during the years of the MOU and was evaluated against the performance plan by supervisor(s) from the DVR. Job assignments listed in the performance plans included the following:

- "Meet with community members in seven identified cities in New Mexico, to accomplish deliverables, as detailed in the Division of Vocational Rehabilitation, Office of African American Affairs Agreement 04-0047 #3."
- "Provide outreach and increase awareness to African Americans with disabilities of the eligibility requirements and how to access services available through NMDVR, to accomplish deliverables, as detailed in the Division of Vocational Rehabilitation, Office of African American Affairs Agreement 04-0047 #3."
- "Conduct at least seven (7) Black Town Hall Meetings in identified cities in New Mexico, to accomplish deliverables, as detailed in the Division of Vocational Rehabilitation, Office of African American Affairs Agreement 04-0047 #3."
- "Documentation of meeting locations, persons in attendance and copies of agendas."
- "Provide referrals and presentations to community employers regarding DVR services and Programs (available through DVR's Program Development and Supports (PDS) and Office of African American Affairs."
- "Develop an outreach campaign plan for activities proposed for calendar year 2006, to accomplish deliverables, as detailed in the Division of Vocational Rehabilitation, Office of African American Affairs Agreement 04-0047 #3."

RSA expressed concern that DVR's current management could not articulate how the agreement was monitored, but it is important to note that the agreement was terminated in 2006 and the individuals directly involved with the development, implementation and oversight of the initiative have retired from the NMDVR.

In corrective action 5.2, RSA requires information about the individuals served under the MOU with the OAAA. As discussed above, the purpose of the agreement with the OAAA was to conduct allowable outreach activities to minorities pursuant to 34 CFR 361.29 and 34 CFR 361.36. As a result, the NMDVR does not have records about specific individuals served, but is submitting the performance evaluations of the employee assigned to OAAA demonstrating the types of outreach activities the employee conducted. (Attachment 6.2B)

RSA response: In response to this finding, NMDVR provided the position description and various performance reports for the OAAA staff person. NMDVR states that these documents support that the activities performed were directly related to the provision of VR services; however, a review of the documents found the following:

- Tryouts were held for the New Mexico Youth Day. Staff person was asked to judge and select individuals/groups to participate in the event.
- Met with Prime Time for the Kids to assist in planning annual New Mexico Youth Day activities.
- Participated in Rape Crisis Center Core team meetings.
- Participated in the planning and coordination of Charter School Town Hall meetings; and
- Collaborated to plan workshops and performances by various artists in identified cities.

Additionally, the performance evaluations clearly documented the lack of NMDVR involvement in planning and coordinating the activities. The employee self-review worksheet lists “not receiving guidance or suggestions from either NMDVR or OAAA” as a primary obstacle in the performance of required job responsibilities. The documentation also noted that when the staff person was initially assigned to the position there was “no written job description” or guidance from NMDVR. The additional documentation does not support NMDVR's assertion that the position was only providing VR services and that NMDVR was guiding and monitoring the activities. As a result, RSA's finding remains unchanged.

APPENDIX B: NMCB RESPONSE

Part II, Chapter 1: NMCB Vocational Rehabilitation and Supported Employment Programs

VR and SE Performance Observations and Recommendations

1. VR Performance

Recommendation 1: RSA recommends that NMCB:

- 1.1 develop and implement program goals designed to increase the number of individuals served by the agency, including outreach efforts to under-served and unserved populations in New Mexico; and
- 1.2 implement quality assurance practices to ensure that individuals move through the VR system in a timely manner.

Agency Response:

Employment Rate

RSA is using "Employment Rate" to measure the performance of NMCB. "Employment Rate" appears to be different from "Percent of Employment Outcomes," which is set forth in 1.2 of "Evaluation Standard 1." For state agencies for the blind, Standard 1.2 is a computation of two fiscal years of data. This is a logical approach for state agencies for the blind as the smaller number of employment outcomes found in state agencies for the blind would tend to have greater annual fluctuation. By using two years worth of data, a larger sample is obtained, which yields a more valid statistical result. However, "Employment Rate" appears to be only a single year of data. This is inconsistent with the data that RSA reports in its own Annual Report. It is also inconsistent with the Monitoring Protocol, which specifies that the monitoring is to include, "performance standards and indicators established by the Secretary."

The approach is also inconsistent with the overall way that RSA has historically taken to measure state agencies for the blind. Section 106 of the Rehabilitation Act of 1973, as amended, requires RSA to establish evaluation standards and performance indicators that include "outcome and related measures of program performance." RSA published evaluation standards in the Federal Register on Monday, June 5, 2000. It is these evaluation standards that RSA is to use to measure program performance, and RSA has established minimum levels of performance for each performance indicator. To achieve "successful performance on standard 1, state VR agencies must meet or exceed four of the six performance indicators in the evaluation standard, including meeting or exceeding the performance levels for two of the three primary indicators," <http://www2.ed.gov/rschstat/eval/rehab/standards.html>. Although RSA refers to the Standards and Indicators in their Draft Monitoring Report, including the Primary Indicators, there is a greater weight placed on "Employment Rate." Because RSA has historically used the Percent of Employment Outcomes to evaluate NMCB, it is difficult to respond to the RSA comments with respect to NMCB performance on the "Employment Rate."

During all of the years of the monitoring period, NMCB met or exceeded 5 of the 6 Standard 1 Indicators, and met or exceeded all 3 Primary Indicators. Therefore, NMCB achieved "successful performance" during the monitoring period. Indeed, NMCB consistently performed near or at the top in the nation on the Primary Indicators. This is acknowledged by RSA with respect to Indicator 1.5 in their Table 1.3. In addition, Table 1.2 describes the "Employment Rate," and is given far greater prominence and consideration than is Table 1.3 that describes NMCB's strong performance on Indicator 1.5.

RSA notes that the NMCB employment rate decreased from 53.33 percent to 42.11 percent during the period beginning in FY 2004 and ending in FY 2008. However, an examination of the Percent of Employment Outcomes for the years prior to 2004 shows that the period from 2004 to 2005 actually represents a period of unusually high rates of NMCB employment outcomes. For example, the NMCB Percent of Employment Outcomes for 2001 was 40.54, for 2002 38.07, and for 2003 44.38. Again, the monitoring period actually represented a period of unusually high employment outcomes. Unfortunately, RSA viewed the "Employment Rate" in the most negative fashion possible.

The use of "Employment Rates" overstates the annual fluctuations. This is due to the lower number of annual employment outcomes associated with state agencies for the blind, which are serving a "low incidence" disability. In addition, aggregate RSA data shows that there was a national downward trend in the percent of employment outcomes during these same years.

RSA also does not consider any circumstances that might impact the "Employment Rate," which could inform the NMCB and national trends. Such circumstances might also have an impact on the number of applicants. Examples of these circumstances will be enumerated in the Number of Applicants section.

Number of Applicants

RSA notes that from 2004 to 2008 the number of NMCB applicants "decreased from 153 to 106," and that the "number of individuals who received services under an individualized plan for employment decreased from 101 to 85." However, an examination of RSA data from surrounding states shows that this was a larger trend. For example, NM General sustained a decrease, as did state agencies for the blind in Arizona, Utah, Oklahoma, Texas, and Colorado.

While the number of applicants declined during the monitoring period, there is no evidence that the decline is due to any lack of appropriate activity on the part of NMCB. Indeed, there are many reasons that may account for this decline. A few of the most obvious include:

1. A regional and national trend towards declining applicants for vocational rehabilitation programs.
2. The quality of NMCB employment outcomes as demonstrated on Indicator 1.5, which may result in fewer individuals needing or seeking to return to the NMCB for additional vocational rehabilitation services.
3. The effectiveness of the NMCB Emergency Eye Care program, which uses 100% state funds to provide sight-saving medical procedures for persons who do not have any form of insurance.
4. Advances in ophthalmological medicine that result in persons not being qualified for NMCB services who would have qualified in prior years.
5. The aging of the workforce, resulting in fewer persons of working age.
6. The aging of the population of persons with Retinopathy of Prematurity (ROP). Previously known

as retrolental fibroplasias, ROP was a major cause of blindness in the 1950s due to the use of oxygen in incubators.

7. The high prevalence of secondary disabilities in New Mexico, which at 23% is higher than the national average of 20.6%.
8. Advances in diabetic treatment and management, resulting in a decrease in the relative rate of diabetic retinopathy.
9. Decreased family size, increased genetic counseling, and increased use of family planning, reducing the frequency of blind siblings and other blind relations.
10. Unique cultural communities that may discourage family members with disabilities from seeking employment, instead relying on traditional values to care for the family members within the community.

According to the RSA Monitoring Protocol, the “review process takes into account the unique demographic, economic and geographic circumstances of each state.” However, the Draft Monitoring Report does not consider any of the foregoing “circumstances.”

