

FISCAL YEAR 2010

**MONITORING REPORT ON THE
VOCATIONAL REHABILITATION AND
INDEPENDENT LIVING PROGRAMS
IN THE**

COMMONWEALTH OF PUERTO RICO



U.S. DEPARTMENT OF EDUCATION
**OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES**
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EXECUTIVE SUMMARY

During the 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 Rehabilitation Act) in the Commonwealth of Puerto Rico:

- 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, 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.

Puerto Rico Administration of the VR, SE, IL and OIB Programs

The Department of Labor and Human Resources (DLHR) is the Designated State Agency (DSA) and includes the following four components: the Vocational Rehabilitation Administration (VRA); the Right to Work Administration (RWA); the Administration for the Training of Future Entrepreneurs and Workers (ATFEW) and Occupational Development Council Human Resources (ODCHR). VRA is the designated State unit (DSU) responsible for the VR, SE, IL, and OIB programs and includes the following divisions: Legal Affairs; Internal Audit Office; Office of Labor Affairs and Human Resources; Administration Office; Information Systems Office; and the Operational Policies Area.

VRA administers a combined program that serves individuals who are blind and individuals with other disabling conditions. The administrative offices for both DLHR and VRA are located in San Juan. There are six administrative regions and 25 VR field offices serving 78 municipalities throughout the Commonwealth. VRA has staff representation in 15 workforce development (WD) centers. VRA assigns VR transition analysts to each of the public high schools in the Commonwealth.

VRA Performance over the Past Five Years

Based on data provided by VRA through various RSA reporting instruments, VRA's overall employment rate remained unchanged at approximately 75 percent from FY 2004 to FY 2008. During the same period, the number of applicants increased from 8,818 to 13,337 and the number of individuals served who either achieved or did not achieve employment, increased from 3,187 in FY 2004 to 3,359 in FY 2008. The average hourly earnings for individuals who achieved employment increased from \$7.85 to \$8.17 from FY 2004 to FY 2008.

Of those individuals who achieved an employment outcome, the number who achieved SE outcomes increased from 122 in FY 2004 to 138 in FY 2008. The average hourly wage for these individuals increased from \$5.50 to \$6.29 for the same period.

The overall percentage of transition-age youths served increased from 60 percent in FY 2004, to 62 percent in FY 2008. The number of transition-age youths who achieved employment increased from 1,486 in FY 2004, to 1,617 in FY 2008.

The number of individuals served through VRA's IL program contracts with non-part C centers for independent living (CIL) increased from 669 to 684 from FY 2006 to FY 2009. During the same period, the number of individuals served through the agency's OIB program increased from 425 to 904.

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), Statewide Independent Living Council (SILC) and the Client Assistance Program (CAP), shared information concerning the administration and performance of the VRA VR, SE, IL and OIB programs. During the review, they observed that:

- large numbers of applicants and eligible individuals were exiting the VR program prior to receiving services, adversely affecting the agency's performance and the number of individuals it assisted to achieve successful employment;
- VRA possessed limited assessment, job development and placement resources, affecting the ability of VR counselors to assess and address functional limitations related to obtaining and maintaining employment;
- the Commonwealth lacked an adequate number of community rehabilitation programs (CRP) to provide VR and IL services;
- VRA had improved the timely processing of applications, procurement and provision of purchased equipment;
- the services provided through the San Juan Rehabilitation Center (SJRC) and the Centers for Assessment and Adjustment (CAA) were not tracked through the case management system and only SJRC had a separate system that tracks referrals and services;
- Puerto Rico lacked a residential orientation and mobility program for individuals who are blind;
- VRA, the SRC and Department of Education (DOE) conducted focus groups to identify agency responsibilities and develop a collaborative transition process to address the needs of students graduating with the necessary academic skills and vocational aptitudes; and
- there is a need to increase the collaboration with the CAP to include the development and review of policies, procedures and new counselor training.

Strengths and Challenges

Based on the observations from the agency and its stakeholders and other information gathered through the review process, RSA concluded that VRA 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, IL and OIB programs.

The strengths included a service delivery system that encourages and includes the provision of self-employment services to enable individuals to establish sustainable businesses. Self-

employment services are provided through the Center of Support and Employment Module (CSEM). Staff of the CSEM possess specific training and expertise in self-employment and provide consultation and support to VR counselors. The CSEM staff assess the needs of individuals pursuing self-employment and assist with the development of business proposals and plans. Through the self-employment system established by VRA, it assisted a large number of individuals to achieve self-employment. The number of individuals who achieved self-employment increased from 370 in FY 2007 to 450 in FY 2008. VRA assisted many more individuals with achieving self-employment when compared to the average of 42 such outcomes for its peers¹ in FY 2008. VRA has developed a strong self-employment program for persons with disabilities, in the Commonwealth of Puerto Rico, with the exception of the 192 individuals in FY 2008 and 152 individuals in FY 2009, whose cases were closed after achieving employment, with employment goals of lottery ticket salespersons.

VRA assigns seven transition specialists and four supervisors to provide auxiliary support and outreach services to the VR counselors and eight school districts, which improved the collaborative relationship between the school and VR systems, increased the referrals of transition-age youths and increased the level of VR support and involvement in the development of the Individualized Education Plan (IEP) and Individualized Plan for Employment (IPE). In FY 2008, VRA served 62 percent of transition-age youths compared to the average of 44 percent for its peers, and the employment rate for transition-age youths was 78 percent compared to the average of 56 percent for its peers in FY 2008.

VRA employs 34 drivers to address the lack of transportation in the Commonwealth. The drivers transport individuals to appointments for assessments, training programs and other services coordinated by VRA, enabling individuals to more easily participate in the VR program.

VRA collaborates effectively with the SILC, while maintaining its programmatic and fiscal autonomy. In addition, VRA maximizes the amount of Part B funds available for the provision of IL services by supporting the SILC's resource plan with innovation and expansion funding under Title I of the Rehabilitation Act. VRA engages in extensive oversight and quality assurance practices in the administration of the Part B IL program, including the use of outcome-based contracts and the conduct of on-site monitoring of CILs and non-CILs service providers. The agency has distributed a comprehensive IL service provider requirements manual and provides technical assistance to the CILs and other providers of IL services.

Regarding the OIB program, individuals served have reported a high level of consumer satisfaction with services and outcomes, particularly with the provision of assistive technology devices and services.

VRA's challenges included its continual failure to implement a timely VR process. The inability to implement a timely and efficient VR process may be due in large part to the disproportionate allocation of fiscal and human resources; ineffective communication of policies and procedures; and cessation of utilizing a developed quality assurance system to conduct service record reviews in order to inform and improve the management and performance of the agency. As a result,

¹ Peers are based on agencies with similar grant and population sizes. VRA's peers include: Alabama, Georgia, Indiana and Tennessee.

VRA has not been able to: allocate funding to counseling and purchased services, rather than administration and other services; effect change and effectively serve the large number of individuals who apply for services and are determined eligible; decrease the attrition of individuals from the VR service delivery system after application and eligibility determination, prior to the development of an IPE; increase the timeliness of eligibility determination, IPE development and the timely provision of services.

Although VRA has the resources to analyze performance related to timely service provision and case closure, it has been unable to resolve systemic issues that continue to result in untimely delays in the service delivery process and the closure of cases prior to the delivery of services.

With respect to the IL program, the SILC has been unable to recruit and retain new members, specifically those representing other state agencies and the business community. This affects the ability of the SILC to perform its mandated functions.

VRA is unable to provide OIB services in four of the six regions in the Commonwealth. The agency employs a disproportionately high number of administrative staff to carry out the OIB program when compared to the number of staff available to provide direct services. In addition, a shortage of qualified and certified professionals exists in the areas of orientation and mobility, rehabilitation teaching and low vision. Both of these conditions may affect the availability and timely provision of OIB services throughout Puerto Rico.

Acknowledgement

RSA wishes to express appreciation to the representatives of the DLHR, VRA, SRC, CAP, SILC and the stakeholders who assisted the RSA monitoring team in the review of VRA.

INTRODUCTION AND RSA REVIEW PROCESS

Introduction

Section 107 of the Rehabilitation Act, requires the commissioner of the RSA to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Rehabilitation Act to determine whether a state VR agency is complying substantially with the provisions of its State Plan under section 101 of the Rehabilitation 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 SE Services under Title VI, part B, of the Rehabilitation Act and the IL programs offered under Title VII of the Rehabilitation 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 (TA) 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 Rehabilitation Act, RSA reviewed the performance of the following programs administered by the Commonwealth of Puerto Rico VRA:

- VR program, established under Title I;
- SE program, established under Title VI, part B;
- IL program authorized under Title VII, part B; and
- OIB, established under Title VII, Chapter 2.

In addition, RSA also reviewed the progress of VRA on:

- the agency's Corrective Action Plan that was established as a result of findings from RSA's FY 2004 Section 107 monitoring review; and
- the assurances that VRA provided to RSA in conjunction with its FY 2010 State Plan.

Information Gathering and Review Process Activities

During FY 2010, RSA began its review of VRA by analyzing information from a variety of sources, including but not limited to, RSA's various data collections, VRA VR and IL State Plans and the agency's SRC Annual Report. After completing its internal review, the RSA review team:

- engaged in numerous teleconferences and other information gathering activities with representatives of VRA, the SRC, SILC, CAP and other stakeholders to gain a greater understanding of the agency's strengths and challenges related to the administration and performance of the VR, SE, IL and OIB programs; and
- conducted an on-site monitoring visit from February 22 through 26, 2010, during which it met with representatives of DLHR, VRA, the SRC, SILC and other stakeholders to further gather and analyze information and to provide TA in areas already identified by the review team and VRA.

Data Used During the Review

RSA's review of VRA 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 VRA. 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 performance areas for improvement and recommended that VRA undertake specific actions to improve its performance;
- identified compliance findings and required VRA to take corrective action; and
- determined in collaboration with VRA whether RSA would provide TA to improve the agency's performance or correct compliance findings.

Review Team Participants

Members of RSA's Puerto Rico 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: Tonya Stellar, review lead, and Jim Doyle (Vocational Rehabilitation Program Unit); Felipe Lulli, state liaison (Independent Living Unit); Joe Pepin (Data Collection and Analysis Unit); David Steele (Fiscal Unit); and Terry Martin (Technical Assistance Unit).

CHAPTER 1: VRA VR AND SE PROGRAMS

VR and SE Program Systems

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

Service Delivery

VRA provides VR and SE services through six regional offices and 25 field offices throughout the 78 municipalities in the Commonwealth of Puerto Rico. VRA is divided administratively into four core offices or centers, which include the Center of Administrative Services (CAS); Center of Vocational Administration Counseling Services (CVACS); the CAA; and CSEM.

- The CAS is responsible for the purchase of equipment and organizing the necessary resources to deliver services at the regional levels.
- The CVACS is responsible for the service delivery system from referral to closure and referrals to the centers for assessment, training and employment services.
- The CAA is responsible for the administration and provision of services at the seven CAA centers, and the SJRC. Staff provides assessment and evaluation services including vocational, occupational and physical therapies, speech therapy assessments, and pre-employment/occupational skills training.
- The CSEM is responsible for the planning and development of training in self employment, supported and regular employment, placement and TA to VRA personnel.

The VRA operates the SJRC, a comprehensive vocational rehabilitation center, and seven CAAs that provide assessment and adjustment services to include: occupational and physical therapy, vocational evaluation, speech and language pathology and social work; prevocational and occupational skills training; assistive technology and adaptive driving training; low vision and neurological services. Of the seven centers, four also provide services to individuals who are blind.

All of the agency's 106 VR counselors serve individuals who are blind and visually impaired, and two counselors specifically provide services to persons who are deaf or hard of hearing. VRA staff provide office hours in 15 of the Commonwealth's one-stop locations.

In FY 2008, VRA expended \$25,726,077 for purchased services which represented 34.8 percent of its total expenditures. This was lower than the national average of \$30,376,516, or 49 percent expended by all combined agencies. Of its purchased services expenditures, VRA spent \$17,524,385 on training, which was 45.4 percent of its total expenditures and greater than the national average of \$13,496,766 or 44 percent of total expenditures on purchased services by all combined agencies in FY 2008.

VRA primarily provides SE services to persons with developmental disabilities, mental retardation and autism. In FY 2008, VRA received approximately \$322,814 from the U.S. Department of Education to operate the SE program authorized under Titles I and VI, part B. SE services are provided to individuals in the six administrative regions through ten CRPs.

CRPs in Puerto Rico are community-based, nonprofit institutions. SE services are provided through fee-for-service and pre-paid SE contracts. The pre-paid SE contracts are measured by the number of individuals served, rather than the services provided. There are four defined stages of the SE service delivery system including: analysis of skills and need for accommodations; comprehensive community-based assessments; IPE development, job search, development, placement and coaching; and movement to long-term supports. VRA employs four staff persons who function as job coaches and contracts with CRPs to provide additional job coaching services. Long-term extended services are provided through three funding streams, including the United Funds of Puerto Rico, Developmental Disabilities Council, and the Puerto Rico state legislature. CRPs are responsible for arranging long-term funding and formally requesting funding through proposals to all three entities.

The structure of the transition service delivery system is facilitated by seven transition analysts assigned to each of the eight school districts across six regions. VRA reported that transition analysts generated 3,399 referrals from the eight school districts with the highest number of referrals received from the southern and east central regions in FY 2008. Of the 3,399 referrals, 2,179 students filed applications and were determined eligible in FY 2008. The transition analysts are responsible for providing guidance to school personnel related to program development and transition planning, identification of service needs, job placement, assistive technology, and technical assistance regarding the development of the individualized education plan (IEP) and the individualized plan for employment (IPE). In addition, the transition analysts serve as the liaisons between the VRA and the public high schools and determine when individuals are ready to begin the transition process. The transition analysts do not determine eligibility or provide cost services.

Job placement services are coordinated by the VR counselors with the employment analysts in the CSEM. There are seven employment analysts assigned to all six regions. In some instances, VR counselors provide job placement services. In addition, VRA collaborates with the Department of Labor (DOL) to coordinate summer work experiences.