Use of Peer States

The use of “peer states” to draw conclusions with respect to relative performance lacks statistical validity. The data is not adjusted to compensate for geographic size, population density, prevalence of secondary disabilities, education, poverty, or any other circumstances. While the NMCB was “allowed” to select peer states for comparison, this amounted to the selection of the “least worst” option. The use of “peer states” also does not comport with the Monitoring Protocol, which states, “The intent of looking at similarly situated states is to provide broader context for the data analysis, while still considering the unique characteristics of the state.” The Monitoring Protocol also looks to positive comparisons, saying “the functional units will use these tools to determine areas of high performance, defined as any area in which the state is improving its performance compared to previous years and with other states similarly situated.”

Average Time for an Individual to Navigate through the VR Process

The increase of the average time in service from 40 to 45 months must be viewed in light of NMCB's very successful performance on Standard and Indicator 1.5, the average hourly wage. To achieve a higher average hourly wage, additional training and education is necessary. The average time in service also is impacted by NMCB's outreach to transition age students, who necessarily will remain in service for a longer period of time. Finally, NMCB is a part of the overall society, which is seeing a delay in the maturation process, with young persons taking longer to graduate and become self-supportive.

Technical Assistance: NMCB does not request TA.

2. Services to Transition-Age Youths

Recommendation 2: RSA recommends that NMCB:

- 2.1 more accurately code referral sources;

- 2.2 evaluate referral sources and develop a targeted outreach strategy to entities that are not referring cases to NMCB in order to bring in additional transition-age youths to the agency;
- 2.3 increase the number of transition-age youths served and rehabilitated;
- 2.4 increase the employment rate for transition-age youths by instituting a QA review of closed cases of transition-age youths that were unsuccessfully served, and, as appropriate, identify strategies to improve services to the target population; and
- 2.5 train staff on improved practices and strategies to serve transition-age youths.

Agency Response: NMCB has a well-defined outreach strategy with respect to transition age youth. This includes the maintaining of a close working relationship with the New Mexico School for the Blind and Visually Impaired (NMSBVI). NMSBVI is actively involved with the education of blind and visually impaired students throughout the state, and NMSBVI outreach workers make referrals to NMCB whenever there is a student who is approaching transition age. Since NMSBVI has contact with virtually all blind and visually impaired students in the state, this gives NMCB a rate of referral that is extremely comprehensive. The Technology for Children program is also a vital part of NMCB's outreach activities. The program is forging strong and positive relationships with many small and medium size school districts, as well as even two charter schools. Of the 89 districts in the state, which does not count charter schools, NMSBVI reports that less than half actually have a blind or visually impaired student. It would be inappropriate for NMCB to supplant either NMSBVI or the Local Education Agencies with respect to the conducting of "child find." NMCB maintains a high public profile, which also helps to assure that appropriate referrals take place. This includes the service of the Deputy Director on the Statewide Transition Coordinating Council, and the service of the Executive Director on the IDEA State Advisory Panel.

Technical Assistance: NMCB does not request TA.

3. Residential Training Services at the Orientation Center for the Blind

Recommendation 3: RSA recommends that NMCB:

- 3.1 develop a long-range strategic plan that would establish measurable goals for the Orientation Center. This plan should include explicit methods and timelines for achieving these goals, and should be linked to the agency's broader strategic concerns and the VR State Plan. Goals should address questions of the Center's capacity, staffing needs, and outreach efforts to raise the profile of the Center in the community, and to better ensure that the agency maximizes its resource by operating as close to capacity as possible;
- 3.2 establish a quality assurance system to allow the agency to collect and analyze data and survey information about the services provided to VR clients at the Center;
- 3.3 expand the range and scope of customer satisfaction surveys to include individuals who do not successfully complete the residential training program, or receive blindness skills training in their home communities;
- 3.4 develop and administer pre and post skills assessment tests to better measure the impact of the training provided at the Orientation Center;
- 3.5 support the establishment of an alumni group of graduates from the residential program who can serve to assist the Commission in tracking the long-range success of those individuals who

complete the program, as well as foster a support network across the state to bolster the Center's activities and raise its profile in the blindness field; and

- 3.6 utilize the information gathered through the above-recommended activities, establish performance targets for successful completion by VR clients of the residential training program, as well as for all of the other training programs offered at the Center in Alamogordo.

Agency Response: NMCB has engaged in comprehensive efforts over many years to enhance services at the Orientation Center. This includes accreditation from the Commission on Accreditation of Rehabilitation Facilities (CARF), which is a multi-year process. On November 8, 2010, The Center received a full 3-year accreditation from CARF. On April 13, 2010, the Orientation Center received a 3-year certification from the National Blindness Professionals Certification Board (NBPCB). The NMCB Orientation Center is the only orientation center in the nation to possess both CARF accreditation and NBPCB certification. The requirements of each are extensive, and are the product of many years of effort by professionals who work in the field. For example, CARF requires a Strategic Plan for the Orientation Center, as well as a Quality Improvement Plan and performance measures.

In their recommendation and in a reference to the Center, RSA states that there are "blind individuals in New Mexico who have not benefited from this service." However, the critical issue under 34 CFR 361.48 is whether the consumer needs the service, and whether the consumer chooses to attend the Center in the exercising of his or her "informed choice". In addition, because the Center provides foundational skills to many newly blinded individuals, the Center is critical to the ultimate success of those consumers. The annual cost of the Orientation Center is about the same as the lifetime cost of one blind person not working and being dependent on disability benefits. This makes the Center a very cost effective program. When the benefit of the Center to transition age consumers is considered, the Center is even more cost effective. Between regular Center students and transition students, approximately 30 consumers attend the Center during an average year.

Technical Assistance: NMCB does not request TA.

4. Data Use

Recommendation 4: RSA recommends that NMCB:

- 4.1 expand the CSNA to include:
 - a) personal experience/perspectives from consumers beyond those who present information in public hearings;
 - b) analysis of the experiences of consumers who were successfully rehabilitated separately from those who were unsuccessfully rehabilitated instead of treating both populations as a single combined group;
 - c) information about consumers who drop out of the VR program in the consumer survey; and
 - d) quantitative aspects of the survey instead of focusing on qualitative measures so it may be more useful for longitudinal comparisons.
- 4.2 address all RSA performance indicators (standards and indicators) in assessing the agency's performance; and
- 4.3 expand management focus beyond successful employment outcomes. Consumers who drop out both before and after plan development, and those whose cases are closed unsuccessfully represent

an opportunity to learn about how service delivery functions, how consumers perceive the agency and the services they receive and how to increase the likelihood of successes for future consumers; and

- 4.4 develop additional skills in the areas of collecting and analyzing data so that data-based decisions can be made in managing the VR program.

Agency Response: NMCB did not respond to this recommendation.

Technical Assistance: NMCB does not request TA.

PART II, CHAPTER 3: FISCAL MANAGEMENT OF NMCB VOCATIONAL REHABILITATION, SUPPORTED EMPLOYMENT AND THE INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND PROGRAMS

Fiscal Management Compliance Findings and Corrective Actions

1. Periodic Certification – Staff Working Solely on One Program

Corrective Action 1: NMCB must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with staff certification requirements set forth at 2 CFR part 225, Appendix B, 8.h.3; and
- 1.2 develop procedures to ensure that, at a minimum, semi-annual certifications are completed for all employees working solely on one federal grant program, or cost objective.

Agency response: NMCB accepts this finding. However, as of the date of this report, NMCB has already implemented the necessary corrective actions associated with this finding and in a manner that ensures compliance with the requirements of 2 CFR part 225, Appendix B, paragraph 8.h.3. Subsequent to RSA's on-site visit and the issuance of the A-133 audit finding mentioned by RSA (finding 10-5), NMCB has implemented a procedure that requires the submission of Periodic Certifications from all staff working solely on one program on a quarterly basis. The agency will provide additional detail of the procedures implemented in any required corrective action plan.

RSA Response: RSA recognizes that NMCB has already begun taking corrective actions with regard to this finding. On April 27, 2011, in response to a separate A-133 audit resolution procedure for FY 2010 and subsequent to the on-site visits, NMCB submitted to RSA examples of time sheets and personnel activity reports, as well as the procedures it had developed for certifying staff time working on a single program. The fact that NMCB has begun correcting the deficiencies does not negate the existence of the noncompliance at the time of the review; therefore, the finding stands. However, in light of the corrective actions that NMCB has already taken and demonstrated to RSA, no further action is needed from NMCB regarding this particular finding. This response is consistent with the final determination taken by the Department in a Program Determination Letter (PDL) issued September 8, 2011, with regard to finding 10-05 from audit control #0610110138.

2. Assigning Personnel Costs – Staff Working on Multiple Programs

Corrective Action 2: NMCB must:

- 2.1 cease using budgeted or estimated times for allocating personnel costs among the various programs it administers, as prohibited by 2 CFR part 225, Appendix B, 8.h.5(e);
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5, by requiring staff who work on

- multiple programs to submit personnel activity reports to support the time spent on each program; NMCB also must assure that it will administer the programs properly and efficiently by ensuring that federal funds are spent solely on allowable costs and that the funds are accounted for properly, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 34 CFR 80.22(a); and
- 2.3 submit a plan, including timelines, describing the steps that will be taken to ensure personnel activity reports are maintained that reflect actual time spent on each program in order to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective.

Agency response: NMCB partially accepts this finding. RSA does not recognize in its monitoring report that NMCB is currently in full compliance with time distribution requirements in conformity with 2 CFR part 225, Appendix B, paragraph 8. NMCB employees working on multiple activities or cost objectives have been completing personnel activity reports to support salaries charged to various programs. In addition, for the period of the RSA review (2007 through 2009), RSA's conclusions are not an accurate reflection of the data presented to RSA and cited in this finding. NMCB maintains that for the period under review, management estimates were reasonable and any variances from actual personnel costs charged to various grants were insignificant. Errors contained in this draft will need to be corrected by RSA in order for NMCB to respond with accurate corrective actions. NMCB has detailed the errors identified in this finding in the response below.

NMCB has implemented a before-the-fact and after-the-fact analysis and adjustment process for allocating personnel costs for those staff working on multiple programs based on PARS. For the period 2007-2009 allocations were based on estimates. Preliminary analysis of PARS collected to date indicates allocations used in before-the-fact vs. after-the fact actuals indicate that management estimates were reasonable. This supports the statement of the Executive Director cited in this finding, "The Commission did not maintain time distribution records in compliance with OMB Circular A-87. However, NMCB can substantiate that any variances from the actual personnel costs charged to the various grants are insignificant."

RSA Response: RSA appreciates the fact that NMCB has begun requiring its employees who work on multiple programs to complete personnel activity reports, as required by 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5. RSA also understands that it is NMCB's position that its own subsequent analysis of the personnel time charged to the various programs, when comparing the estimated times with actual times, did not yield a significant variance between the costs charged for each program. Regardless of whether there was an actual significant variance, the fact remains that for the period covered by the monitoring process, RSA found -- and NMCB confirmed -- that NMCB was not requiring its staff to complete personnel activity reports as it was required to do; therefore, the finding stands. However, RSA also recognizes that, on April 27, 2011, in response to a separate A-133 audit resolution procedure for FY 2010 and subsequent to the on-site monitoring visits, NMCB submitted to RSA examples of time sheets and personnel activity reports, as well as the procedures it had developed for certifying staff time working on multiple programs. In light of the corrective actions that NMCB has already taken and demonstrated to RSA, no further corrective action is needed from NMCB regarding this particular finding. This response is consistent with the final determination taken by the Department in a PDL issued September 8, 2011, with regard to finding 10-05 from audit control #0610110138.

3. Unallocable Expenditures

Corrective Action 3: NMCB must:

- 3.1 not charge indirect costs to the VR program without first having an approved indirect cost rate or cost allocation plan in place;
- 3.2 cease using VR funds, even on a temporary basis, to pay for expenditures that are neither allowable under nor allocable to the VR program;
- 3.3 submit an assurance within 10 days of the issuance of the final monitoring report that NMCB will administer the VR program in such a manner that ensures the proper expenditure and accounting of VR funds and reporting of VR data, as required by 34 CFR 361.12 and 34 CFR 80.20(a); that VR funds will be spent solely for allowable VR activities, as required by 34 CFR 361.3 and 34 CFR 80.22(a); and, that it will not charge indirect costs to the VR program until it receives an approved indirect cost rate or cost allocation plan from the Department;
- 3.4 determine the methodology that NMCB will use to assign indirect costs (e.g., indirect cost rate or cost allocation plan) and submit the required documentation, pursuant to 34 CFR 76.560, to the Department's Indirect Cost Group for approval within 90 days of the issuance of the final monitoring report; and
- 3.5 submit documentation for FYs 2007 through 2009 detailing the amount of VR funds expended for IL-related activities and the activities associated with those costs. Please be sure to indicate which of these expenditures were incurred during the provision of IL services to VR consumers and which were incurred during the provision of VR services to those consumers, regardless of whether the services were provided by IL Department staff.

Agency response: NMCB does not agree with this finding. There are errors in RSA's analysis and conclusions concerning potential unallowable or unallocable costs charged to the VR Basic Support grant. The errors are contained in RSA items A, B, and C, and the general language of the finding. These errors will need to be addressed and corrected prior to the release of the final RSA monitoring report in order for NMCB to take any appropriate corrective actions. Specific errors in this finding are as follows:

Item A

While NMCB did in fact reflect an indirect cost rate of 12.6% in the FY 2008 VR SF-269, this was due to user error in completing the 269 Report and is not a reflection of unallocable costs. Contrary to RSA's assertion, during the period when there was not an approved rate in place, NMCB did not employ an indirect cost rate nor utilized an expired rate. There are many sources cited in this report by RSA that confirm this fact. Specifically, there is no indication in NMCB's book of record or in the audited financial statements that NMCB utilized an expired or any other cost rate when there was none approved. Additionally, of all SF-269 status reports during the monitoring, only the one report identified in this finding mentioned any indirect cost rate, as NMCB indicated no indirect cost rate for any other financial status reports reviewed. This provides clear support to NMCB's conclusion that no expired or unapproved cost rate was actually utilized by NMCB during the periods reviewed in this report, and that the singular instance was user error. NMCB has taken corrective actions to prevent this input error in the future. NMCB has also corrected the inaccurate input of the 12.6% rate in the quarterly

report indicated by RSA in this finding, as the final report for that year reflects no indirect rate or indirect charges.

These facts clearly substantiate that there was not any actual indirect charge applied to the VR Basic Support grant. In fact, on page 67 of NMCB's 2008 audited financial statements, in a finding issued regarding financial reporting (08-13) and resolved in fiscal year 2009, auditors observed that NMCB was not utilizing the rate of 12.6%. Language contained in that finding indicated: "Also, the spreadsheet used to determine total program costs included 100% administrative salaries and benefits instead of the indirect cost rate of 12.6%." It was this incorrect guidance from the A-133 auditor that prompted the incorrect entry of the 12.6% rate in the FY 2008 VR SF-269. It should also be noted that the employee who completed the 269 Report was new to the process at that time.

When all relevant facts regarding the entry error on the 269 report are considered, it is clear the agency did not employ an indirect rate, expired or otherwise, that would make expenditures unallowable or unallocable. NMCB has already implemented, and RSA's audit review department has approved, corrective actions regarding the accuracy of financial reporting (A-133 audit finding 08-13). NMCB currently utilizes appropriate allocation methodology when charging expenditures directly, and is in the process of preparing a Cost Allocation Plan (CAP). Once implemented, NMCB will utilize the CAP to discern appropriate indirect costs.

Item B

As indicated to RSA in the data used in their analysis of this item as well as additional information provided to RSA by NMCB, IL Department staff worked primarily on IL and OIB programs, but also provided support for eligible VR activities. For the period 2007 through 2009, the amounts indicated by RSA in table 3.5 reflect a minority of personnel expenditures by the IL Department. For each year indicated the IL Department fully utilized the IL and OIB grants to support IL program expenses. Additionally, during the same three year period, the majority of IL Department expenses were funded by Non federal sources.

By omitting relevant facts and sources of funding from analysis of IL Department activities, RSA is unable to accurately determine if the portions of VR services and/or expenditures charged to the VR grant were not for IL activities. For example, RSA's conclusion regarding the amounts of Other Expenditures charged to the VR grant being unallowable and unallocable is based on speculation and is factually inaccurate as RSA performed no examination of supporting documentation for the Other Expenditures indicated. During RSA's on-site visits, NMCB provided access to documentation for the Other Expenditures mentioned in this finding yet RSA requested no review of the documentation available for these expenditures. Had RSA reviewed the documentation available, they could have easily determined that their assumption that these expenditures were unallowable or unallocable is not reflective of the facts.

Item C

As RSA has stated in this finding, whatever amounts indicated in this item were only "initially" reflected as allocated to the VR Basic Support grant in the accounting system, indicating that RSA is well aware that these charges were not ultimately supported by the VR Basic Support grant. The State of New Mexico converted to a centralized accounting platform for all agencies in fiscal year 2007. As a result of the conversion, revisions may have been necessary as agency staff adjusted to the limitations of

the SHARE platform. By omitting relevant facts and data, the conclusions are not accurate. For example, as indicated in data provided by NMCB (data that was cited many times by RSA in their analysis for findings in this report), no federal funds were used to fund the Emergency Eye Care Program. Instead, the Emergency Eye Care Program was funded by Non federal sources.