VRA provides assistive technology (AT) services if the Department of Education does not or cannot provide a student with these services. Although the provision of AT services is the responsibility of the Department of Education, VRA and the school system are working collaboratively to assign AT equipment to the students once they graduate from high school. VRA also coordinates AT assessments and services through the Puerto Rico Assistive Technology Program (PRATP) located at the University of Puerto Rico.

Personnel

During the course of the monitoring review, VRA reported that it had 1,140 employees, of which, only 106 were VR counselors. According to the RSA-2, 17 percent of VRA's total staff

members were counseling staff in FY 2008, compared to the average of 44 percent for its peers. Table 1.1 below provides a listing of positions and staffing levels.

Puerto Rico has established standards for the licensing of qualified VR counselors through Act No. 58, enacted May 7, 1976. Act No. 58 requires that to practice as a VR counselor, an individual must have a master's degree in rehabilitation counseling and must also have a valid license issued by the examining board. It also requires that an individual must be active in the registry of Professionals of the Office of Regulations and Certification of Health Professionals, be a member of the College of Rehabilitation Counseling Professionals of Puerto Rico, and comply with the requirement of continuing education. VRA only recruits individuals who comply with these requirements. VRA reported that all 106 staff performing the non-delegable duties of a qualified rehabilitation counselor met the established CSPD standard. The 19 staff supervising the VR counselors also met the standard.

**Table 1.1
VRA Personnel Job Categories FY 2010**

Position	Number of Staff
Vocational Rehabilitation Counselor	106
Counselor: Main, Analyst, Specialist	20
Supervisor/Counseling Main	19
Technician/Rehabilitation Counseling Services	108
Assessment and Adjustment Officer	31
Assessment and Adjustment Analyst	23
Technician/Assesment and Adjustment	33
Supervisor/Assessment and Adjustment	13
Evaluation and Adjustment Assistant	32
Support and Employment Modes Analyst	14
Support and Employment Mode Officer	9
Supervisor/Support and Employment Modes	3
Rehabilitation Ancillary Services Officer	26
Auxiliary Rehabilitation Services Analyst	9
Technician/Ancillary Rehabilitation Services	25
Supervisor/Ancillary Rehabilitation Services	8
Office System Administrator	38
Office System Assistant	35
Technician/Office System	171
Technician/Information System	6
Electronic Systems Programmer (Information System)	9
Teacher	43
Administration Officer	37
Administration Assistant	61
Administrative Assistant	12

Position	Number of Staff
Administration Technician	6
Office Assistant	6
Human Resources Officer	8
Human resource Analyst	5
Human resource Specialist	2
Human Resources Assistant	4
Supervisor/Human Resources	3
Technician/Human Resources	5
Budget Analyst	2
Budget Officer	2
Budget Specialist	2
Supervisor/Budget	2
Main Auditor	3
Accountant	4
Financial Administration Technician	9
Technician/Accounting	5
Purchasing Agent	12
Purchasing Officer	3
Driver	34
Supervisor – Other	11
Director	49
Other Administration and Support	54
Total	1,140

Data and Case Management

VRA purchased a case management system in FY 2002, which was implemented in the summer of 2004. Since the initial installation, a newer version was installed. The agency's technical support staff conducts updates and modifications to the system.

VRA has implemented a management information system for monitoring and assessing all caseload activities. Data input is managed by the Quality Assurance (QA) Unit, which is also responsible for completing and submitting the RSA 113 and 911. The QA staff have developed an internal agency performance report regarding eligibility determination and timely case management. "Activity due" reports are made available throughout the agency and VR counselors utilize the system to generate case management reports, track expenditures and maintain individual budgets.

Each month, the QA Unit generates statistical data and a performance level report on applications, case flow management, and closures. The report provides information on the number of applicants, eligibility timelines, employment outcomes, and results for the standards and indicators. The report is distributed throughout the agency and is used for planning purposes

to establish intervention and develop supervision plans. Additional reports that can be accessed by staff when needed.

Quality Assurance

VRA has established a system for reviewing service records on an annual basis; however, at the time of the review, VRA management reported that the agency has not conducted a review for the past two years. Previously, the QA unit reviewed 15 percent of the total number of closed cases in each region on an annual basis. Reviews are now conducted by the field office supervisors as a function of case management. Results of the reviews are not collected in a systematic manner, and the results are not provided to the Training Unit to inform training design.

At the time of the review, VRA was in the process of implementing a new performance evaluation system for VR counselors that takes into account performance on a variety of quantifiable factors, including timeliness of eligibility determination, determination of most significant disability, presumption of eligibility and timeliness of eligibility determination for SSA beneficiaries, timeliness of IPE development, annual review completion, successful closures, and the federal standards and indicators. The revised performance evaluation system has not been fully implemented to date.

Planning

VRA prepares a strategic plan every four years. This plan is developed according to programmatic commitments, government platforms and the priorities established by the governor. VRA's programmatic and administrative goals are established in this strategic plan. Once the plan is developed, it is sent to the Office of the Governor and to the Management and Budget Office for review and approval.

VRA determines its priorities and commitments each year and develops an annual plan, which it reviews on a quarterly basis. At the end of each fiscal year, an achievement report is submitted to the governor.

VRA conducts its comprehensive statewide needs assessment annually over a three year period jointly with the SRC. The agency's administrative and programmatic staff participate in the planning in order to identify the needs, annual estimates, projections, goals, priorities and strategies. Needs are identified according to the outcome of the different activities including, but not limited to, satisfaction surveys and discussions with the CRPs. The programmatic achievements and the use of fiscal and human resources to provide services to individuals are also assessed. VRA uses its VR program State Plan as its annual work plan.

VR and SE Program Performance

Table 1.2 below provides data on the performance of the VR and SE programs administered by VRA in key areas from FY 2004 through FY 2008.

Table 1.2
VRA Program Highlights for VR and SE Programs for FY 2004 through FY 2008

	2004	2005	2006	2007	2008
Total funds expended on VR and SE	\$92,171,451	\$84,569,763	\$73,264,749	\$76,722,234	\$73,976,443
Individuals whose cases were closed with employment outcomes	2,412	2,767	2,722	2,590	2,526
Individuals whose cases were closed without employment outcomes	775	861	851	720	833
Total number of individuals whose cases were closed after receiving services	3,187	3,628	3,573	3,310	3,359
Employment rate	75.68%	76.27%	76.18%	78.25%	75.20%
Individuals whose cases were closed with SE outcomes	122	149	159	148	138
New applicants per million state population	1,804	1,917	2,126	2,406	2,590
Average cost per employment outcome	\$10,018	\$7,593	\$7,395	\$7,070	\$7,093
Average cost per unsuccessful employment outcome	\$6,617	\$4,952	\$4,276	\$3,993	\$4,002
Average hourly earnings for competitive employment outcomes	\$7.85	\$7.79	\$7.63	\$7.66	\$8.17
Average state hourly earnings	\$10.59	\$10.95	\$11.23	\$11.75	\$12.21
Percent average hourly earnings for competitive employment outcomes to state average hourly earnings	74%	71%	68%	65%	67%
Average hours worked per week for competitive employment outcomes	32.3	32.1	31.8	32.1	32.0
Percent of transition-age served to total served	60.03%	63.95%	61.57%	61.27%	61.83%
Employment rate for transition population served	77.68%	78.41%	78.50%	80.62%	77.85%
Average time between application and closure (in months) for individuals with competitive employment outcomes	52.6	55.0	54.0	51.5	50.1
Performance on Standard 1	Met	Met	Met	Met	Met
Performance on Standard 2	Met	Met	Met	Met	Met

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 VRA take specific steps to improve the agency's performance associated with each of the observations.

1. Allocation of Resources Available to VRA

Observation: Fiscal and staff resources are not being maximized to address the current challenges in VRA's service delivery system and to improve its performance. As a result of the disproportionate allocation of fiscal and human resources, VRA has been unable to effectively serve persons with disabilities throughout the Commonwealth of Puerto Rico.

Table 1.3
VRA Expenditures Compared to Peers from the RSA-2 for FY 2008

Expenditures	Puerto Rico	Alabama	Georgia	Indiana	Tennessee	Peer Averages 2008
Total	\$73,976,443	\$73,016,282	\$115,969,700	\$121,175,576	\$84,446,553	\$98,652,028
Administration	\$8,021,286	\$4,612,200	\$11,364,519	\$4,214,013	\$7,914,035	\$7,026,192
Administration percentage	10.84%	6.32%	9.80%	3.48%	9.37%	7.12%
Counseling	\$21,315,512	\$34,296,282	\$58,723,414	\$17,733,214	\$35,327,834	\$36,520,186
Counseling percentage	28.81%	46.97%	50.64%	14.63%	41.83%	37.02%
Other Services	\$12,880,496	\$848,991	\$0	\$0	\$777,673	\$406,666
Other services percentage	17.41%	1.16%	0%	0%	.92%	.41%
Purchased Services	\$25,726,077	\$29,566,814	\$43,354,277	\$62,033,679	\$33,411,605	\$42,091,594
Purchased services percentage	34.78%	40.49%	37.38%	51.19%	39.57%	42.67%
Services to groups	\$6,033,072	\$3,691,995	\$2,527,490	\$37,194,670	\$7,015,406	\$12,607,390
Services to groups percentage	8.16%	5.06%	2.18%	30.69%	8.31%	12.78%

- VRA expends a greater amount of its fiscal resources on administration and other services and employs a larger number of administrative staff, staff supporting counselors and other staff when compared to the average of its peers (Alabama, Georgia, Indiana and Tennessee) (see Table 1.3 above).

- As indicated above in Table 1.3, VRA’s expenditures for administration and other services were greater than the average of its peers; however, the total expenditures on counseling, purchased services and services to groups were less than the average of its peers in FY 2008.
- In FY 2008, VRA reported on its RSA-2 that it spent \$12,888,496 on other services, compared to its peer average of \$406,666, and \$8,021,286 on administration, compared to the peer average of \$7,026,192.
- VRA expended a smaller percentage of its funds on counseling, purchased services and services to groups when compared to the average of its peers and a greater percentage of its expenditures on administration and other services when compared to its peers in FY 2008 (see Table 1.3 above).
- According to the RSA-2, \$25,726,077 or 34.8 percent of VRA’s expenditures were allocated to purchased services, compared to its peer average of \$42,091,594, or 42.67 percent of the total average expenditure of its peers in FY 2008.
- The issue of disproportionate allocation of fiscal resources and the impact on the service delivery system is apparent when VRA is compared to the Alabama Vocational Rehabilitation Service (VRS), an agency operating with similar grant and population sizes in Table 1.3 above. VRA spent more on administration, other services and services to groups and less on counseling and purchased services when compared to VRS.

Table 1.4
VRA Resource Allocation and Individuals Served Compared to
California DOR for FY 2008

Resource Allocation	VRA	California DOR
Total number of staff (per the RSA-2)	1,285	1,644
Total administrative staff (per the RSA-2)	451	271
Total grant size (per the RSA-2)	\$71,531,013	\$276,152,015
Total number of individuals served (per the RSA-911)	3,359	30,710

- In FY 2008, VRA employed 1,285 staff to administer a \$71,531,013 grant and served 3,359 individuals. This staffing level was nearly as large as the 1,644 staff employed by the California Division of Rehabilitation (DOR). In comparison, DOR (RSA’s largest grantee) administered a \$276,152,015 grant and served 30,710 individuals in FY 2008, as shown above in Table 1.4 above.
- In addition, of VRA’s 1,285 staff, 451 were dedicated to administration, while 271 of the 1,644 staff employed by the California DOR were allocated to administration in FY 2008. As demonstrated above in Table 1.4, VRA employed a greater number of administrative staff when compared to California DOR in FY 2008.

Table 1.5
VRA Allocation of Staff Resources Compared to Peers in FY 2008 as
Reported on the RSA-2

Allocation of Staff Resources	Puerto Rico	Alabama	Georgia	Indiana	Tennessee	Peer Averages 2008
Total	1,285	549	874	317	601	585
Total percent	100%	100%	100%	100%	100 %	100%
Administrative staff	451	15	46	20	31	28
Administrative staff percent	35.10%	2.73%	5.26%	6.31%	5.16%	4.78%
Counselor staff	218	200	263	284	281	257
Counselor staff percent	16.96%	36.43%	30.09%	89.59%	46.76%	43.91%
Staff supporting counselor activities	486	300	548	5	268	280
Staff supporting counselor activities percent	37.82%	54.64%	62.70%	1.58%	44.59%	47.89%
Other staff	130	34	17	8	21	20
Other staff percent	10.12%	6.19%	1.95%	2.52%	3.49%	3.42%

- In FY 2008, VRA employed a larger number of administrative staff, staff supporting counselors and other staff and a smaller number of counselors when compared to the average of its peers (see Table 1.5 above).
- As demonstrated above in Table 1.5, VRA employed 1,285 total staff, which was significantly larger than its peer average of 585 staff and 549 staff for Alabama VRS in FY 2008. In addition, VRA employed a larger number and percentage of administrative staff when compared to the average of its peers and Alabama VRS. However, VRA employed a smaller percentage of VR counselor staff at 16.96 percent of its total staff when compared to the average of its peers at 43.91 percent of total staff and Alabama VRS at 36.43 percent of total staff.
- During the on-site monitoring review, RSA conducted interviews with VRA staff in five of the Commonwealth's six regions. VRA reported that the number of VR counselors assigned to each of the five regions ranged from 13 to 23. VR counselors throughout the agency reported serving between 250 and 500 individuals on their caseloads. Counselors indicated that these large caseloads affected their ability to manage case activity including the assessment of case closure as appropriate), to maintain contact with individuals throughout the VR process, the timeliness of eligibility determination, IPE development and the quality of services provided.
- As a result of resource allocation and the inconsistent application of policies and procedures, and an example of the timely service delivery issue, only 55.3 percent of individuals, who achieved employment, had an eligibility determination within 60 days from the date of application, compared to the national average of 83.7 percent for combined agencies in FY 2008, per the RSA-911. In addition, only 65.5 percent of individuals, who achieved

employment, had an IPE developed within 120 days of eligibility determination compared to the national average of 80.3 percent for combined agencies in FY 2008.

- VRA management reported that the agency employs individuals who meet its CSPD standard, but who then serve in classifications of analysts and positions other than VR counselors in which they are prohibited from performing non-delegable functions and carrying caseloads.
- Currently, transition analysts are responsible for collecting referrals, providing outreach, information and orientation to families; however they do not carry transition caseloads. VRA staff suggested converting the transition analysts to transition VR counselors who specialize in transition services and carry transition caseloads.
- During the review process, VRA recognized the need to employ additional VR counselors to improve the efficiency and effectiveness of the service delivery system in Puerto Rico. From April 5, 2010 to June 30, 2010, VRA appointed 23 VR counselors to support counselors with caseloads of more than 200 individuals.
- In addition, VRA field staff reported that there are classifications or positions within VRA that can perform the delegable functions (orientations, assistance with applications, community outreach, data entry, job club, resume writing, interview skills, and follow-up services). VRA field staff requested that VRA central office staff evaluate counselor technician duties and align responsibilities with VR counselor duties and responsibilities to provide support in the performance of delegable functions.
- Duplication of responsibilities was identified across classifications through discussions with staff and review of job descriptions. VRA staff reported and RSA observed that similar duties were performed by secretaries and counselors technicians; counselor technicians and transition analysts; and directors of counseling services and supervisors.
- RSA also observed that there was an inequity in the number of staff to administrative staff where by multiple supervisory staff managed limited numbers of front line staff. VRA staff reported that some of the community liaison units functioned with one supervisor, one VR counselor and one support staff. In addition, CAAs, to include the SJRC, employ supervisors for each type of position or classification, rather than a supervisor of medical services responsible for oversight of OT, audiology, psychiatric and nursing services.
- VRA’s resource allocation practices, in part, contributed significantly to specific areas of low performance, including the number of individuals served, the quantity and quality of employment outcomes and the utilization of resources (see Tables 1.6 – 1.8 below).

**Table 1.6
VRA Individuals Served Compared to Peers for FY 2008**

Agency Totals and Performance Measures for FY 2008	VRA	AL VRS	Peer Averages
Total number of applicants at the beginning of and during the year (RSA-113)	13,337	15,644	14,369
Total Number of Individuals Served (RSA-911)	3,359	10,311	8,558
Total number of individuals who achieved employment (RSA-911)	2,526	7,554	4,775

- According to the RSA-911, VRA served a total number of 3,359 individuals in FY 2008, compared to the peer average of 8,558 individuals and 10,311 individuals served by Alabama VRS (see Table 1.6 above). Although VRA served fewer individuals than the average of its peers and Alabama, a comparable number of persons applied for services when compared to the average of its peers. As demonstrated in Table 1.6 above, a large difference existed in the number of individuals who applied for services and the number of individuals served whose cases were closed after the individuals received services from VRA in FY 2008.
- Although VRA served fewer individuals in FY 2008 when compared to its peers, it also had a higher rate of attrition from application status when compared to the national average of combined agencies. In FY 2008, the cases of 2,775 individuals or 35.2 percent of all cases closed were closed from applicant status compared to the national average of 16 percent for combined agencies. Although the number of individuals who exited the service delivery system increased from FY 2004 to FY 2008, the percentage of individuals who exited the system from eligibility status, prior to the development of an IPE, was comparable to the average percentage of combined agencies as demonstrated in Table 1.7 below.

Table 1.7
VRA Cases Closed from Application and After Eligibility Prior to the
Development of the IPE for FY 2004 through FY 2008

Closure Type	2004	2005	2006	2007	2008	Combined 2008
Number of individuals who exited the VR Service Delivery System from Application Status	1,903	2,230	2,551	2,699	2,775	45,616
Percentage of individuals who exited the VR Service Delivery System from Application Status	30.9 %	31.8 %	33.9 %	36.6 %	35.2 %	16.0 %
Number of Individuals who Exited the VR Service Delivery System from Eligibility Status, prior to the Development of an IPE	1,010	1,110	1,323	1,313	1,687	63,521
Percentage of Individuals who Exited the VR Service Delivery System from Eligibility Status, prior to the Development of an IPE	16.4 %	15.8 %	17.6 %	17.8 %	21.4 %	22.3 %
Total Cases Closed	6,163	7,023	7,519	7,382	7,893	285,183

- Although VRA operates multiple centers for the provision of assessment and adjustment services and a comprehensive rehabilitation center in San Juan, it reported that only 13.32

percent of individuals served by VRA in FY 2009 received services from one of its centers. According to the RSA-911, fewer than 30 percent of VRA clients received assessment services compared to the national average of 73.6 percent for combined agencies in FY 2008.

- According to the RSA-911, though the total expenditures for VRA and Alabama VRS were similar, VRA served a smaller number of individuals, assisted fewer individuals to achieve employment, employment with employer provided medical benefits and employment with an average of 35 or more hours per week when compared to Alabama and the average of its peers in FY 2008 (see Table 1.8 below).
- According to the RSA-911, the number of individuals who achieved an employment outcome decreased from 2,767 in FY 2005 to 2,526 in FY 2008.

Table 1.8
VRA Compared to Peer Average for the
Quantity and Quality of Employment Outcomes for FY 2008

Agency Totals and Performance Measures	VRA	AL VRS	Peer Averages
Total number of individuals who achieved employment (RSA-911)	2,526	7,554	4,775
Total number of individuals who achieved employment and receive employer-provided medical insurance (RSA-911)	640	1,684	1,406
Total number of individuals who achieved employment and work 35 or more hours per week (RSA-911)	1,297	4,648	2,739

Recommendation 1: RSA recommends that VRA:

- 1.1 reallocate resources to provide effective and timely services to and expend more on individuals with disabilities, rather than the administration of the VR program and other services;
- 1.2 in order to determine the appropriate allocation of fiscal and human resources, evaluate VRA’s available resources to determine service area needs and determine how VRA can reallocate its internal fiscal and human resources to increase: the number of individuals served; timely eligibility determination, IPE development and services provision; and decrease the attrition of individuals from the VR service delivery system after application and eligibility determination, before IPE development;
- 1.3 conduct a joint analysis of fiscal management and program performance, including the evaluation of expenditures on administration and other services, as well as counseling, purchased services and services to groups to assess the impact on the funding of direct client services and performance outcomes;
- 1.4 consult with peers of similar grant size and state population to determine if fiscal management and programming conducted by like agencies, including fiscal and staff resource allocation, would be applicable to VRA;

- 1.5 assess and evaluate the current staff structure and allocation of staff that can perform delegable and non-delegable functions, including the alignment of responsibilities for staff supporting counselors with VR counselors to increase the timely and efficient provision of outreach, assistance and services to individuals served by VRA;
- 1.6 develop strategies to increase the efficiency, timeliness and effectiveness of the VRA service delivery system;
- 1.7 assess and evaluate the number of individuals served, the rate of attrition from application and eligibility statuses and employment outcomes to determine the impact of fiscal and staff allocation on, and other reasons for, the decreased or stagnant performance;
- 1.8 evaluate individual counselor caseloads to determine the extent to which they are comprised of inactive cases and implement strategies that enable counselors to effectively close cases when appropriate, thus providing the agency with a more accurate depiction of active cases and the resources required to meet the needs of individuals served; and
- 1.9 develop and implement strategies to improve performance related to the processing of applications and provision of assessments related to eligibility determination to decrease the rate of attrition from application and eligibility statuses, improve timely eligibility determination and IPE development, and effect improvement on the quality and quantity of employment outcomes.

2. Dissemination and Implementation of Policies, Procedures, Staff Development and Training

Observation: VRA staff and stakeholders reported that VRA would benefit from more consistent implementation of policies and procedures throughout the agency's field offices. Consistent interpretation and implementation of policies and procedures will enable VRA to standardize the procedures utilized to deliver services, operate the case management system and improve the quality and quantity of employment outcomes.

- VRA currently uses four policy and procedures manuals with a manual for the CSEM, CAA, Medical Services and Counseling Services. Revisions to policy manuals are communicated to staff through informative, administrative and normative communications or program directives that are sent electronically through e-mail to staff. VRA reported it includes in the communication directives reference to the policy that is being eliminated, revised or replaced by the current policy and the date by which the new policy takes effect.
- Staff reported the need for the integration of the four policy and procedure manuals into one policy manual to include the communication directives and recommended that central office staff develop and maintain an electronic manual located on the intranet or case management system and provide hard copy manuals that include informative, administrative and normative communications to all the field offices. Currently, supervisors maintain policy manuals for staff at the regional levels and disseminate instructions to field staff regarding the manner in which communication directives are to be implemented.
- At the time of the review, VRA did not provide formalized training for new counselors or refresher courses regarding different aspects of the service delivery process and the utilization of the electronic case management system to include the coding of services provided both internally and externally. The central office staff provided training to the regional directors who had the primary responsibility to train staff on the policies, procedures

and communication directives that guide VRA's service delivery system. VRA staff communicated the need for formal policy training and a standardized protocol for the implementation of training.

- Staff and stakeholders reported the need for training in the following policy and procedural areas: the Rehabilitation Act, basic medical terminology, processing of referrals and applications, provision of assessments, trial work experiences (TWE), extended evaluation (EE), eligibility determination including functional limitations and timeline, the IPE development timeline and the coding of services provided internally and externally by VRA and through comparable benefits, utilization of case management reports; and the definitions of competitive employment and integrated settings.

Recommendation 2: RSA recommends that VRA:

- 2.1 consolidate the four policy and procedure manuals into one manual easily accessible by staff through hard copy, the intranet or case management system that includes the normative, informative and administrative communications from central office;
- 2.2 develop and implement a formal training protocol for field office supervisors to provide consistent guidance, training and interpretation of policies and procedures across field offices; and
- 2.3 develop and implement a strategy to assess staff needs for training in specific content areas and a plan for training on policies and procedures available to all staff responsible for implementation including new counselors.

3. Utilization of the CAAs

Observation: Although the CAAs employ a large number of staff, they are underutilized and do not enhance the capacity of VRA's service delivery system.

- The CAAs consist of seven centers employing a total of 375 staff throughout the Commonwealth of Puerto Rico, including the SJRC which offers medical and residential services.
- VRA reported that the centers served 3,038 individuals or 8.48 percent of the 35,827 individuals eligible to receive, or receiving services from VRA in FY 2008.
- Center staff reported the primary function of providing evaluations to consumers was to provide information related to an individual's employability, including the type and appropriateness of employment. Staff at the centers communicated that they were able and willing to assess an individual's functional limitations and conduct additional assessments that could facilitate eligibility determination.
- Staff reported that the average duration of an assessment was three to six months, not including the additional time needed to develop and submit the report to the VR counselor. Depending upon the time to access services, VR counselors may not receive the recommendations necessary to develop an IPE until six to 12 months after eligibility determination, despite VRA's established timeline of 120 days for the development of the IPE.
- CAA staff reported that an electronic case management system has not been implemented to track referrals and center service provision to include duration of programming. The SJRC

maintains a limited case management system that collects information and records for individuals attending the center.

- Each of the CAAs provide various types of pre-vocational skills training and occupational skills training in the following areas: auto mechanics, sewing, upholstery, auto paint and body repair, food services, maintenance, cabinet making, handy work, graphic design, supermarket bagging and stocking, laundering, handcrafts, framing, and horticulture and baking.
- Pre-vocational training is designed to focus on personal hygiene, work attendance, communication skills for the workplace, and travel training with a duration of three to six months. Occupational skills training is intended to develop skills and appropriate work behavior toward a specific occupation, and is offered for an additional six months after pre-vocational services. In addition, the majority of individuals who receive this training at the centers must attend a formal training program in the community, to acquire technical skills, prior to seeking employment.
- Although VRA employed 43 teachers at the CAAs, it reported that 98.92 percent of its training was purchased from community providers compared to training provided internally by VRA staff in FY 2008, for a total of \$12,464,115.18.
- VRA staff stated that the medical center in San Juan employed medical professionals who provide the following services: physical therapy, occupational therapy, speech and language pathology, prosthesis and orthotics, social work, audiology, center and laboratory for neuropsychological disorders, rehabilitation nursing, psychologist, optometry and low vision, and psychiatry.
- Despite the extensive staff and facilities to provide medical services, VRA reports providing only 11.88 percent of all physical and mental restoration services through the centers in FY 2008, and 1.15 percent of all physical and mental restoration services through the centers in FY 2007.

Recommendation 3: RSA recommends that VRA:

- 3.1 reallocate CAA resources to provide effective and timely services to and expend more on individuals with disabilities, rather than the administration of the CAAs, to include SJKC;
- 3.2 eliminate redundant supervisory positions to increase the number of direct service staff and realign staff to increase services that have a direct impact on the employment of individuals with disabilities;
- 3.3 in order to further determine the appropriate allocation of fiscal and human resources, evaluate VRA's available resources, CAA operations, services and its role in the VR program to determine service area needs and determine how VRA can reallocate its internal fiscal and human resources to increase: the number of individuals served; the utilization of CAA resources to assess and document functional limitations to assist with the facilitation of eligibility determination; and the timeliness of delivering and reporting on services;
- 3.4 develop a strategic plan, aligned with the VRA strategic plan, to increase utilization and maximization of the CAA's capacity to meet the needs of individuals with disabilities and reduce redundancy of services across centers;
- 3.5 expand the case management system used in the field or develop a case management system for all CAAs to accurately track services provided and the duration of each service for future analysis of efficiency and effectiveness; and

3.6 develop and implement a quality assurance system including, but not limited to, tracking of employment outcomes achieved by individuals served at the center and individual satisfaction surveys in order to evaluate the effectiveness of CAA services.

4. Discrepancies in and the Accuracy of Reported Data

Observation: When comparing Puerto Rico’s RSA-911 data for services provided during FY 2008 to the national averages for combined agencies, RSA discovered large discrepancies between the percentages of individuals who received specific services (see Table 1.9 below). The potential inaccuracies in the data collected and reported by VRA impede the agency’s ability to effectively manage the VR program.