NMCB strongly maintains that for Finding #3, it is in compliance with Federal Cost Principles at 2 CFR Part 225, Appendix A Paragraph C (1) (2) and (3) and in compliance with program regulations at 34 CFR 361.48 (Scope of vocational rehabilitation services for individuals with disabilities). NMCB has served both eligible beneficiaries and has provided only authorized services and benefits. Consequently, the costs charged to the VR grant are allowable and allocable costs and meet both cost requirements and program requirements under the VR grant. NMCB's compliance with all significant Federal statutory and regulatory requirements, NMCB's serving of all eligible consumers, NMCB's successful performance on the Standards and Indicators, and NMCB's exceptional performance on the Primary Indicators, all demonstrate that there is no harm to the Federal interest as a result of its expenditures during the review period.

RSA Response: With respect to NMCB's response to Part A of this finding, NMCB does not refute the fact that the FY 2008 SF-269, at least at the time of the on-site review, indeed applied a 12.6 percent indirect cost rate against the VR program when no such rate had been approved by the Department. RSA does not contest that this was a singular incident. The fact that NMCB asserts that this was an unintentional user error does not change the fact that it occurred and was still reflected on that year's financial report at the time of the monitoring process. As a result, until the error was corrected, NMCB had indeed charged an indirect cost of \$138,496 against the VR program when it was not permitted to do so. The fact that the error was eventually corrected and the VR funds restored does not negate the fact that for a period of time the VR grant was incorrectly charged for indirect costs. Therefore, Part A of the finding stands. RSA recognizes that NMCB has made the necessary corrections to the FY 2008 final SF-269 and that all indirect cost charges have been removed from the VR program for that year. NMCB submitted the corrected final FY 2008 SF-269 on December 15, 2010. Given that NMCB has corrected the necessary SF-269, RSA considers that NMCB has already completed corrective action 3.1. NMCB still must comply with: 1) corrective action 3.3 by submitting the requisite written assurance; and 2) corrective action 3.4 by submitting the information necessary to receive approval for an indirect cost rate from the Department.

With respect to Part B of this finding, RSA found NMCB charged IL expenditures against the VR grant. This finding was based on spreadsheets provided by NMCB to RSA that contained line items for "IL costs" charged to the VR grant. In its comments, NMCB does not provide evidence to demonstrate that these costs were mischaracterized on the spreadsheets and were in fact VR costs. Furthermore, NMCB does not assert that this characterization of the expenditures on the spreadsheets provided by the agency was in error. Instead, NMCB asserts: 1) IL staff provided support for eligible VR activities; 2) the amounts cited by RSA represent a minority of IL expenditures; 3) the majority of IL expenses were paid with non-Federal funds; and 4) RSA failed to include data on these other funding sources for the IL program. Of these assertions, only the first one has direct bearing on this finding. Regardless of whether the expenses represent a minority of IL expenditures or that IL expenditures are primarily paid with non-Federal funds, these assertions do not negate the fact that VR funds of any amount may not be used to pay for IL expenditures. Having said this, RSA agrees that VR funds may be used to pay for VR-activities even if those activities were provided by IL Department staff so long as those expenditures

were incurred during the provision of VR services to VR consumers or the administration of the VR program. However, NMCB does not provide evidence in its comments that these costs were indeed VR costs; instead, its own spreadsheets characterize these costs as “IL costs.” In the absence of contrary evidence, this finding stands. However, RSA will determine the level of NMCB’s compliance with these requirements through the additional information RSA has included in corrective action 3.5, whereby NMCB must provide information detailing which of these costs could indeed constitute a VR expenditure per 34 CFR 361.3 and thus would be allocable to the VR program versus which of those were indeed IL expenditures and should have been allocable to that program. NMCB also must submit the written assurance required by corrective action 3.3.

With respect to its comments regarding Part C of this finding, NMCB does not dispute the fact that VR funds were initially used to pay for expenditures incurred under the Emergency Eye Care program and other non-VR activities. In fact, NMCB explains how the situation occurred – because of the State’s conversion to the SHARE system. Regardless of the reason for the improper charges, even on a temporary basis, these charges were not allocable to the VR program at the time they were made because the costs did not arise in the administration of the VR program or the provision of VR services, as required by 34 CFR 361.3. Given that these charges were applied, even on a temporary basis, to the VR program and were found during RSA’s on-site review, coupled with the fact that NMCB does not dispute the facts that RSA presented or provide facts to the contrary, this finding stands. It is also important to note that, when a State VR agency draws down more funds than it needs to pay for immediate legitimate VR expenditures, questions regarding cash management are triggered pursuant to 34 CFR 80.21(b). Therefore, cost allocation issues can have a wider impact on the program than simply whether the VR program ultimately paid for the cost. For all of these reasons, NMCB still must submit the assurance required by corrective action 3.3.

4. Failure to Report Program Income Properly

Corrective Action 4: NMCB must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in a manner that ensures the proper expenditure and accounting of VR funds and reporting of VR information, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and
- 4.2 revise the 4th quarter and/or final SF-269 reports for FYs 2005, 2006 and 2008 to reflect the accurate program income earned during each of those Federal fiscal years.

Agency response: The agency does not agree with this finding due to the fact the finding is neither accurate nor current and omits information shared with RSA during their on-site visit regarding NMCB’s processes and procedures regarding the proper accounting for and obligation of Program Income. NMCB contests this finding based on the following facts indicated below.

During RSA’s on-site visit, March 28-March 30, RSA indicated to NMCB staff that they had requested the payment history from SSA regarding payments made to NMCB during the fiscal periods indicated in this finding and that RSA showed a discrepancy they were not able to reconcile. NMCB indicated that it had already completed a reconciliation and that all SSA payments had been accounted for accurately. NMCB offered specific guidance on reconciling RSA’s discrepancy, even offering to reconcile this

discrepancy if more details were provided to NMCB. However, RSA did not reconcile this discrepancy, causing RSA to overstate the amount of Program Income disbursed by SSA during FFY 2009.

As for the periods of 2005-2008, NMCB accounting and supporting records are consistent with the amounts listed as disbursed by SSA during those periods.

Additionally, NMCB's 2009 final SF-269 for the VR Basic Support grant accurately reflects the amount of \$173,884 that was used for the VR program as the difference of \$40,579 between the VR program 4th quarter and final SF-269 was transferred to the IL program as is permissible under 34 CFR 361.63(c)(2). It should be noted that in an effort to ensure transfers of Program Income are accurately reflected in the SF-269/SF-425 reports, NMCB has previously requested technical assistance regarding this specific item and has not yet received the requested assistance from RSA.

In addition to the inaccuracies previously indicated, RSA's finding is not current for the following reasons. After reconciling RSA's error in this finding regarding the amount of Program Income for 2009 mentioned above, data available to RSA and cited in this finding, indicate NMCB has properly reported SSA Program Income for the VR Program during the past 5 years (2007-2011). However, in an effort to substantiate this finding, RSA uses data more than 5 years old. This is beyond the relevant Statutes of Limitation, and is not relevant to the past 5 years of program activity.

Given the fact that RSA is using non-current information, RSA's requirement of corrective actions in this finding are in contradiction to RSA's previous final determination accepting corrective actions being implemented. Issuance of this finding and the corrective actions listed are based on events that have already been addressed by NMCB, A-133 audits, and the US Department of Education's Office of the Chief Financial Officer.

Based on the facts presented in this response and all relevant information available to RSA, NMCB has demonstrated full compliance with the requirements relating to the reporting and utilization of Program Income and asserts finding #4 should be removed in its entirety from the final monitoring report.

RSA Response: RSA acknowledges the additional specific information that NMCB provided regarding FY 2009 program income data. This new information clarifies a discrepancy regarding the FY 2009 program income data that had been reported in an A-133 audit to exist for that year, and that was part of the basis for a PDL issued by the U.S. Department of Education on February 17, 2011. As a result, we have revised the finding to delete any inference about non-compliance for FY 2009 regarding the reporting of program income that year. The issuance of that PDL, which pertains to the audit finding for a particular year, does not negate the deficiencies that RSA notes in the finding regarding inaccurate program income data contained in 4th quarter and/or final SF-269s submitted in FYs 2005, 2006, and 2008. Unlike the specific new data that NMCB provided with regard to FY 2009, NMCB did not provide new data to refute the information provided in the chart about program income reported during FYs 2005, 2006, and 2008. Therefore, the finding stands with regard to those years. NMCB still must submit the assurance required by corrective action 4.1 and revise the reports for FYs 2005, 2006, and 2008 in accordance with corrective action 4.3. RSA will work with NMCB to provide the technical assistance it has requested regarding the reporting of program income.

5. Inaccurate and Untimely Financial and Statistical Reporting

Corrective Action 5: NMCB must:

- 5.1 cease submitting untimely SF-269/SF-425s;
- 5.2 cease submitting inaccurate SF-269/SF-425s;
- 5.3 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the accuracy and timeliness of future financial and statistical reports submitted on behalf of the VR, SE, IL-part B, and IL OIB programs, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a) and 34 CFR 80.41(b);
- 5.4 submit all missing FY 2008 VR SF-269s, as noted above;
- 5.5 submit revised SF-269 to correct errors contained in the FY 2007 VR reports, as noted above; and
- 5.6 submit a plan, including a timeline, for the steps NMCB will take to ensure the submission of accurate and timely SF-269s/SF-425s, as required by 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a) and 34 CFR 80.41(b); and

Agency response: NMCB disagrees with this finding as substantial portions are based on non-current and inaccurate information and analysis. Furthermore, NMCB has already implemented, and RSA has already approved, corrective actions by NMCB to resolve this issue. As the corrective actions approved by RSA regarding this issue have been implemented by NMCB, issuance of this finding does not consider measures that are already in place. Inaccurate and non-current information contained in this finding are as follows.