- In FY 2008, VRA provided a substantially smaller percentage of individuals with assessment, diagnosis and treatment of impairments, vocational counseling and guidance, disability related augmentative skill training, miscellaneous training, job search and placement assistance and on-the-job supports, when compared to the average percentage of combined agencies (see Table 1.9 below).

**Table 1.9
VR Services Compared to National Averages for Combined Agencies in FY 2008**

Services Provided	VRA FY 2008	Combined Agencies 2008
Assessment services	28.9%	73.6%
Diagnosis and treatment of impairments	13.2%	41.4%
Vocational rehabilitation counseling and guidance	13.0%	72.5%
Disability related augmentative skills training	0%	3.9%
Miscellaneous training	0%	12.4%
Job search assistance	1.0%	30.9%
Job placement assistance	1.0%	35.4%
On-the-job supports	0%	17.4%

- VRA assured RSA that it reported all services for which an authorization was entered into the system. After researching the variances, VRA communicated that the discrepancies were due in large part to the migration to its updated case management system in FY 2004, which resulted in the loss of some service data, specifically the provision of assessment services.
- RSA recognizes that for certain services, such as training, VRA provides a higher percentage of services than other combined agencies. However, issues still exist related to the coding of services, highlighted in Table 1.9 above to include job search, placement and on-the-job supports.

Recommendation 4: RSA recommends that VRA:

- 4.1 analyze the differences identified in this observation to evaluate properly the reasons for the discrepancies between VRA's RSA-911 figures and services provided;
- 4.2 provide VRA staff with necessary training related to case management system edits and procedures to code, record and report accurate information; and
- 4.3 evaluate the review process and case management reports used by supervisors to ensure compliance with appropriate coding.

5. The Quality Assurance System and the Service Record Review Process

Observation: In previous years, VRA had a QA system in place for the review of service records to ensure proper documentation and compliance with federal regulations. However, this process has not been maintained and is not presently conducted in such a manner as to ensure accuracy and compliance. As a result, VRA management is unable to use accurate performance data to effect the required changes in the VR service delivery process.

- VRA had a QA system that was administered by the QA unit and operated with three staff responsible for conducting service record reviews in each region on an annual basis, as well as when needed, to assess and address systemic issues.
- The QA Unit reviewed approximately 15 percent of service records in each region, and provided an analysis to the administrator. Findings were sent to the regional offices.
- The service record review process presently in place is administered by supervisors, and only for VR counselors whom they supervise. No independent review is conducted.
- The present process of review is a case management process, and serves to assess timely movement and progress through the service delivery system, as opposed to assessment of the quality of service provision and adherence to established policies and procedures.
- Results of service record reviews conducted by the supervisors are not aggregated at the agency level, and therefore the performance data is not available to provide management with an assessment of overall performance. In addition, data is not available to inform the design of training programs, or to serve as a means of evaluating the training conducted.

Recommendation 5: RSA recommends that VRA:

- 5.1 develop a QA process for the review of service records by staff not functioning as VR counselor supervisors;
- 5.2 develop a systematic process for conducting service record reviews;
- 5.3 develop instruments for conducting service record reviews; and
- 5.4 develop mechanisms to collect and aggregate the results of the review process and provide the results to the Training Unit to inform the design and evaluation of training.

VR/SE Program Compliance Findings and Corrective Actions

As a result of its review activities, RSA identified the following compliance findings and corrective actions that VRA is required to undertake. VRA 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 is available to provide TA to assist the agency in the development of the plan and the implementation of the corrective actions. RSA reserves the right to pursue enforcement action, including the recovery of the Title I VR funds; pursuant to 34 CFR 80.43 and 34 CFR part 81 of the Education Department General Administrative Regulations (EDGAR)

1. Closures as Lottery Ticket Salespersons

Legal Requirements:

Section 103(a)(12) of the Rehabilitation Act (see also 34 CFR 361.48(p)) states:

(a) Vocational Rehabilitation Services for Individuals--

Vocational rehabilitation services provided under this title are any services described in an individualized plan for employment necessary to assist an individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual, including—

(12) occupational licenses, tools, equipment, and initial stocks and supplies.

34 CFR 361.3 states:

The Secretary makes payments to a State to assist in--

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

34 CFR 361.5(b), in pertinent part, states:

(11) *Competitive employment* means work--

- (i) In the competitive labor market that is performed on a full-time or part-time basis in an integrated setting; and
- (ii) For which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.

(16) *Employment outcome* means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment, as defined in 34 CFR 361.5(b)(11), in the integrated labor market, supported employment, or any other type of employment in an integrated setting, including self-employment, telecommuting, or business ownership, that is consistent with an individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

34 CFR 361.56 states:

The record of services of an individual who has achieved an employment outcome may be closed only if all of the following requirements are met:

- (a) *Employment outcome achieved.* The individual has achieved the employment outcome that is described in the individual's IPE in accordance with §361.46(a)(1) and is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (b) *Employment outcome maintained.* The individual has maintained the employment outcome for an appropriate period of time, but not less than 90 days, necessary to ensure the stability of the employment outcome, and the individual no longer needs vocational rehabilitation services.
- (c) *Satisfactory outcome.* At the end of the appropriate period under paragraph (b) of this section, the individual and the qualified rehabilitation counselor employed by the designated State unit consider the employment outcome to be satisfactory and agree that the individual is performing well in the employment.
- (d) *Post-employment services.* The individual is informed through appropriate modes of communication of the availability of post-employment services.

Finding: During the on-site monitoring process, RSA learned that VRA VR counselors and some VR consumers have developed IPEs that list “lottery ticket salesperson” as the agreed-upon employment outcome. To assist an individual achieve this employment outcome, VRA purchases an initial supply of lottery tickets for the consumer to resell as a street vendor. According to the terms of the IPE, VRA purchases a maximum of \$3,000 worth of lottery tickets for the individual to resell. The IPE also requires the individual to sign a contract with the PR Lottery that he/she will sell no more than 50 tickets at one time and that he/she will earn an estimated profit of \$3.75 for each weekly drawing ticket sold and \$15 for each triennial drawing ticket sold. VRA does not require an individual who intends to achieve an employment outcome as a “lottery ticket salesperson” to develop a business plan and budget that would demonstrate the ability to maintain the venture.

During the process of providing VR services to assist an individual to achieve an employment outcome as a lottery ticket salesperson, the VRA counselor and consumer meet periodically to discuss the number of tickets the individual has sold, the profits earned, and the number of hours worked per day. VRA does not require the individual to submit receipts or other documentation to support the information that the consumer has self-reported to the counselor. For example, VRA does not require the individual to submit receipts demonstrating the number and price of tickets sold or the actual income received. VRA requires the counselor to use the verbal self-reported information provided by the consumer to estimate the number of tickets sold, the profit generated, and the average wage earned per hour by dividing the profit by the number of hours worked per day.

According to the information that VRA provided to RSA during the monitoring process, VRA counselors routinely close the case files of individuals as having achieved an employment outcome as a lottery ticket salesperson after 90 days of the individual selling lottery tickets. VRA provided RSA with spreadsheets that contained information about the number of cases

closed per year with “lottery ticket salesperson” as the achieved employment outcome. According to that data:

- In FY 2008, VRA reported that 192 individuals (7.6 percent of the total number of individuals who achieved an employment outcome that year from VRA) achieved an employment outcome as lottery ticket salesperson. Of these 192 individuals, VRA reported that 186 achieved competitive employment. VRA reported that these 186 individuals earned an average wage of \$6.49 per hour, with wages ranging from \$5.55 to \$18 per hour. During FY 2008, the Federal minimum wage, which applies in PR, changed from \$5.85 an hour to \$6.55 an hour on July 24, 2008.²
- In FY 2009, VRA reported that 152 consumers (6.2 percent of the total number of individuals who achieved an employment outcome that year from VRA) achieved an employment outcome of lottery ticket salesperson. Of these 152 individuals, VRA reported that 150 individuals achieved competitive employment. VRA reported that these 150 individuals earned an average wage of \$7.10 per hour, with wages ranging from \$6.25 to \$11.25 per hour. VRA reported that the remaining 2 individuals (who achieved an employment outcome as lottery ticket salesperson but who were not reported as having achieved competitive employment) worked 20 hours per week and earned \$5.40 and \$6.50 per hour, respectively. During FY 2009, the Federal minimum wage changed from \$6.55 to the current \$7.25 an hour on July 24, 2009.

VRA management informed RSA that it does not require VR counselors to ensure that the individuals, reported as having achieved competitive employment, earn at least the Federal minimum wage. VRA management also informed RSA that it does not require its counselors to monitor the consumers to verify the stability of the individual’s employment as a lottery ticket salesperson prior to closing the case.

As a recipient of Federal VR funds, VRA must administer the VR program in a proper and efficient manner that ensures it can carry out all functions of the State plan and maintain financial accountability of VR funds (34 CFR 361.12). Federal VR funds must be spent solely on the provision of VR services and the administration of the VR program (34 CFR 361.3). VR services are defined as those provided to: 1) individuals with disabilities in accordance with the requirements of 34 CFR 361.48; and 2) groups of individuals with disabilities in accordance with the requirements of 34 CFR 361.49 (34 CFR 361.5(b)(58)). The requirements applicable to the issues raised in this finding pertain to the provision of VR services to individuals with disabilities, as set forth at 34 CFR 361.48.

The individual’s IPE must specify the employment outcome that the consumer and VR counselor agree is appropriate for the individual (34 CFR 361.46(a)(1)). The IPE also must describe the specific VR services, as outlined at 34 CFR 361.48, that are needed to assist the individual in achieving the identified employment outcome (*Id.* at (a)(2)). The VR services outlined at 34

² Amendments to the Fair Labor Standards Act of 1938, as amended (29 USC 201 *et seq.*), implementing a three-step increase over a three-year period, took effect July 24, 2007.

CFR 361.48 include the purchase of initial stocks and supplies and the purchase of any other goods and services determined necessary to assist the individual to achieve his/her employment outcome (34 CFR 361.48(p) and (t)). In this case, the affected individuals and VR counselors identified “lottery ticket salesperson” on the agreed-upon employment outcome for each of the affected individuals in accordance with 34 CFR 361.45(a)(1). Furthermore, the individual and VR counselor determined that it is necessary for VRA to provide an initial supply of lottery tickets to the individual in order to assist him/her achieve the identified employment outcome as a lottery ticket salesperson. Therefore, VRA specified on the IPE that it would provide up to \$3,000 worth of lottery tickets as initial stocks and supplies for the individual to resell as a street vendor in accordance with 34 CFR 361.45(a)(2) and 34 CFR 361.48(p). VRA’s actions, with regard to these specific aspects of the IPE development process, are consistent with Federal requirements.

Prior to closing the case file of any individual who has achieved an employment outcome, VRA must ensure that:

- The individual has achieved an employment outcome, as specified on the IPE;
- The individual has maintained the employment outcome for an appropriate length of time, but not less than 90 days, necessary to ensure the stability of the employment outcome and that the individual no longer needs VR services;
- The individual and the VR counselor have determined that the employment outcome is satisfactory for the individual and that the individual is performing well in the employment; and
- The individual has been informed of the availability of post-employment services (34 CFR 361.56).

For purposes of the VR program, an employment outcome is defined as full- or part-time competitive employment in the integrated labor market or any other type of employment in an integrated setting, including self-employment and business ownership, that is consistent with the individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice (34 CFR 361.5(b)(16)). Competitive employment, for purposes of the VR program, means full- or part-time work in the competitive labor market for which the individual is compensated at or above the minimum wage, but not less than the customary wage and benefits paid by an employer for the same work performed by individuals without disabilities (34 CFR 361.5(b)(11)).

In this case, the affected VR consumers are working, either full- or part-time, as a self-employed street vendor selling lottery tickets. These individuals interact with non-disabled individuals to the same extent that a non-disabled individual would interact with others while performing the same work. As such, these sales positions would be considered to be in an integrated setting, as defined at 34 CFR 361.5(b)(33)(ii). Therefore, each of these aspects of the lottery sales positions are consistent with the Federal definition of employment outcome at 34 CFR 361.5(b)(16).

While employment outcomes involving self-employment are not required to meet the definition of competitive employment (34 CFR 361.5(b)(11)), according to the data provided by VRA, the agency reported that 336 of the 344 individuals – 97.7 percent—who achieved an employment

outcome of lottery ticket salesperson in FYs 2008 and 2009 also achieved competitive employment. The question remains, however, whether the individuals are earning at least the minimum wage, as required by 34 CFR 361.5(b)(11), to constitute competitive employment, as reported by the agency. VRA provided RSA with data regarding the “lottery ticket salesperson” employment outcomes for FYs 2008 and 2009. As indicated above, VRA reported that:

- 192 individuals achieved an employment outcome as a lottery ticket salesperson in FY 2008, and 186 of those achieved competitive employment. The average hourly wage earned by the 186 individuals was \$6.49, with the hourly wages ranging from \$5.55 to \$18. During FY 2008, the Federal minimum wage changed from \$5.85 an hour to \$6.55 an hour on July 24, 2008.
- 152 individuals achieved an employment outcome as a lottery ticket salesperson in FY 2009, and 150 of those achieved competitive employment. The average hourly wage earned by the 150 individuals was \$7.10, with the hourly wages ranging from \$6.25 to \$11.25. During FY 2009, the Federal minimum wage changed from \$6.55 to the current \$7.25 an hour on July 24, 2009.

Although the spreadsheets provided by VRA detail the number of hours worked and the hourly wages earned by each of the individuals who VRA reported as having achieved an employment outcome as a lottery ticket salesperson during those two years, the spreadsheets do not specify the date of case closure for each of those individuals. Because the Federal minimum wage changed during each of those years, RSA will need case closure date information in order to determine whether the wages earned by the individuals at the time of case closure were at least equal to the minimum wage that existed at that time. Once RSA obtains this information, RSA will be able to determine the level of VRA’s compliance with 34 CFR 361.12 and 34 CFR 80.20(a) in terms of the number of these cases it reports as having achieved competitive employment, as defined at 34 CFR 361.5(b)(11). Pursuant to 34 CFR 361.12 and 34 CFR 80.20(a), VRA must ensure that it accurately collects and reports data under the VR program.

Prior to closing an individual’s case as having achieved an employment outcome, VRA also must ensure the individual has maintained the employment outcome for an appropriate length of time, but not less than 90 days, necessary to ensure the stability of the employment outcome and that the individual no longer needs VR services (34 CFR 361.56(b)). According to the information RSA learned while reviewing VRA’s records and interviewing management and staff, VRA routinely closes cases for those individuals who achieve an employment outcome as a lottery ticket salesperson after just 90 days of them engaging in this activity. RSA saw no evidence, nor did VRA provide such evidence, that VRA counselors take steps to ensure that the individual’s self-employment as a lottery ticket salesperson is stable, as is required by 34 CFR 361.56(b). RSA received no documentation that the counselors had determined that 90 days was sufficient to ensure that the self-employment sales venture was stable and able to maintain an ongoing source of income for the individual or that the individual no longer needed any VR services. Furthermore, VRA staff and management confirmed, as stated earlier, that VRA does not require consumers to submit documentation of any kind to support the information they self-report regarding their activities as a lottery ticket salesperson during those 90 days. For this reason, VRA failed to comply with 34 CFR 361.56(b) prior to closing the service records of those individuals who, according to VRA, achieved employment outcomes as lottery ticket salespersons.

Corrective Action: VRA must:

- 1.1 submit an assurance within 10 days after receipt of the final monitoring report that VRA will ensure that all requirements of 34 CFR 361.56 are satisfied prior to closing an individual's case, especially those individuals that the agency believes has achieved an employment outcome as a lottery ticket salesperson; VRA also must assure that the agency will ensure that individuals are earning at least the minimum wage in their employment prior to determining that they have achieved competitive employment; VRA also must assure that it will accurately collect and report data, especially those regarding whether the individuals have achieved competitive employment, as required by 34 CFR 361.12 and 34 CFR 80.20(a); and
- 1.2 submit information as to the date VRA closed each of the cases, detailed in the spreadsheets, for FYs 2008 and 2009 for those individuals VRA reported as having achieved competitive employment when they achieved an employment outcome as a lottery ticket salesperson.

2. Improper Closure of Cases and Use of Comparable Services and Benefits

Legal Requirements:

34 CFR 361.41(b)(2), in pertinent part, states:

(b) Applications

(2) An individual is considered to have submitted an application when the individual or the individual's representative, as appropriate –

- (ii) Has provided to the designated State unit information necessary to initiate an assessment to determine eligibility and priority for services; and
- (iii) Is available to complete the assessment process.

34 CFR 361.42, in pertinent part, states:

In order to determine whether an individual is eligible for vocational rehabilitation services and the individual's priority under an order of selection for services (if the State is operating under an order of selection), the designated State unit must conduct an assessment for determining eligibility and priority for services. The assessment must be conducted in the most integrated setting possible, consistent with the individual's needs and informed choice, and in accordance with the following provisions:

(c) *Prohibited factors.*

(2) In making a determination of eligibility under this section, the designated State unit also must ensure that –

(ii) The eligibility requirements are applied without regard to the –

(D) Particular service needs or anticipated cost of services required by an applicant or the income level of an applicant or applicant's family.

(d) *Review and assessment of data for eligibility determinations.* Except as provided in paragraph (e) of this section, the designated State unit –

(1) Must base its determination of each of the basic eligibility requirements in paragraph (a) of this section on –

(i) A review and assessment of existing data, including counselor observations, education records, information provided by the individual or the individual's family, particularly information used by education officials, and determinations made by officials of other agencies.

34 CFR 361.44 states:

The designated State unit may not close an applicant's record of services prior to making an eligibility determination unless the applicant declines to participate in, or is unavailable to complete, an assessment for determining eligibility and priority for services, and the State unit has made a reasonable number of attempts to contact the applicants or, if appropriate, the applicants representative to encourage the applicant's participation.

34 CFR 361.53, in pertinent part, states:

(a) *Determination of availability.* The State plan must assure that prior to providing any vocational rehabilitation services, except those services listed in paragraph (b) of this section, to an eligible individual, or to members of the individual's family, the State unit must determine whether comparable services and benefits, as defined in Sec. 361.5(b)(10), exist under any other program...

(b) *Exempt services.* The following vocational rehabilitation services described in Sec. 361.48(a) are exempt from a determination of the availability of comparable services and benefits under paragraph (a) of this section:

(1) Assessment for determining eligibility and vocational rehabilitation needs.

Finding: VRA has failed to comply with 34 CFR 361.44, because it routinely closes the files of individuals who have applied for VR services without first making an eligibility determination, despite the fact that the individuals are willing and available to complete an assessment. In closing these cases prior to making an eligibility determination, VRA also has failed to comply with 34 CFR 361.42, because it does not conduct assessments to determine whether an individual is eligible for VR services from the agency, as required. Finally, VRA has failed to comply with 34 CFR 361.53(b)(1) by requiring a search for comparable services and benefits for assessments on those occasions when assessments are conducted, despite the fact that assessments for determining eligibility are exempt from that search.

As part of the on-site monitoring process, RSA analyzed the RSA-911 reports that the agency submitted for FYs 2004 through 2009. According to VRA's RSA-911s, the agency reported a gradual increase from FY 2004 to FY 2008 in the number of cases closed from applicant status, prior to the agency making an eligibility determination of the individual. The reports showed that:

- In FY 2004, VRA reported that it closed 1,903 cases—30.9 percent of the total number of cases closed that year—in applicant status, prior to making an eligibility determination.
- In FY 2008, VRA reported that it closed 2,775 cases—35.2 percent of the total number of cases closed that year—in applicant status, prior to making an eligibility determination.

These percentages are significantly higher than those reported by other combined agencies nationwide. According to the RSA-911 data submitted by all agencies, combined agencies reported, on average, closing 16 percent of the total number of closed cases in applicant status, prior to making an eligibility determination.

Given the large number of cases closed by VRA in applicant status, prior to making an eligibility determination, RSA pursued this issue further during the monitoring process. RSA reviewed VRA's policies and procedures governing the processing of referrals/applications and procedures for determining eligibility for the VR program. RSA also interviewed VRA staff regarding the implementation of these policies and procedures. VRA VR counselors informed RSA that a primary reason so many individuals are closed in applicant status is due to the fact that they do not provide documentation of their disability and functional limitations along with their application. The VRA VR counselors reported that privacy laws now preclude VRA from accessing those records directly even with the consumers' consent. As a result, VRA VR counselors informed RSA that they routinely close the individual's cases after 60 days, without determining eligibility for that individual, if the individual has not provided the medical documentation during that time period.

Furthermore, during the onsite interviews, RSA inquired as to the agency's practice of providing assessments and trial work experiences for determining eligibility, VRA counselors reported that the agency does not have the infrastructure needed to medically assess the applicants through direct services in the community and that it would need to contract with physicians and health professionals to evaluate applicants to determine eligibility. The VRA counselors interviewed also informed RSA that, when such medical assessments are needed to determine an individual's eligibility, VRA requires that a search of comparable services and benefits be conducted for that service rather than the agency providing it directly.

As a recipient of VR funds, VRA must comply with all VR program requirements, including those pertaining to the process for determining an individual's eligibility for the program. In order to determine an individual's eligibility, VRA must conduct an assessment in the most integrated setting possible (34 CFR 361.42). Furthermore, VRA is not permitted to close an individual's case prior to making an eligibility determination (34 CFR 361.44). The only exceptions to this requirement are if the individual declines to participate in the assessment or if the individual is not available to participate in the assessment and the agency has made reasonable efforts to contact the individual (*Id.*). As the data provided by VRA and the information provided by VRA counselors during onsite interviews demonstrate, VRA closes

large numbers of cases every year without first making eligibility determinations or conducting assessments to determine the eligibility of those individuals. Therefore, VRA has failed to comply with 34 CFR 361.42 and 34 CFR 361.44.

When providing most VR services, VRA is required to determine whether comparable services and benefits exist to cover the cost of those services prior to using VR funds to pay those costs (34 CFR 361.53(a)). However, certain services, including assessments for determining eligibility and VR needs, are exempt from that requirement (34 CFR 361.53(b)(1)). According to the information provided by the VR counselors during onsite interviews, VRA typically does not pay for assessment services, when conducted, but rather requires other public agencies that provide that service to pay those costs as a comparable service and benefit. As a result, VRA has failed to comply with 34 CFR 361.53 by requiring a search for comparable services and benefits for a service that is exempt from that requirement.

Subsequent to the onsite monitoring visit, VRA management informed RSA that it has begun the process of revising its policies and procedures regarding the eligibility determination process. In particular, VRA management informed RSA that it will issue a directive to its VR counselors instructing them to conduct assessments for those applicants who are unable to submit the required disability-related documentation. According to the information provided by VRA management, these assessments would be conducted in-house through its Centers for Assessment and Adjustment (CAA) or through the purchase of assessments from other providers in the community. To date, RSA has not seen these revised policies and procedures.

Corrective Action 2: VRA must:

- 2.1 cease closing VR applicant cases without making an eligibility determination, unless the exceptions of 34 CFR 361.44 apply;
- 2.2 submit a written assurance within 10 days of receipt of the final monitoring report that it will comply with the eligibility determination requirements of 34 CFR 361.42 and 34 CFR 361.44, and that it will comply with the comparable services and benefits requirements of 34 CFR 361.53 by not imposing this requirement on certain exempt services; VRA also must ensure that it will communicate these requirements to its VR counselor staff to ensure that the requirements are implemented properly;
- 2.3 revise its policies and procedures to comply with 34 CFR 361.42, 34 CFR 361.44, and 34 CFR 361.53, as it indicated to RSA it was in the process of doing; and
- 2.4 submit a copy of revised policies to RSA to demonstrate completion of the corrective actions.

3. Untimely Eligibility Determination

Legal Requirement:

34 CFR 361.41(b)(1) states:

(b) Applications

- (1) Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in One-Stop centers

established under section 121 of the Workforce Investment Act of 1998, an eligibility determination must be made in 60 days, unless --

- (i) Exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or
- (ii) An exploration of the individual's abilities, capabilities, and capacity to perform in work situations is carried out in accordance with §361.42(e) or, if appropriate, an EE is carried out in accordance with §361.41(f).

Finding: Pursuant to 34 CFR 361.41(b)(1), VRA must determine whether an individual is eligible for VR services within 60 days from the date on which the application is submitted to the agency, unless VRA and the individual agree to a specific extension of time or identify the need for TWE or an EE period. As part of the monitoring process, RSA analyzed the length of time it took for VRA to make eligibility determinations for VR applicants. FY 2008 data submitted by VRA shows that:

- only 55.3 percent of individuals who achieved an employment outcome had an eligibility determination made within the required 60-day period, compared to the national average of 83.7 percent for combined agencies;
- only 57.1 percent of individuals who did not achieve an employment outcome had an eligibility determination made within the required 60-day period, compared to the national average of 81.7 percent for combined agencies;
- of those who achieved an employment outcome, VRA made an eligibility determination within a 61-to-90-day period for 16.6 percent, compared to the national average of 8.1 percent for combined agencies;
- VRA made eligibility determinations for 25.3 percent of the individuals who achieved an employment outcome within a 91-to-365-day period, compared to the national average of 7.7 percent for combined agencies; and

As the data demonstrates, in FY 2008, VRA made eligibility determinations within the required 60-day period in only about half of the cases. Therefore, VRA has failed to comply with 34 CFR 361.41(b)(1).

Corrective Action 3: VRA must:

- 3.1 submit a written assurance within 10 days of the receipt of the final monitoring report that VRA will comply with 34 CFR 361.41(b)(1) by making eligibility determinations within the required 60-day period;
- 3.2 submit the steps, including timelines, that VRA will take to ensure that the eligibility determination of eligibility for each individual is made in accordance with the requirements of 34 CFR 361.41(b)(1).

4. Improper Imposition of Additional Eligibility Requirements

Legal Requirements:

34 CFR 361.42, in pertinent part, states:

- (a) *Eligibility requirements.* – (1) *Basic requirements.* The designated State unit's determination of an applicant's eligibility for vocational rehabilitation services must be based only on the following requirements:
- (i) A determination by qualified personnel that the applicant has a physical or mental impairment.
 - (ii) A determination by qualified personnel that the applicant's physical or mental impairment constitutes or results in a substantial impediment to employment for the applicant.
 - (iii) A determination by a qualified vocational rehabilitation counselor employed by the designated State unit that the applicant requires vocational rehabilitation services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
 - (iv) A presumption, in accordance with paragraph (a)(2) of this section, that the applicant can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

(c) *Prohibited factors.*

- (2) In making a determination of eligibility under this section, the designated State unit also must ensure that-
- (i) no applicants or group of applicants is excluded or found ineligible solely on the basis of the type of disability.

Finding: VRA is not in compliance with 34 CFR 361.42(a)(1), because it imposes additional requirements on applicants diagnosed with mental disabilities prior to making an eligibility determination of those applicants. As a result of these additional requirements, some applicants may be excluded from the eligibility determination process simply on the basis of their disability, which is prohibited by 34 CFR 361.42(c)(2)(i).

During the monitoring process, RSA reviewed VRA's policies and procedures, including those pertaining to the eligibility determination process. Included among the policies RSA reviewed were VRA's policies 4.2.2.1 "Eligibility" and 4.4 "Los Trastornos Mentales," which govern the review and assessment of medical documentation, classification in the DSM-IV, and eligibility determination procedures for individuals with mental disabilities. These policies require that VR applicants, diagnosed with a mental disability, must have participated in mental health treatment for a minimum of 6 months, and must present documentation of that treatment, prior to being determined eligible for VR services. During onsite interviews related to these policies, VRA management informed RSA that its rationale for requiring applicants with mental disabilities to

participate in treatment for at least six months, prior to engaging in VR services, is to ensure that an individual's disability is stabilized and the individual is ready to engage in the VR process.