In this finding RSA illustrated four bullet point items relating to inconsistencies between amounts reported in the SF-269's and the supporting data provided to RSA. For the first 3 of those items NMCB maintains that the supporting data provided to RSA is accurate. The inconsistencies noted by RSA during 2007 reporting are directly related to NMCB's mandatory conversion to the SHARE system during fiscal year 2007 and the information available at that time. However, this issue applies to 2007 only as RSA found no inconsistencies in the subsequent years of 2008 and 2009 that they reviewed. NMCB also presented in detail to RSA during their second visit the processes NMCB has in place to ensure a direct and cohesive trail between what is reported in SF-425's and NMCB's accounting records. As evidence of this, NMCB's supporting documentation shows no inconsistencies in reporting for fiscal years 2010 and 2011 in addition to FY 2008 and 2009 as reviewed by RSA. It should be noted that bullet items 1 and 2 are redundant. The inconsistency in item 1 will of course affect the total as indicated in item 2, yet these are one event. Bullet item 4 is not an inconsistency in reporting and should be removed due to the fact that while NMCB accurately reflected that expenditures for the full amount of the award had taken place, the draw-down of \$96,418 directly after the close of that period on 10/9/2007 was necessary to make NMCB whole for the expenditures made by NMCB for that grant award.

Additionally, RSA attempts to support their conclusion identifying finding 10-6 from NMCB's 2010 A-133 audit. However, NMCB disputed this finding as A-133 auditors' analysis and conclusions regarding the periods 9/30/10 and 6/30/10 are in direct conflict with RSA's financial reporting instructions from the SF-269 standard long form that was used by NMCB. Furthermore, NMCB operates on a "modified

Accrual” basis per New Mexico State Laws of 2004 which is a decisively different method than “accrual”. As noted in finding 10-6, this has no impact on the accuracy of financial reporting as the grants were fully expended.

NMCB strongly disagrees with the portion of the finding relating to late submissions of SF-269/SF-425 reports and asserts it should be removed based on inaccuracies of the data presented by RSA and the fact that prior to issuing this finding, corrective actions regarding late filing of SF-269 reports have already been implemented by NMCB and approved by RSA in their final determination regarding the resolution of findings 09-04 during the 2010 A-133 audit. Since implementing corrective actions for timely filing, NMCB has been fully compliant for FY 2010 and 2011. Again, this is one of many instances where RSA is requiring corrective actions that have already been implemented by NMCB and approved by RSA. In addition, there are several errors in the data presented by RSA regarding late filings that are an accurate reflection of the facts.

RSA asserts that as of February 3, 2011 NMCB has failed to submit VR quarterly reports for periods ending 12/31/2007, 03/31/2008, 06/30/2008, 03/31/2009, and 06/30/2009. Due to an apparent malfunction with the MIS reporting system, reports for periods 12/31/2007, 03/31/2008, and 06/30/2008 do not show up on the list of periods NMCB is obligated to report. Although NMCB reported this malfunction to RSA, RSA has not corrected the malfunction with their reporting system, preventing NMCB from completing the required reporting for those 3 periods. Also, RSA stated in their finding that reports for FY 2008 periods 03/31/2009 and 06/30/2009 have not yet been submitted as of February 3, 2011. However, the MIS financial reporting system confirms these reports were already submitted on December 7, 2009. The following screenshot on 5/28/11 from the MIS system confirms the 3 missing periods of 12/31/2007, 03/31/2008, and 06/30/2008 and reflects reports for period 03/31/2009 and 06/30/2009 were in fact submitted for 2009.

RSA Response: This finding focused on two different aspects of the reporting requirements with which NMCB must comply: 1) the accuracy of the reports and 2) the timely submission of the reports.

In its comments regarding the finding that pertained to inaccurate reports, NMCB provides extensive explanations for the inaccurate information contained in the FY 2007 VR SF-269s. NMCB explains that most were due to the agency’s conversion to the SHARE system. NMCB also asserts that one piece of data inputted inaccurately would have a direct effect on the calculation of another related piece of data in the same report. Furthermore, NMCB also asserts that it is on a “modified accrual basis” -- not the cash basis that it reported on its SF-269/SF-425s. We agree with NMCB that it has reported its accounting basis inaccurately and we agree that one wrong piece of data will affect other data elements in the same report. The fact that NMCB can explain how or why these inaccuracies occurred does not negate the fact that they occurred. Moreover, NMCB does not provide evidence to refute the fact that the data was inaccurate.

In the finding, RSA also noted that the FY 2010 A-133 audit that occurred during the same fiscal year as the RSA monitoring process began also noted similar inaccuracies regarding outlays and federal share in the FY 2010 audit report (audit control #0610110138, finding 10-06). While NMCB contests those findings, the agency does not provide evidence that refutes the facts presented about the outlays/Federal share data – either in its comments to these monitoring findings or its comments during the separate audit resolution process with the Department. NMCB does, however, in its comments as part of the

separate audit resolution process, provide new information regarding another inaccuracy that the auditors had noted as part of that report, namely regarding the reporting of a particular program income data element. As part of that audit resolution process, the Department agreed with NMCB regarding that particular data element and, therefore, did not include discussion of that item in this finding.

RSA recognizes that the Department issued a PDL on September 8, 2011, in which it closed this particular audit finding (10-06) for FY 2010 due to the fact that the agency had demonstrated the procedures it had implemented to ensure accurate financial reports in the future and had submitted revised reports for FY 2010. The issuance of that PDL, which pertains to the audit finding for a particular year, does not negate the deficiencies that RSA notes in the finding regarding inaccurate reporting for FY 2007 that existed at the time of the on-site visits and still exists at the time of this report. For all of these reasons, this portion of the finding stands. Due to final determination made during the Department's audit resolution process with regard to audit finding 10-06 and the corrective actions that NMCB has taken during that separate audit resolution process, RSA considers that NMCB has already satisfied corrective actions 5.1, 5.3 (with regard to the submission of inaccurate reports), and 5.6. NMCB still must submit revised SF-269s for FY 2007, as required by corrective action 5.5.

The second part of this finding pertains to the failure to submit timely reports. This part of the finding is comprised of two aspects of this issue: 1) failure to submit certain VR reports to date; and 2) the very late submission of other reports.

In its comments regarding the failure to submit certain SF-269s, NMCB asserts that all reports have been submitted to date and that the Department recognized that fact in a PDL dated February 17, 2011, regarding an FY 2009 A-133 audit. As reflected in the finding, RSA acknowledges that the missing SE SF-269s have been submitted. Furthermore, RSA did not include FY 2009 reports as being missing in this finding. However, RSA's review of its MIS system, immediately prior to the issuance of this report, still shows the specific FY 2008 VR SF-269s noted in the finding as not having been submitted (see chart below). The RSA-MIS screen shot included in the NMCB response demonstrates that the agency did not complete the reports for FY 2008 correctly. The agency changed the reporting period end dates for the completed reports. Furthermore, while the Department's PDL indicates that all reports for FY 2009 have been submitted and that no further corrective actions are required for that year, the findings contained in A-133 audit reports and their associated PDLs are specific for a particular year. Therefore, the Department's final determination for finding 09-04 from that report, is specific for that year – FY 2009, and does not affect the deficiencies that RSA noted during the review process with regard to the lack of FY 2008 financial reports. For these reasons, this finding stands. As a result, NMCB still must submit the relevant written assurance regarding the submission of reports, as required by corrective action 5.3, and the missing FY 2008 VR SF-269s, as required by corrective action 5.4.

In its comments regarding the failure to submit timely reports for those reports that have been submitted, NMCB asserts that this portion of the finding should be removed because all reports have since been submitted. As drafted, the finding recognizes that these reports have been submitted, but that they were submitted very late. As a recipient of Federal funds, NMCB is required to submit timely reports to the funding agency, pursuant to 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.41(b). The consistent submission of late reports, as demonstrated by data contained in the chart below from the RSA MIS system, clearly violates these Federal requirements. NMCB does not dispute that these reports were submitted late. Given the consistent pattern of lateness over the years -- sometimes more than a year

late -- and the fact that NMCB does not dispute the facts, this finding stands. As indicated earlier, the Department's PDL only closed out this issue as a finding for FY 2009. That determination does not affect the deficiencies noted by RSA for other years during the monitoring process. Therefore, NMCB still must complete corrective actions 5.2, 5.3 (regarding the submission of timely reports), and 5.4.