As a recipient of VR funds, VRA must comply with all VR program requirements, including those requirements governing the eligibility determination process. VRA must base its eligibility determinations **only** on the factors specified at 34 CFR 361.42(a)(1), which are as follows:

- determination by qualified personnel that the individual has a mental or physical disability;
- determination by qualified personnel that the individual's disability constitutes or results in a substantial impediment to employment for the individual;
- determination by a qualified VR counselor employed by the DSU that the individual requires VR services to achieve an employment outcome; and
- presumption that the individual can benefit, in terms of achieving an employment outcome, from the provision of VR services.

In this case, VRA, through its policies and procedures, has imposed an additional requirement on applicants with mental disabilities – namely that they must engage in mental health treatment for at least six months and provide documentation of that treatment before VRA will initiate the eligibility determination process. As stated above, 34 CFR 361.42(a)(1) requires that VRA make its eligibility determinations solely on the basis of the requirements outlined above. Imposition of additional requirements is not permissible under the VR program. By imposing these additional treatment and documentation requirements for this population alone, some of these applicants could be excluded from the VR process or found ineligible solely because they didn't comply with these additional requirements. VRA is prohibited from excluding any individual from the VR process or determining any individual is ineligible solely on the basis of his/her disability (34 CFR 361.42(c)(2)(i)). For the foregoing reasons, VRA has failed to comply with 34 CFR 361.42(a)(1) and (c)(2)(i).

Subsequent to the onsite monitoring, VRA management informed RSA that it would revise its eligibility determination policies to remove the additional requirements imposed on applicants with mental disabilities. However, RSA has not seen the revised policy to date.

Corrective Action 4: VRA must:

- 4.1 cease imposing additional eligibility requirements on individuals with mental disabilities;
- 4.2 submit a written assurance within 10 days of receipt of the final monitoring report that VRA will comply with the eligibility determination requirements of 34 CFR 361.42, especially with regard to not imposing additional eligibility criteria for any applicant, including those with mental disabilities;
- 4.3 revise its written policies regarding eligibility determination procedures, as it said it would do, so that they are consistent with the requirements of 34 CFR 361.42(a)(1) and do not impose additional requirements; and
- 4.4 submit a copy of revised policies to RSA to demonstrate completion of the corrective actions.

5. Untimely Development of the IPE

Legal Requirement:

34 CFR 361.45, in pertinent part, requires:

(a) *General requirements.* The State plan must assure that –

(1) An individualized plan for employment (IPE) meeting the requirements of this section and §361.46 is developed and implemented in a timely manner for each individual determined to be eligible for vocational rehabilitation services or, if the designated State unit is operating under an order of selection in accordance with §361.36, for each eligible individual to whom the State unit is able to provide services;

(2) Services will be provided in accordance with the provisions of the IPE.

(e) *Standards for developing the IPE.* The designated State unit must establish and implement standards for the prompt development of IPEs for...individuals..., including timelines that take into consideration of the needs of the individuals.

Finding: Pursuant to 34 CFR 361.45(e), VRA has established a timeline of 120 days from the date on which eligibility is determined for the development of the IPE for each individual. As part of its monitoring process, RSA reviewed the data provided by VRA regarding the length of time taken for IPE development. In particular, VRA's FY 2008 data show:

- 62.6 percent of all individuals served had an IPE developed within VRA's established standard of 120 days from the date of eligibility determination;
- 65.5 percent of individuals, who achieved an employment outcome, had an IPE developed within VRA's established standard of 120 days from eligibility determination, as compared to the national average of 80.3 percent for combined agencies; and
- 53.9 percent of individuals served, who did not achieve an employment outcome, had an IPE developed within VRA's established standard of 120 days from eligibility determination, as compared to the national average of 76.2 percent for combined agencies.

As the FY 2008 data demonstrate, VRA failed to comply with the requirement of 34 CFR 361.45(a)(1) by not developing all IPEs in a timely manner, namely within the 120-day period that VRA established as its standard pursuant to 34 CFR 361.45(e). During the onsite visit, VRA management informed RSA that it had identified the untimely development of IPEs as a performance issue, but that it had not yet developed a strategy to address the issue.

Corrective Action 5: VRA must:

- 5.1 cease the untimely development of IPEs;
- 5.2 provide written assurance within 10 days of receipt of the final monitoring report that the agency will ensure that all IPEs are developed within the time period that VRA has established as its standard pursuant to 34 CFR 361.45(e); and

- 5.3 submit the actions that VRA will take, including timelines, to ensure that IPEs are developed in a timely manner (e.g., in accordance with the agency’s established timeline developed pursuant to 34 CFR 361.45(e)) as required by 34 CFR 361.45(a)(1).

6. SRC Composition

Legal Requirement:

34 CFR 361.17, in pertinent part, states:

If the State has established a Council under §36116(a)(2) or (b), the Council must meet the following requirements:

- (a) *Appointment.* (1) The members of the Council must be appointed by the Governor or, in the case of a State that, under State law, vests authority for the administration of the activities carried out under this part in an entity other than the Governor (such as one or more houses of the State legislature or an independent board), the chief officer of that entity.

- (b) *Composition-* (1) *General.* Except as provided in paragraph (b)(3) of this section, the Council must be composed of at least 15 members, including...
- (ii) At least one representative of a parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act;
 - (iv) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the Council if employed by the designated State agency;
 - (v) At least one representative of community rehabilitation program service providers;
 - (vi) Four representatives of business, industry, and labor;
 - (vii) Representatives of disability groups that include a cross section of-
 - (A) Individuals with physical, cognitive, sensory, and mental disabilities; and
 - (B) Representatives of individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves;
 - (viii) Current or former applicants for, or recipients of, vocational rehabilitation services;
 - (x) At least one representative of the State educational agency (SEA) responsible for the public education of students with disabilities who are eligible to receive services under this part and part B of the Individuals with Disabilities Education Act;
 - (xi) At least one representative of the State workforce investment board (WIB); and
 - (xii) The director of the designated State unit as an ex officio, nonvoting member of the Council.

(e) *Terms of appointment.* (1) Each member of the Council must be appointed for a term of no more than 3 years, and each member of the Council, other than a representative identified in paragraph (b)(1)(iii) or (ix) of this section, may serve for no more than two consecutive full terms.

(2) A member appointed to fill a vacancy occurring prior to the end of the term for which the predecessor was appointed must be appointed for the remainder of the predecessor's term.

(3) The terms of service of the members initially appointed must be, as specified by the appointing authority as described in paragraph (a)(1) of this section, for varied numbers of years to ensure that terms expire on a staggered basis.

(f) *Vacancies.* (1) A vacancy in the membership of the Council must be filled in the same manner as the original appointment, except the appointing authority as described in paragraph (a)(1) of this section may delegate the authority to fill that vacancy to the remaining members of the Council after making the original appointment.

(2) No vacancy affects the power of the remaining members to execute the duties of the Council.

Finding: VRA has failed to comply with 34 CFR 361.17 because its SRC: 1) does not meet the composition requirements of 34 CFR 361.17(b)(1); and 2) some of its members are serving longer than the length and number of terms allowed under 34 CFR 361.17(e).

During the on-site monitoring, RSA reviewed the SRC to determine whether the Council complied with the composition requirements of 34 CFR 361.17. As part of that review, RSA learned that Executive Order of the Governor of the Commonwealth of Puerto Rico, Administrative Bulletin Number OE-1993-43, requires that the SRC be composed of 18 members appointed by the Secretary of the Social Services Department (SSD), which was the former DSA for VRA. Although VRA is now housed within DLHR, the Governor has not issued an Executive Order that changes the appointing authority for the SRC.

The 18 members required by the above-mentioned Executive Order exceeds that required by Federal regulations, which require the VRA SRC to have 15 members (34 CFR 361.17(b)(1)). At the time of the review, 9 of those required 15 seats were vacant. Of those 9 vacancies, 5 were filled by members who were serving on expired terms. The vacancies were as follows:

- parent training and information center representative (34 CFR 361.17(b)(1)(ii))—currently filled by an individual whose second term expired March 2002;
- VR counselor representative (34 CFR 361.17(b)(1)(iv))—currently filled by an individual whose second term expired in March 2002;
- CRP provider representative (34 CFR 361.17(b)(1)(v))—currently filled by an individual whose second term expired December 2000;
- three (of four) required business, industry and labor representatives (34 CFR 361.17(b)(1)(vi) – currently, one position has been vacant since November 2010 and two are filled by individuals serving on expired second terms since June 2003;

- disability groups representative of individuals with physical, mental, cognitive, or sensory disabilities (34 CFR 361.17(b)(1)(vii)(A))—vacant since FY 2000;
- disability groups representative of individuals with disabilities who have difficulty representing themselves or are unable due to their disabilities to represent themselves (34 CFR 361.17(b)(1)(vii)(B))—vacant since June 2002; and
- current or former applicant for, or recipient of, VR services representative (34 CFR 361.17(b)(1)(viii))—vacant since November 2009.

According to section 101(a)(21)(A) of the Rehabilitation Act, VRA must establish either an independent commission or a SRC. VRA has established the SRC, as required, pursuant to an Executive Order. While section 105 of the Rehabilitation Act and 34 CFR 361.17 of the VR regulations establish general membership and term requirements for the SRC, much of the details of the day-to-day operation of the SRC, including how appointments are made, are governed by State laws. Therefore, VRA is permitted to have more members than required by the Rehabilitation Act or its implementing regulations so long as, at a minimum, it is composed of the representatives required by Federal law and regulations. As the information outlined above demonstrate, VRA has failed to comply with the composition requirements of section 105(b)(1)(A) of the Rehabilitation Act and 34 CFR 361.17(b)(1), because vacancies exist for nine of the Federally-required 15 members.

Section 105(b)(6) of the Rehabilitation Act and 34 CFR 361.17(e)(1) establish a three-year term per member, with each member serving a maximum of two consecutive full terms. These Federal requirements governing terms are clearly defined, leaving no room for State discretion. Therefore, there is no authority for members to continue serving past the expiration of their appointed term without being reappointed by the appropriate appointing authority. Once a term has expired, that member’s seat would be considered vacant and must be filled by the regular appointment process. Despite the vacancy, the remaining members are permitted to continue to execute their responsibilities (section 105(b) (7)(A) of the act and 34 CFR 361.17(e)(1)). In this case, five individuals continue to serve on the SRC despite the fact that their second three-year term expired many years ago, one dating back to 2000. Therefore, VRA has failed to comply with the Federal requirements that a member may serve no more than two three-year terms (34 CFR 361.17(e)).

Corrective Action 6: VRA must:

- 6.1 cease permitting SRC members to serve beyond their expired terms;
- 6.2 submit a written assurance within 10 days of the receipt of the final monitoring report that VRA will ensure that the SRC complies with all requirements of section 105 of the Rehabilitation Act and 34 CFR 361.17, especially with regard to the composition and term limit requirements; and
- 6.3 submit a plan, including timelines, of the steps that VRA will take to work with the Governor’s office or state appointing authority to ensure that current SRC vacancies are filled immediately and that future vacancies will be filled on a timely basis.

7. Provision of Services to Non-VR Consumers

Legal Requirements:

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that VR funds be used solely for the provision of VR services and the administration of the VR program.

34 CFR 80.22(a) of EDGAR requires that Federal grant funds be used for allowable costs under a program. To be allowable, a cost must be necessary and reasonable for the proper and efficient performance and administration of the Federal award (OMB Circular A-87, Attachment A, C.1.a.).

Finding: VRA has failed to comply with section 111 of the Rehabilitation Act and 34 CFR 361.3, because it is using Title I VR funds to serve individuals who are not applicants for or consumers of the VR program.

During onsite interviews, VRA management informed RSA that it serves two categories of individuals who are not VR consumers – namely “courtesy” and “Act 79” clients. In FY 2009, VRA reported that it served 112 “Act 79” clients and 124 “courtesy” clients. These figures represent a significant increase from the 74 “Act 79” and 77 “courtesy” clients served in FY 2007.

- According to the information provided by VRA management during the onsite interviews, “courtesy” clients are individuals who need a once-in-a-lifetime evaluation and/or service, such as a speech pathology assessment. Although VRA tracks the number of “courtesy” clients served with VR funds by fiscal year, it reported that it does not maintain statistical data regarding the services or the amount of VR funds expended to serve “courtesy” clients.
- According to the information VRA provided during the onsite interviews, Act 79 mandates the state appropriation and allocation of \$100,000 per year to VRA to serve elderly individuals who are: 1) not eligible for the VR program; 2) do not have an occupational goal or desire to obtain, maintain or regain employment; and 3) only need mobility equipment. VRA informed RSA that the \$100,000 appropriated by the PR government to serve “Act 79” clients has not been sufficient to serve everyone. VRA informed RSA that it uses Title I VR funds to supplement the Act 79 funds to serve those individuals; however, it does not track and account for the VR funds spent for this purpose.

Although VRA does not track actual expenditures incurred in the provision of services to “Act 79” clients, it does prepare internal projected budgets for those expenditures. Those projected budgets detail the amount of non-Federal Act 79 funds (21.3 percent) that will be used for match purposes in serving those individuals and the amount of Federal VR funds that will be used to serve those individuals (78.7 percent). The table below shows the budgeted amounts assigned to Act 79 expenditures for the available budget periods:

Fiscal Year	Direct Costs State	Direct Costs Federal	Total
Oct. 2005 – Sept. 2006	95,394.27	352,466.15	447,860.42
Oct. 2006 – Sept. 2007	96,947.00	358,203.23	455,150.23
Oct. 2007 – Sept. 2008	91,930.80	339,669.20	431,600.00
Oct. 2008 – Sept. 2009	83,568.00	308,770.03	392,338.03

As a recipient of Federal VR funds, VRA must administer the VR program in a proper and efficient manner that ensures the proper expenditure and accounting for VR funds and the proper reporting of data (34 CFR 361.12 and 34 CFR 80.20(a)). VRA must ensure that VR funds are spent solely on allowable activities—namely the provision of VR services and the administration of the VR program (34 CFR 361.3). VR services to individuals are those listed on an eligible individual’s IPE as being necessary for that individual to achieve an employment outcome (34 CFR 361.5(b)(58)(i) and 34 CFR 361.48). An eligible individual is one who has a mental or physical disability and requires VR services to achieve an employment outcome (34 CFR 361.42). VRA is not permitted to use VR funds to provide non-VR services to non-VR consumers. Therefore, VRA failed to comply with 34 CFR 361.3 by using VR funds for non-VR purposes.

According to all information that VRA provided to RSA while onsite (including internal budget projections), VRA routinely uses Title I VR funds to provide services to “courtesy” and “Act 79” clients who, according to VRA management, are not VR consumers, do not have IPEs, and are not seeking to achieve an employment outcome. Therefore, the services provided to them are non-VR services and are neither allowable under nor allocable to the VR program (34 CFR 80.22(a) and the Federal cost principles at 2 CFR part 225, Appendix A).

Furthermore, expenditures used for match purposes under the VR program must be those spent on allowable VR costs (34 CFR 361.60(b)(1)). Given that expenditures incurred in the provision of services to “Act 79” and “courtesy” consumers are not allowable under the VR program, non-Federal expenditures incurred for that purpose are not allowable for match purposes under the VR program either. Therefore, VRA may not count these non-Federal expenditures for VR match purposes. To the extent that VRA used non-Federal expenditures related to the provision of services to “courtesy” and “Act 79” clients for match purposes under the VR program, VRA failed to comply with 34 CFR 361.60(b)(1). In failing to use VR funds solely for allowable purposes and for counting non-allowable expenditures for match purposes, VRA also has failed to administer the VR program properly and efficiently and accurately account for funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 7: VRA must:

- 7.1 cease using Title I VR funds to provide services to non-VR consumers, including “courtesy” and “Act 79” clients;
- 7.2 submit a written assurance within 10 days of the issuance of the final monitoring report that it will use VR funds solely for allowable expenditures – namely for the provision of VR services and the administration of the VR program, as required by 34 CFR 361.3; that VRA will administer the VR program in a proper and efficient manner that ensures the proper expenditure and accounting of VR funds and reporting of data, as required by 34 CFR 361.12

and 34 CFR 80.20(a); that it will allocate all costs to the appropriate program(s) in accordance with Federal cost principles; that it will track the number of individuals served and expenditures incurred so that data can be properly reported and expenditures traced to the appropriate program(s), as required by 34 CFR 361.12 and 34 CFR 80.20(a); and

7.3 implement methods of administration that ensure financial accountability for the VR program so that all funds can be traced for allowable purposes, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

TA and Continuing Education

This section of the chapter describes the TA provided by RSA to VRA during the course of the review and the continuing education needs of the agency identified by its personnel and stakeholders. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix A of this report titled, “VRA Response.”

TA Provided

During the review of the VR and SE programs, RSA provided TA to VRA regarding:

- data analyses to assist VRA management with targeting areas for program improvement and development;
- the RSA management information system and reviewed methods to identify areas to target improved performance and areas that services were not captured or reported;
- the inclusion of measures such as eligibility determination and IPE development timelines, in addition to standards and indicators as performance indicators to enable VRA to meet federal and state established requirements;
- requirements for the processing of referrals and applications at 34 CFR 361.41(b)(1) and the utilization of TWE and EE periods to explore and assess an individual’s abilities, capabilities and capacity to perform in work situations in accordance with 361.41(b)(1)(ii), 34 CFR 361.42(e) and (f), respectively;
- clarification that no applicant or groups of applicants are permitted to be excluded or found ineligible solely on the basis of the type of disability as stated in 34 CFR 361.42(c)(2)(i);
- the practice of closing cases that lack medical documentation which VRA has determined should be provided by the government healthcare system as a comparable benefit. RSA and VRA discussed the regulation at 34 CFR 361.53(b) that states, “The following vocational rehabilitation services described in 34 CFR 361.48(a) are exempt from a determination of the availability of comparable services and benefits under paragraph (a) of this section: (1) Assessment for determining eligibility and vocational rehabilitation needs”. Furthermore, RSA clarified that VRA cannot close an applicant’s record of services prior to making an eligibility determination unless the applicant declines to participate in or is unavailable to participate in assessment per 34 CFR 361.44;
- regulations at 34 CFR 361.42(c)(2)(ii), which state that, “eligibility requirements are applied without regard to the (B) type of expected employment outcome,” VRA policy

establishes eligibility criteria, however, some VRCs communicated the utilization of employability as criteria to determine eligibility;

- the need for a standardized tracking system to determine hours worked per week and wages earned in order to document and substantiate successful case closures, and reviewed the definition of competitive employment at 34 CFR 361.5(b)(11), as VRA currently participates in the practice of purchasing a bulk number of lottery tickets for clients to sell, and does not currently track the hours worked or wages earned per week;
- regulations at 34 CFR 361.5(b)(53) that define SE as competitive employment in an integrated setting, or employment in an integrated setting in which the individual is working towards competitive employment, with ongoing support services for individuals with the most significant disabilities;
- that individuals whose cases are closed after achieving SE outcomes must be earning competitive wages or working towards competitive employment with a plan in place that demonstrates the individual is working towards minimum wage, and clarified that VRA cannot close a case as competitive employment, if the individual is not earning minimum wage;
- VRA's RSA-2, and discussed related instructions and guidance related to appropriate reporting, as well as the classification, codification and reporting of VRA staff.

Continuing Education

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

- case recording and documentation;
- crisis intervention;
- caseload budgeting;
- supervisory skills;
- processing referrals and applications;
- utilization of TWE and EE periods;
- eligibility determination requirements;
- timely IPE development;
- case management and the rehabilitation rate;
- codifying services provided internally by VRA in the case management system to reflect the provision of all services reported to RSA on the RSA 911 and 113;
- the Rehabilitation Act ;
- AT services and equipment;
- professional development and on-going training for orientation and mobility instruction and IL skills training for individuals who are blind or visually impaired; and
- provision of services for persons with autism, learning disabilities and mental health issues.

CHAPTER 2: VRA IL PROGRAM

IL Program System

The following sections of this chapter describe the manner in which VRA administers and operates 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

VRA provides IL services through contracts with centers for independent living (CIL) established pursuant to Title VII, Part C, of the Rehabilitation Act and other service providers. The services provided through these contracts include the four core services mandated under Part B and specialized IL services such as home modifications. In FY 2009, VRA expended \$200,000 of the total funds available for the Part B program (\$296,212 in federal funds and \$61,766 in matching funds from the Commonwealth) on these contracts. VRA uses additional IL part B funds for special projects including outreach to the deaf and blind populations, as well as information and referral services in underserved areas.

In Puerto Rico, the statewide network of centers consists of three federally-funded part C CILs: MAVI (Movimiento para el Alcance de Vida Independiente)-San Juan, MAVI-Arecibo and Centro Ponceno de Vida Independiente (CEPVI), which collectively serve the capital city and municipalities in the north central and southern areas of the Commonwealth. In FY 2009, VRA used Part B funds to serve those areas not covered by the Part C network through contracts with MAVI-San Juan and the Asociacion de Personas con Impedimentos (API). MAVI's Part B-funded satellite offices in Rio Grande and Caguas served municipalities in central, eastern and southeastern areas, while API served individual with significant disabilities in the southwest.

The Puerto Rico SILC, or Consejo Estatal de Vida Independiente (CEVI), was created on September 27, 1993, by Executive Order 1993-44. It is constituted as an independent body within the Commonwealth's government system and does not presently have nonprofit status. In addition to the executive order, CEVI is governed by bylaws and a written programmatic and fiscal policies and procedures manual, both of which were updated in April 2009.

In accordance with the approved SILC resource plan, the SILC's FY 2009 operating budget consisted of \$100,000 in Title I Innovation and Expansion funds. SILC funding is subject to a memorandum of understanding (MOU) among the SILC, VRA and the Department of Labor. Under the memorandum, CEVI receives bi-annual disbursements from VRA. The MOU also requires CEVI to maintain a separate bank account, submit monthly financial reports to VRA, review detailed expenditure reports at regular SILC meetings, review and/or adjust the budget at least once annually, submit to an annual VRA audit and take corrective action, as necessary.

Personnel

The SILS program is administered through VRA's Office of Independent Living Services (OSVI), which consists of an IL services coordinator, IL services assistant and an administrative assistant, as well as the OSVI director.

CEVI's staff consists of a full-time executive director and a full-time secretary. CEVI also contracts with an independent accountant to prepare and analyze VRA required financial documents. VRA provides CEVI with complimentary office space, utilities and parking, as well as technical assistance and staff support on various SILC initiatives.

Data Management

VRA's IL program is not integrated with the data management system used for its VR and SE programs. VRA uses standard spreadsheet based software to gather and report IL performance data to RSA. The data is gathered through the IL part B contractors' monthly reports, which are based on the federally-required annual performance report (704 Report).

Quality Assurance

VRA ensures the CILs' compliance with federal service provider requirements and section 725 standards and assurances through its CIL policies and procedures manual, CIL contract conditions and assurances, monthly program performance and financial status reports, and on-site programmatic and fiscal monitoring reviews. Based on these reports and reviews, OSVI staff provide the CILs with continuous feedback and technical assistance. VRA monitors federal funding to the SILC through annual financial audits and its review of CEVI's quarterly financial reports, which include monthly disbursement details.

The implementation of the SPIL is monitored and evaluated quarterly by a SILC standing committee, based on a detailed logic planning/tracking matrix that includes assigned tasks, measurable indicators, desired outcomes and actual outcomes for each SPIL objective. The SILC analyzes the results of consumer satisfaction surveys conducted by each CIL, based on a statewide survey instrument developed jointly by CEVI and the CILs. In addition, the SILC assesses the state's progress in meeting SPIL goals and objectives through quarterly VRA-compiled, SPIL-specific CIL performance reports.

Planning

The SPIL is developed with feedback from the CILs, consumers and other IL stakeholders. To develop the FY 2011-2013 SPIL, VRA and CEVI hosted six public forums throughout the island at the offices of the CILs and other IL service providers. Additional public input and needs assessment activities were conducted at CEVI's annual IL summit.

IL Program Performance

The following table, based on the 704 Report, part I, reflects the IL services and outcomes provided through funding authorized by Title VII, Chapter 1, part B, of the Rehabilitation Act. It does not include services and outcomes provided under Title VII, Chapter 1, part C, of the Rehabilitation Act.

Table 2.1
VRA IL Part B Program Highlights from FY 2006 through FY 2009

Funding, Performance, and FTEs	2006	2007	2008	2009
Title VII, chapter 1, part B funds	301,477	301,477	296,212	312,984
Total resources (including part B funds)	334,974	334,974	329,124	617,663
Total served	669	943	1,052	684
Total consumer service records closed	283	288	678	448
Cases closed, completed all goals	147	169	354	237
Total goals set	1,187	1,460	1,321	946
Total goals met	783	745	654	356
Total individuals accessing previously unavailable transportation, health care, and assistive technology	62	295	247	135
Total FTEs	12	14	3	3
Total FTEs with disabilities	7	9	7	7

As indicated in Table 2.1, IL services and outcomes decreased in FY 2009, primarily due to the relinquishment of a contract by one of VRA's non-CIL service providers early in the fiscal year. VRA and the CILs cited other contributing factors for the decline in FY 2009 including systematic underreporting caused by problems with the CILs' data management software and a prolonged vacancy in one of the part C CIL's executive director positions.

IL Program Performance Observations and Recommendations

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

1. SILC Member Recruitment and Retention

Observation: RSA has observed and SILC members have reported several challenges in recruiting and retaining active members which have impacted the SILC's ability to meet its federal composition requirements and could affect the ability of the SILC to perform its mandated functions.

- Before and during RSA's on-site visit, it was initially difficult for RSA to determine if CEVI was in compliance with federal composition requirements because VRA and CEVI had trouble producing the appropriate documentation. During this time, RSA received several

conflicting membership rosters and observed uncertainty about members' appointment status, disability classification and term dates.

- CEVI members reported difficulty in obtaining state agencies and businesses' official permission for their representatives on the SILC to regularly attend SILC meetings during office hours. A quarter of these 11 membership positions were vacant during the RSA review.
- SILC composition standards in Executive Order 1993-44 mandate exactly 11 CEVI members, including four state agency representatives and one member representing each of the following categories: business, parent, advocate, center for independent living (in addition to the federally-required CIL director), and other service provider. Although the federal law and regulations require that the SILC include certain members and that the SILC, as a whole, meet certain composition requirements, the total number of members and the composition of the rest of the SILC is up to each state. The restrictive nature of Puerto Rico's SILC executive order may make it difficult to recruit and retain CEVI members and meet the federal SILC composition requirements.

Recommendation 1: RSA recommends that VRA and CEVI, together with the governor's office, establish processes to:

- 1.1 assess and define the appointment statuses, disability classifications and term dates for prospective members at the time that they are nominated by the SILC and appointed by the governor;
- 1.2 improve communication with the represented state agencies and businesses related to the CEVI's purpose and benefits as well as the corresponding federal requirements; and
- 1.3 re-assess Puerto Rico SILC composition standards in Executive Order 1993-44 and consider revising them in light of the less prescriptive federal requirements, as appropriate.

IL Program Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that VRA and CEVI are required to undertake. VRA and CEVI 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 VRA and CEVI to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action, including the recovery of Title VII, Chapter 1, part B funds, pursuant to 34 CFR 80.43 and 34 CFR Part 81 of EDGAR.

1. SILC Appointment and Composition

Legal Requirements:

34 CFR 364.21(b) provides that "members of the SILC must be appointed by the Governor or the appropriate entity within the State responsible, in accordance with State law, for making appointments."

Section 705(b)(6)(A) provides that “each member of the Council shall serve for a term of 3 years.

Section 705(b)(6)(B) provides that “no member of the Council may serve more than two consecutive full terms.”