VR Reporting Summary for NM Commission for the Blind as of 9/27/2011

FY	Quarter	SF-269 Due Date	Last Date Submitted	Days Late
2006	1	1/30/2006	5/25/2006	115
2006	2	4/30/2006	5/25/2006	25
2006	3	7/30/2006	7/26/2006	-4
2006	4	10/30/2006	11/7/2006	8
2006	5	1/30/2007	4/9/2007	69
2007	1	1/30/2007	9/10/2010	1319
2007	2	4/30/2007	9/10/2010	1229
2007	3	7/30/2007	9/10/2010	1138
2007	4	10/30/2007	9/10/2010	1046
2008	1	1/30/2008	Not Submitted	
2008	2	4/30/2008	Not Submitted	
2008	3	7/30/2008	Not Submitted	
2008	4	10/30/2008	12/7/2009	403
2008	5	1/30/2009	12/8/2009	312
2008	6	4/30/2009	Not Submitted	
2008	7	7/30/2009	Not Submitted	
2008	8	10/30/2009	Not Submitted	
2008	9	1/30/2010	6/15/2010	136
2009	1	1/30/2009	12/1/2009	305
2009	2	4/30/2009	12/7/2009	221
2009	3	7/30/2009	12/7/2009	130
2009	4	10/30/2009	9/3/2010	308
2009	5	1/30/2010	9/3/2010	216
2009	6	4/30/2010	6/15/2010	46
2009	7	7/30/2010	10/14/2010	76
2009	8	10/30/2010	8/9/2011	283
2009	9	1/30/2011	9/6/2011	219
2010	1	1/30/2010	3/22/2011	416
2010	2	4/30/2010	3/22/2011	326
2010	3	7/30/2010	9/23/2011	420
2010	4	10/30/2010	9/23/2011	328
2010	5	1/30/2011	5/9/2011	99
2010	6	4/30/2011	5/9/2011	9

6. Internal Controls and Tracking of Funds

Corrective Action 6: NMCB must:

- 6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and that it will monitor all grant-supported activities, including those performed by the agency's own staff, to ensure federal requirements are satisfied, as required by 34 CFR 80.40(a); and
- 6.2 develop and implement procedures to ensure that receipts or other documentation is obtained from consumers to support that VR funds, given directly to consumers, are indeed used for the purpose authorized on the IPE.

Agency Response: NMCB disagrees with this finding.

All NMCB consumer purchases are made pursuant to 34 CFR 361.48, and are therefore allowable and allocable under 2 CFR Part 225, Appendix A, Paragraph C (1), (2) and (3). The vast majority of consumer purchases are thoroughly documented through agency purchase orders and receipts. The relatively few maintenance payments that may not result in such documentation also fall under 34 CFR 361.52(b)(3), which requires NMCB to develop and implement "flexible procurement policies and methods that facilitate the provision of vocational rehabilitation services..." Requiring consumers to precisely document every maintenance expenditure is contrary to 34 CFR 361.52(b)(3). Doing so would also interfere with the relationship of trust that must exist between the counselor and the consumer. To require the consumer to document small purchases that are otherwise verified by the counselor would cause consumers to needlessly exit from the program, and especially consumers with psychiatric and cognitive impairments. In addition, 34 CFR 361.5(35)(i) states that the provisions regarding maintenance are not "intended to substitute for individual counselor judgment."

The relatively small caseloads of state agencies for the blind make it possible for the counselor to closely monitor consumer compliance with purchase authorizations. The counselor maintains close contact with consumers. Consumers are informed that their case may be closed if they fail to cooperate with their Plan, including any failure to use purchase authorizations as stipulated in the Plan. This serves to deter any consumer non-compliance. Should the counselor suspect or detect any non-compliance, the counselor promptly exercises strict controls, or terminates future purchases.

RSA's statement in this item "As part of that review, RSA noted that NMCB does not maintain receipts or other documentation supporting that the consumers used the payments for appropriate VR expenditures" is incorrect and is based on review of only a few consumer files over a multiple year period. Evidence that RSA's observations are incorrect is also illustrated by the Social Security Administration giving NMCB "priority" processing because of a 100% claims accuracy rate. In order to receive approval of a claim from SSA the claim must be accompanied by receipts, invoices, and supporting documentation for the expenditures for which reimbursement is requested. NMCB's continued success in receiving approval for substantial amounts of SSA Program Income demonstrates NMCB maintains receipts and other supporting documentation. Furthermore, annual A-133 audits include review of a statistically relevant sampling of consumer case files. If A-133 auditors found that

NMCB retains no receipts or supporting documentation, they would be required to issue a finding of “Material” weakness. NMCB has never been issued such a finding. NMCB maintenance of receipts and supporting documentation as supported by the results of voucher testing done during the 2010 A-133 audit, in which none of the items sampled were found to be lacking proper documentation..

As acknowledged by RSA during their on-site visit when NMCB inquired about their methodology of sampling to ensure an accurate analysis of NMCB’s fiscal operations “we use no specific method of sampling, we just pulled a few that we wanted to look at”. RSA’s lack of specific methodology, in particular, lack of any statistically reliable sampling methods, results in an analysis that cannot substantiate a valid determination of NMCB’s fiscal operating procedures. However, as illustrated by NMCB in quantifiable detail in the response to finding #3 of this draft report as well as directly with RSA during their monitoring visit March 28-March 30, A-133 auditors’ results of compliance testing resulted in a 99.5 % overall accuracy rate. The results of that examination also found no instances of missing supporting documentation; as such the language in finding 10-3 includes no mention of a lack of supporting documentation. While RSA indicates A-133 audit finding 10-3 supports their conclusions, the fact is the statistically reliable sampling performed by A-133 auditors determined results in direct contradiction to RSA’s review. If RSA reviewed relevant and factual data and information, it would have provided them with a substantive representation of NMCB activities instead of the inaccurate representation presented in the draft monitoring report.

RSA also omits significant relevant data from that same A-133 audit report that provides a more comprehensive analysis of NMCB’s fiscal operating processes and procedures and compliance with state regulations. Specifically, NMCB’s 2010 A-133 audit shows that NMCB resolved 8 of 11 prior year A-133 findings including prior year findings of material and significant weakness. Of the A-133 findings issued in FY 2010, none were of a Material classification. Of the findings issued during the 2010 A-133 audit, NMCB has implemented corrective actions for most of them in an effort to resolve 2010 findings as quickly as possible. These facts alone demonstrate that NMCB has been extremely diligent in implementing necessary corrective actions in order to achieve the highest level of integrity in the administration of all NMCB fiscal activities. As a result, this finding as well as many others in this report, have long since been resolved by corrective actions already implemented by NMCB.

RSA Response: In its response, NMCB admits that it does not always require consumers who receive direct payment of VR funds, for such services as maintenance payments, to provide receipts or other supporting documentation to verify that the VR funds were used for their intended allowable purposes. NMCB asserts that this would be a violation of the trust relationship between the consumer and counselor and could result in the consumer leaving the program. NMCB also asserts that it does maintain receipts and other supporting documentation to verify most other VR expenditures. This particular finding focuses on one narrow, but critical, aspect of NMCB’s record-keeping procedures – namely the lack of records kept to verify the purchases made with funds given directly to consumers. The fact that NMCB keeps supporting records for most other services does not negate the fact that the RSA monitoring team found a consistent lack of record-keeping, among the cases it reviewed, for those funds paid directly to consumers for gas, housing, and other maintenance-related expenses.

NMCB asserts that requiring the consumer to provide receipts would violate 34 CFR 361.52(b)(3). We disagree with NMCB’s argument. This particular regulatory provision requires NMCB to develop flexible procurement policies and procedures for the provision of VR services and which enables

consumers to exercise informed choice among those methods for procuring services. Pursuant to 34 CFR 361.52(b)(3), NMCB is permitted to develop policies and procedures that would allow the direct payment of VR funds to VR consumers under certain circumstances, such as the maintenance payments that NMCB describes. Permitting such direct payments to consumers under such circumstances would constitute a flexible method of procuring the services. However, this does not negate the agency's responsibility to maintain records that enable it to track expenditures to such a level to ensure that Federal requirements are satisfied, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Finally, NMCB asserts that maintenance payments are “not intended to substitute for individual counselor judgment,” thus explaining why a counselor need not require receipts from consumers. NMCB is taking the quote out of context. The quote that NMCB asserts is found in the examples of the definition of “maintenance” at 34 CFR 361.5(b)(35). The part of the quote that NMCB puts forth refers to the fact that: “The examples are illustrative, do not address all possible circumstances, and are not intended to substitute for individual counselor judgment.” This quote is not relevant to the issue at hand – namely that NMCB must be able to verify that all expenditures paid with VR funds, even those paid directly to consumers, must be verifiable from receipts or other supporting documents to ensure the tracing of funds for allowable purposes.

Given that NMCB has not refuted the facts of the finding, this finding stands with regard to maintenance and other direct payments made to consumers. As a result, NMCB still must comply with the corrective actions set forth in this report.

APPENDIX C: AGENCY RESPONSE TO INDEPENDENT LIVING OBSERVATIONS AND COMPLIANCE FINDINGS

Part III, Chapter 1: Independent Living (IL) Program

IL Performance Observations and Recommendations

1. Developing Membership

Recommendation 1: The New Mexico SILC should develop and implement a comprehensive training program to educate members on the roles and responsibility of the SILC. This program would serve as a template for future members.

Agency Response: NMDVR and the SILC did not respond.

Technical Assistance: NMDVR and the SILC did not request technical assistance.

Part III, Chapter 2: Fiscal Management of the Independent Living Program

IL Fiscal Management Compliance Findings and Corrective Actions

1. Unallowable Costs under Contract

Corrective Action 1: NMDVR must:

- 3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure compliance with OMB Circular A-122, paragraph 25(a) in any contracts that it provides using IL-Part B funds;
- 3.2 develop policies and revise contracts to ensure that all contracts meet the lobbying certification requirements of 34 CFR 82.110(d); and
- 3.3 submit the total amount of IL-Part B funds, by year, from FY2007 to FY2010 that were expended for unallowable lobbying expenses under OMB Circular A-122, paragraph 25(a).

Agency Response to Corrective Action 1.1: NMDVR will issue this assurance within 10 days of receipt of the final report.

Agency Response to Corrective Action 1.2: NMDVR has requested and received approval from the Department of Finance and Administration (DFA) to add language to the boiler plate state contract regarding lobbying certifications. The documentation of the additional contract boilerplate language can be found in Attachments IL1.2A and IL1.2B.

Agency Response to Corrective Action 1.3: NMDVR respectfully disagrees with RSA's characterization of the Independent Living Resource Center's (ILRC) activities as unallowable lobbying. OMB Circular A-122 prohibits a variety of lobbying activities, but specifically permits:

- Activities to influence State legislation in order to directly reduce the cost, or to avoid material impairment of the organization's authority to perform the grant, contract, or other agreement; and
- Any activity specifically authorized by statute to be undertaken with funds from the grant, contract, or other agreement.

See 2 CFR pt. 230, Attachment B, paragraph (25)(b). The ILRC's activities were consistent with these provisions.

A goal of the Independent Living (IL) program is to support the operation of centers for independent living (CIL) that comply with the standards and assurances of Section 725 of the Rehabilitation Act.

See Section 713(3). Section 725 requires CILs to:

- Work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities;
- Conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities; and
- Conduct resource development activities to obtain funding from sources other than funds awarded under IL program.

See Section 725(b)(4), (6) & (7). The ILRC's activities were related to carrying out these statutory responsibilities, as such, they are not considered to be lobbying under OMB Circular A-122.

Additionally, states are permitted to present information, approaches, strategies, findings, conclusions, and recommendations to state and local policymakers in order to enhance independent living services. See Section 713(5). NMDVR's contract with the ILRC was related to this statutory activity.

Background

In 2004, RSA approved the 2005-2007 New Mexico State Plan for Independent Living (SPIL). The SPIL called for state agencies, in concert with other entities including CILs, to carry out a number of activities to develop a statewide network of CILs including:

- Empowering individuals to advocate for financial resources to develop new CILs in un-served counties;
- Requesting appropriations from the New Mexico Legislature to support expansion of independent living services to un-served counties; and
- Expanding funding for existing CILs.

Similar activities were approved in the 2008-2010 State Plan.

In 2006, NMDVR entered into a contract with the ILRC to carry out a specific Plan of Operation for performing the above State Plan activities. The contract required the ILRC to:

- Participate in expanding the network of CIL's in the state; and
- Maintain a CIL consistent with Rehabilitation Act requirements.

See Contract Number 07-644-1000-0004.

The contract was supported with Part B funds, including state funds used for the required federal match and state funds earmarked for independent living. The cost of carrying out the scope of work, however, exceeded the amount of Part B and match funds available; thus, ILRC supported the scope of work with other sources, including state appropriations for which there was no accountability to the federal government. Attachments identified as IL2.3A through IL2.3F includes documentation for FY05 through FY10 that the state legislature provides state funding for Independent Living which is not required to fulfill federal match requirements. The ILRC receives a significant amount of these funds

Allowability of ILRC Activities

The Rehabilitation Act authorizes NMDVR to use Part B funds to support the operations of CILs as they carry out their statutory responsibilities. See Section 713(3). These responsibilities include resource development, expanding community options, and increasing capacity to serve eligible individuals with disabilities. See Section 725(b). Carrying out these responsibilities requires CILs to raise funds, seek legislative support and raise awareness in the community about the need for independent living services. The ILRC's activities were consistent with these responsibilities.

Additionally, the Rehabilitation Act authorizes NMDVR to use Part B funds to present strategies and recommendations to policymakers in order to enhance independent living services. The ILRC assisted NMDVR to meet this goal by presenting options for how the New Mexico policymakers could support the expansion of independent living centers in underserved areas of the state.

The ILRC provided advocacy and information related to the development and expansion of independent living programs for Native Americans as required by the New Mexico SPIL as required by 34 CFR 364.33. Activities were undertaken to educate policymakers about housing needs for persons with disabilities and advocating for the rights of persons with disabilities to choose between community living versus nursing facilities (advocacy for "Money Follows the Person, MFP). Multiple required meetings were attended with legislative staff to correct an appropriation error that affected the implementation of funding for the Native American Independent Living (NAIL) and answering questions from legislators regarding NAIL. Other activities related to training persons with disabilities to become self advocates. These activities conform to 34 CFR 365.21(a)(4).

As RSA has acknowledged, recipients of federal grant funds are permitted to charge costs that might otherwise be unallowable under federal cost principles to a federal grant when the underlying program statute specifically allows the activity. In a 2008 guidance document, RSA noted that CILs are explicitly permitted to engage in fundraising, even though it is prohibited by OMB Circular A-122, because the Rehabilitation Act authorizes resource development activities. See Rehabilitation Services Administration (RSA) Responses to National Council on Independent Living (NCIL)'s Questions Regarding SILC Roles and Responsibilities (January 23, 2008). Nothing in the Act limits resource development to non-governmental entities, thus seeking to raise funds from the state legislature is consistent with Section 725 responsibilities. Further, in passing the Rehabilitation Act Amendments of 1992, Congress acknowledged that to be effective CILs must engage with policymakers. See S. Rep. No. 102-357 (noting that a CIL's efforts may "include community advocacy and advocacy related to policymakers").

Thus, the ILRC's activities were an allowable part of meeting its statutory responsibilities under the Rehabilitation Act. This is consistent with OMB Circular A-122, which recognizes that a statute may permit activities that could otherwise be considered lobbying, and explicitly excludes such activities from the definition of lobbying. See 2 CFR pt. 230, Appendix B, paragraph (25)(b)(3).

It is also worth noting that additional state funds for CILs could significantly reduce the federal cost of operating CILs, thus seeking such funds is permitted by OMB Circular A-122. See 2 CFR pt. 230, Appendix B, paragraph (25)(b)(2).

Cost Allocation Even if the RSA determines the activities at issue are unallowable, the contract was supported with independent state funds that were not used towards a federal match. Because these funds had no accountability to the federal government, they could be used to support any of the ILRC's activities. Thus, there is no harm to the federal interest.

RSA response: RSA appreciates NMDVR's acknowledgement of its responsibility to monitor grantees for compliance with lobbying related laws and regulations. Further comments by NMDVR imply that the activities detailed in the contract are compliant, in large part because they were in previously approved SPILs and/or "See Section 725(b)(4), (6) & (7). The ILRC's activities were related to carrying out these statutory responsibilities, as such, they are not considered to be lobbying under OMB Circular A-122."

NMDVR correctly cites that RSA has acknowledged that recipients of federal grant funds may be excluded from OMB requirements and are permitted to charge costs that might otherwise be unallowable under federal cost principles to a federal grant when the underlying program statute specifically requires the activity. The issue in this finding however is not that the duties being pursued are non-compliant, but that some of the specific activities undertaken to pursue statutory requirements are out of compliance and that there are numerous activities available to achieve the same goal that are not out of compliance. The exclusion discussed above would apply only if there were no compliant activities available to achieve the same goals.

The identical rationale applies to previously approved SPILs. The items listed as statutory duties and as examples of previously approved SPILs are in fact broad based goals which could be met using any number of compliant activities. NMDVR must ensure that the goals and strategies are in compliance with the required federal regulations.

Furthermore specific items reported by ILR show the grantee performing activities that are out of compliance. Even if the contract itself is compliant, NMDVR's responsibility extends to assuring that actual activities performed to accomplish the contract requirements are compliant with relevant law and regulation.

NMDVR also contends that no federal dollars were used to fund this activity and that RSA therefore has no authority in this matter. However, the information regarding the questioned activities was submitted in support of a contract that was paid with federal and state IL funds. The contract did not identify specific contract activities to be reimbursed with federal or state (matching or non matching) funding sources. Additionally, the invoices submitted for payment did not breakdown the expenses by activity.

Therefore, payments were made without the documentation necessary to ensure that the federal and state matching funds were only paid for allowable activities. RSA determines that this finding stands.

Technical Assistance: NMDVR does not request TA.

APPENDIX D: EXPLANATIONS OF DATA TABLES

VR and SE Program Highlights

- Total funds expended on VR and SE – RSA-2 line 1.4
- Individuals whose cases were closed with employment outcomes - RSA-113 line D1
- Individuals whose cases were closed without employment outcomes - RSA-113 line D2
- Total number of individuals whose cases were closed after receiving services – RSA-113 line D1+D2
- Employment rate – RSA-113 line D1 divided by sum of RSA-113 line D1+D2, multiplied by 100
- Individuals whose cases were closed with SE outcomes – Total number of individuals whose employment status at closure (record position 161) = 7 in the RSA-911 report
- New applicants per million state population – RSA-113 line A2 divided by the result of the estimated state population divided by 1 million. The estimated state population is found on the following website: <http://www.census.gov/popest/states/NST-ann-est.html>
- Average cost per employment outcome – Sum of individuals' cost of purchased services from the RSA-911 (record position 104-109) for individuals who achieved an employment outcome (record position 198 = 3) divided by the total number of these individuals
- Average cost per unsuccessful employment outcome – Sum of individuals' cost of purchased services from the RSA-911 (record position 104-109) for individuals who did not achieve an employment outcome (record position 198 = 4) divided by the total number of these individuals
- Average hourly earnings for competitive employment outcomes - Sum of individuals' weekly earnings at closure (record position 163-166) divided by the total hours worked in a week at closure (record position 167-168) for individuals where weekly earnings at closure > 0, where the type of closure (record position 198) = 3, and where competitive employment (record position 162) = 1
- Average state hourly earnings – Using the most relevant available data from the Bureau of Labor Statistics Report (<http://www.bls.gov>), state average annual earnings divided by 2,080 hours
- Percent average hourly earnings for competitive employment outcomes to state average hourly earnings – Average hourly earnings for competitive employment outcomes (above) divided by the Average state hourly earnings (above) multiplied by 100

- Average hours worked per week for competitive employment outcomes - Average hours worked in a week at closure (record position 167-168) for individuals where weekly earnings at closure (record position 163-166) > 0 and where the type of closure (record position 198) = 3 and competitive employment (record position 162) = 1
- Percent of transition age served to total served – Total number of individuals whose age at application is 14-24 and whose type of closure (record position 198) is 3 or 4 divided by all individuals of any age whose type of closure (record position 198) is 3 or 4
- Employment rate for transition population served – Total number of individuals whose age at application is 14-24 and whose type of closure (record position 198) = 3 divided by the number of individuals whose age at application is 14-24 and whose type of closure (record position 198) is 3 or 4 multiplied, the result of which is multiplied by 100
- Average time between application and closure (in months) for individuals with competitive employment outcomes - Average of individuals date of closure (record position 201-208) minus date of application (record position 15-22) in months where type of closure (record position 198) = 3 and competitive employment (record position 162) = 1
- Standard 1 – To achieve successful performance on Evaluation Standard 1 the DSU must meet or exceed the performance levels established for four of the six performance indicators in the evaluation standard, including meeting or exceeding the performance levels for two of the three primary indicators (Performance Indicators 1.3, 1.4, and 1.5).
- Standard 2 – To achieve successful performance on Evaluation Standard 2, the DSU must meet or exceed the performance level established for Performance Indicator 2.1 (.80) or if a DSU's performance does not meet or exceed the performance level required for Performance Indicator 2.1, or if fewer than 100 individuals from a minority population have exited the VR program during the reporting period, the DSU must describe the policies it has adopted or will adopt and the steps it has taken or will take to ensure that individuals with disabilities from minority backgrounds have equal access to VR services.

IL Program Highlights (From RSA 704 report)

- Title VII, Chapter 1, Part B Funds – Subpart I, Administrative Data, Section A, Item 1(A)
- Total Resources (including Part B funds) – Subpart I, Administrative Data, Section A, Item 4
- Total Served - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section A(3)
- Total Consumer Service Records Closed - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section B(6)
- Cases Closed - Completed All Goals - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section B(4)
- Total Goals Set - Subpart III, Section B, Item 1, sum of (A) + (B) + (C) + (D) + (E) + (F) + (G) + (H) + (I) + (J) + (K) + (L)

- Total Goals Met - Subpart III, Section B, Item 1, sum of (A) + (B) + (C) + (D) + (E) + (F) + (G) + (H) + (I) + (J) + (K) + (L)
- Total individuals accessing previously unavailable transportation, health care, and assistive technology - Subpart III, Section B, Item 2, sum of (A) + (B) + (C)
- Total FTEs - Subpart I, Section F, sum of Item 2 for the column
- Total FTEs with Disabilities - Subpart I, Section F, sum of Item 2 for the column

OIB Program Highlights (From RSA 7-OB Form)

- Title VII, Chapter 2, Expenditures - Part I-Sources and Amounts of Funding, (A)(1)
- Total Expenditures (including Chapter 2) - Part I-Sources and Amounts of Funding, (A)(6)
- Total Served Older Individuals who are Blind - Part III-Data on Individuals Served During This Fiscal Year, (B)-Gender, sum of (1) + (2)
- Total FTEs - Part II-Staffing, sum of (1) + (2) + (3) + (4) for the column
- Total FTEs with Disabilities - Part II-Staffing, sum of (1) + (2) + (3) + (4) for the column

APPENDIX E: EXPLANATIONS APPLICABLE TO FISCAL PROFILE TABLES

Grant Amount:

The amounts shown represent the final award for each fiscal year, and reflect any adjustments for MOE penalties, reductions for grant funds voluntarily relinquished through the reallocation process, or additional grant funds received through the reallocation process.

Match (Non-Federal Expenditures):

The non-federal share of expenditures in the Basic Support Program, other than for the construction of a facility related to a community rehabilitation program, was established in the 1992 amendments to the Rehabilitation Act at 21.3 percent. As such, a *minimum* of 21.3 percent of the total allowable program costs charged to each year's grant must come from non-federal expenditures from allowable sources as defined in program and administrative regulations governing the VR Program. (34 CFR 361.60(a) and (b); 34 CFR 80.24)

In reviewing compliance with this requirement, RSA examined the appropriateness of the sources of funds used as match in the VR program, the amount of funds used as match from appropriate sources, and the projected amount of state appropriated funds available for match in each federal fiscal year. RSA also reviewed the accuracy of expenditure information previously reported in financial and program reports submitted to RSA.

Carryover:

Federal funds appropriated for a fiscal year remain available for obligation in the succeeding fiscal year only to the extent that the VR agency met the matching requirement for those federal funds by September 30 of the year of appropriation (34 CFR 361.64(b)). Either expending or obligating the non-federal share of program expenditures by this deadline may meet this carryover requirement.

In reviewing compliance with the carryover requirement, RSA examined documentation supporting expenditure and unliquidated obligation information previously reported to RSA to substantiate the extent to which the state was entitled to use any federal funds remaining at the end of the fiscal year for which the funds were appropriated.

Program Income:

Program income means gross income received by the state that is directly generated by an activity supported under a federal grant program. Sources of state VR program income include, but are not limited to, payments from the Social Security Administration for rehabilitating Social Security beneficiaries, payments received from workers' compensation funds, fees for services to defray part or all of the costs of services provided to particular individuals, and income generated by a state-operated community rehabilitation program. Program income earned (received) in one fiscal year can be carried

over and obligated in the following fiscal year regardless of whether the agency carries over federal grant funds. Grantees may also transfer program income received from the Social Security Administration for rehabilitating Social Security beneficiaries to other formula programs funded under the Act to expand services under these programs.

In reviewing program income, RSA analyzed the total amount (as compared to the total percentage of income earned by all VR agencies and comparable/like VR agencies), sources and use of generated income.

Maintenance of Effort (MOE):

The 1992 amendments revised the requirements in section 111(a)(2)(B)(ii) of the Act with respect to maintenance of effort provisions. Effective federal FY 1993 and each federal fiscal year thereafter, the maintenance of effort level is based on state expenditures under the title I State plan from non-federal sources for the federal fiscal year two years earlier. States must meet this prior year expenditure level to avoid monetary sanctions outlined in 34 CFR 361.62(a)(1). The match and maintenance of effort requirements are two separate requirements. Each must be met by the state.

In reviewing compliance with this requirement, RSA examined documentation supporting fiscal year-end and final non-federal expenditures previously reported for each grant year.

Administrative Costs:

Administrative costs means expenditures incurred in the performance of administrative functions including expenses related to program planning, development, monitoring and evaluation. Details related to expenditures that should be classified as administrative costs are found in VR Program regulations at 34 CFR 361.5(b)(2).