Finding: Although CEVI was in compliance with federal SILC composition, appointment and term limit requirements at the time of RSA’s review, there are sections of the Executive Order 1993-44 establishing the SILC as well as the CEVI bylaws that do not comply, as written, with these requirements.

While in fact the governor does appoint the SILC members, the executive order does not stipulate that the SILC members must be appointed by the governor or the appropriate entity within the state that is responsible for such appointments, as required by 34 CFR 364.21(b). Instead, the executive order states that members are “designated by the Secretary of the Department of Social Services.” The SILC bylaws (Article VII) state that members whose terms have expired shall continue in the SILC until a replacement has been appointed, contrary to section 705(b)(6).

The SILC is required to comply with federal requirements regarding composition and appointment. Any executive order creating the SILC and CEVI’s bylaws must accurately reflect federal requirements. Because the executive order conflicts with the requirements of 34 CFR 364.21(b) and CEVI’s bylaws conflict with section 705(b)(6) of the Rehabilitation Act, VRA and CEVI are out of compliance with federal requirements. In addition, while the executive order and the bylaws need not include all federal requirements as long as the SILC is complying with those requirements in practice, it would be helpful for CEVI’s guiding documents to include all requirements. For example, RSA observed that neither the SILC executive order nor the bylaws specify that a majority of the SILC’s voting members must be individuals with disabilities not employed by any state agency or center, as required by 34 CFR 364.21(d).

Corrective Action 1: VRA and CEVI must take corrective action to ensure that:

- 1.1 all SILC members are appointed by the Governor, as required by 34 CFR 364.21(b)(1);
- 1.2 no SILC member serves more than his or her three year term, unless reappointed, and serves no more than two consecutive full terms, as required by Section 705(b)(6); and
- 1.3 the executive order establishing the SILC and the CEVI bylaws accurately reflect federal requirements.

2. Service Provider Requirements

Legal Requirement: 34 CFR 365.30 provides that “the DSU shall develop, establish, and maintain written standards and procedures to be applied by service providers to assure

expeditious and equitable handling of referrals and applications for IL services from individuals with significant disabilities.”

Finding: After reviewing VRA’s IL policies and procedures manual and CIL contract language, RSA determined that the agency has not established applications and referrals standards and procedures as required by 34 CFR 365.30 and is not in compliance with the regulations.

Corrective Action 2: VRA must take corrective action to develop, establish, and maintain written standards and procedures to be applied by service providers to assure expeditious and equitable handling of referrals and applications for IL services, in compliance with 34 CFR 365.30.

TA and Continuing Education

This section of the chapter describes the TA provided by RSA to VRA and the agency’s continuing education needs identified during the course of the review. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix A of this report titled, “VRA response.”

TA Provided

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

- strengthening the SPIL needs assessment process through improved CIL outcomes data analysis and coordination with VR’s comprehensive statewide needs assessment;
- improving IL services and outcomes by analyzing CIL data, establishing performance baselines, setting short-term/long-term performance goals, incorporating CIL performance goals and strategies in the FY 2011-2013 SPIL, and increasing collaboration between the IL and VR programs;
- streamlining VRA’s CIL contracting and reporting requirements to focus on IL performance measures and reduce unnecessary burdens on VRA and CIL staff;
- utilizing a higher proportion of available IL Part B funds on direct services rather than administration; and
- identifying new funding sources for the provision of IL services, including SSA program income, fee-for service arrangements with VR, and partnerships with other private and public entities.

RSA also offered technical assistance to VRA regarding the:

- program and financial information to be reported in the 704 Report; and
- allow ability of requiring part B contractors to report on the sources and amounts of matching funds.

Continuing Education

During the course of the review process, VRA and stakeholder representatives requested that agency personnel receive continuing education in the areas of:

- data collection and analysis; and
- SILC roles and responsibilities.

CHAPTER 3: VRA'S OIB PROGRAM

OIB Program System

The following sections of this chapter describe the manner in which VRA 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

VRA's OIB program is referred to as MIRADA (Programa Movimiento para la Independencia y Rehabilitación del Adulto de Edad Avanzada). MIRADA provides OIB services through VRA's staff of rehabilitation teachers and orientation and mobility specialists and through the purchase of services from vendors for the provision of low vision screening and eye glasses. MIRADA services are provided at VR offices and consumers' homes in two of VRA's six regions with the highest concentrations of blind and visually impaired older individuals, north (Arecibo) and north central (Bayamon). Beyond these regions MIRADA provides information and referral services and conducts outreach efforts through partnerships with community-based organizations, including CILs, in unserved/underserved areas. In FY 2009, available OIB resources consisted of \$460,488 in Chapter 2 funds, \$47,633 in state matching funds, and \$86,000 in Chapter 2 carryover funds from FY 2008.

Personnel

MIRADA is administered through VRA's Office of Independent Living Services (OSVI). OIB personnel consist of a MIRADA program coordinator and two administrative support staff, as well as the OSVI director. In each of VRA regional offices in Arecibo and Bayamon, MIRADA staff consist of a case manager, a rehabilitation teacher, an orientation and mobility instructor and a secretary.

At the time of RSA's review, the position of rehabilitation teacher was vacant in Arecibo. As a result, the total FTE level for the MIRADA program decreased from ten in FY 2008 to nine in FY 2009. According to VRA staff, there is a general shortage of qualified and certified RT and O&M instructors in Puerto Rico.

Data Management

MIRADA is not part of the VR program's case management system. OIB consumers, services and purchases are tracked, from referral to closure, through MIRADA's own case management system. MIRADA also uses this system to report OIB consumer, services and outcomes data to RSA in OIB's annual performance report (7-OB Report).

Quality Assurance

Aside from the consumer satisfaction-related questions in the 7-OB Report, MIRADA's quality assurance practices consist of a satisfaction survey conducted annually in cooperation with the University of Puerto Rico's School of Public Health, Gerontology Program. The FY 2009 survey indicated that at least 90 percent of respondents reported satisfaction with the services received and level of independence achieved through MIRADA's AT services. The survey does not address MIRADA's non-AT services.

Planning

The OIB program is not reflected in the goals and objectives of the SPIL, or the VR State Plan. However, coordination between the OIB and IL programs is facilitated by the VRA's director's membership on the SILC. Such coordination includes in-service training activities, cross-referrals and outreach strategies.

OIB Program Performance

The following table provides data on VRA OIB program performance in key areas in FY 2008 and FY 2009.

Table 3.1
VRA OIB Program Highlights for FY 2008 and FY 2009

Expenditures, Performance, and FTEs	2008	2009
Title VII, chapter 2 expenditures	470,573	460,488
Total expenditures (including chapter 2)	515,047	1,030,243
Total served older individuals who are blind	860	904
Total FTEs	10.00	9.00
Total FTEs with disabilities	1.00	1.00

The number of consumers served by the MIRADA program increased by five percent between FY 2008 and FY 2009.

OIB Program Performance Observations and Recommendations

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

1. Policies and procedures

Observation: The MIRADA program lacks policies and procedures regarding OIB purposes, eligibility criteria, confidentiality and key program components. As a result, it is possible that

OIB eligibility will be determined and services provided inconsistently across the Commonwealth of Puerto Rico.

- MIRADA does not have a policies and procedures manual. VRA's confidentiality policy appears in Regulatory Communication No. 2007-45, but both regulatory communication and the related informational brochure refer specifically to the VR and SE programs and do not mention the OIB program.
- MIRADA does not have a single, comprehensive form that tracks and documents individuals' eligibility or ineligibility with respect to the four required elements of OIB eligibility (applicant's age, visual impairment, impact of the visual impairment on competitive employment, and feasibility of pursuing IL goals).

Recommendation 1: RSA recommends that VRA:

- 1.1 ensure that the MIRADA policies and procedures manual under development addresses the OIB purposes in 34 CFR 367.1, eligibility criteria in 34 CFR 367.5 and the confidentiality requirements in 34 CFR 364.56;
- 1.2 develop a single, comprehensive eligibility form that addresses the four required elements of OIB eligibility; and
- 1.3 provide staff training on MIRADA's policies and procedures manual, confidentiality requirements and the revised eligibility form.

2. Allocation of Resources

Observation: MIRADA's ability to reach underserved populations, particularly in the four unserved regions, is limited by the program's higher proportion of administrative and support staff to direct service staff. As a result, MIRADA does not have sufficient direct service staff to provide services to blind and visually-impaired individuals in the unserved areas of the Commonwealth.

- Administrative/support staff account for four of the program's nine FTE positions.
- Two of the five direct service staff positions consist of full-time case managers whose job descriptions significantly overlap those of the rehabilitation teachers, orientation and mobility instructors and secretaries.
- Currently, MIRADA provides direct services in only two of VRA's six regions.

Recommendation 2: RSA recommends that VRA:

- 2.1 conduct a comprehensive needs assessment to determine the extent to which individuals are underserved or unserved in the four regions of the Commonwealth not currently served by the OIB program; and
- 2.2 based on the results of the needs assessment, determine the manner in which staff resources can be best allocated to meet any unmet needs, including alternative allocations of job responsibilities.

TA and Continuing Education

This section of the chapter describes the TA provided by RSA to VRA during the course of the review and the continuing education needs of the agency identified by its personnel and stakeholders. The TA requested by the agency to enable it to carry out the recommendations set forth above is included in Appendix A of this report titled, “VRA Response.”

TA Provided

During the review of the OIB program, RSA provided technical assistance to VRA regarding:

- policies and procedures;
- approaches for reaching unserved/underserved areas and populations;
- data collection and analysis as planning and performance improvement tools;
- MIRADA coordination with the CILs, particularly in the context of the FY 2011-2013 SPIL; and
- programmatic and fiscal information to be included in the 7-OB Report.

Continuing Education

During the course of the review process, VRA and stakeholder representatives requested that agency personnel receive continuing education in the areas of:

- data collection and analysis; and
- outreach to priority population groups such as minorities and deaf or deaf-blind individuals.

CHAPTER 4: FISCAL MANAGEMENT OF THE VRA VOCATIONAL REHABILITATION, SUPPORTED EMPLOYMENT, INDEPENDENT LIVING AND INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND PROGRAMS

RSA reviewed VRA's fiscal management of the vocational rehabilitation (VR), Supported Employment (SE), Independent Living (IL) 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

VRA is an agency of the Commonwealth of Puerto Rico organized to manage the funds for VR as established in the Rehabilitation Act of 1973, as amended, Public Law 93-112. VRA was previously an operational component of the Department of the Family of the Commonwealth of Puerto Rico until June 10, 2000, when Law 97 transferred it to the Department of Labor and Human Resources of the Commonwealth of Puerto Rico. VRA's mission is to enable individuals with disabilities to enter the workforce so they can lead independent lives.

The major fiscal systems include the Puerto Rico Integrated Financial Accounting System (PRIFAS) and the Consumer Rehabilitation Information System which are used on a day-by-day basis by the agency. Revenue estimates for budgetary purposes are prepared by the Treasury Department, except for estimates of federal grants, which are prepared by Office of Management & Budget (OMB) based on information received from the various departments and other recipients of such grants. Revenue and federal grant estimates are under continuous review and, if necessary, are revised at least quarterly during the fiscal year. Fiscal control over expenditures is exercised by the governor, through the Director of OMB, and the Secretary of the Treasury.

VRA 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 percentage are taken from the RSA-2. IL and OIB program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the programs' SF-269s, the RSA-704 and the RSA-70B reports.

**Table 4.1
Vocational Rehabilitation Services - Fiscal Table**

Puerto Rico (C)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$61,124,201	\$66,279,553	\$60,973,560	\$68,548,083	\$71,531,013
Federal Expenditures	\$58,116,088	\$66,273,845	\$60,933,903	\$68,547,901	\$71,500,488
Required Match	\$15,729,005	\$17,936,886	\$16,491,641	\$18,552,354	\$19,351,466
Actual Match	\$17,403,876	\$18,095,440	\$16,491,641	\$18,552,404	\$19,351,466
Over (Under) Match	\$1,674,871	\$158,554	\$0	\$50	\$0
Carryover at 9/30 (year one)	\$1,536,775	\$3,120,621	\$9,319,003	\$2,135,067	\$30,525
Program Income	\$84,592	\$113,371	\$66,443	\$0	\$0
Maintenance of Effort (MOE)	\$17,323,047	\$17,389,289	\$17,403,876	\$17,744,641	\$16,491,641
Administrative Costs	\$13,899,207	\$10,005,216	\$8,416,491	\$8,153,250	\$8,021,286
*Total Expenditures	\$92,171,451	\$84,569,763	\$73,264,749	\$76,722,234	\$73,976,443
Percent Admin Costs to Total Expenditures	15.08%	11.83%	11.49%	10.63%	10.84%

*Includes Supported Employment Program Expenditures.

**Table 4.2
Independent Living – Fiscal Table**

Puerto Rico (C)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$293,902	\$304,522	\$301,477	\$301,477	\$296,212
Federal Expenditures	\$293,902	\$304,522	\$301,477	\$301,477	\$296,212
Required Match	\$32,656	\$33,836	\$33,497	\$33,497	\$32,912
Actual Match	\$32,656	\$33,836	\$33,497	\$33,497	\$32,912
Over (Under) Match	\$0	\$0	\$0	\$0	\$0

**Table 4.3
Independent Living - OIB Fiscal Table**

Puerto Rico (C)					
Fiscal Year	2004	2005	2006	2007	2008
Grant Amount	\$363,151	\$409,411	\$406,612	\$407,681	\$400,263
Federal Expenditures	\$363,151	\$409,411	\$406,612	\$407,681	\$400,263
Required Match	\$40,350	\$45,490	\$45,179	\$45,298	\$44,474
Actual Match	\$40,350	\$45,490	\$45,179	\$45,298	\$44,474
Over (Under) Match	\$0	\$0	\$0	\$0	\$0

Fiscal Management Observations and Recommendations

As a result of its review activities, RSA identified the following performance observations related to the fiscal management of the programs under review and recommended that VRA take specific steps to improve the agency's performance associated with each of the observations.

1. VRA Fiscal Staff Access to Consumer Rehabilitation Information System

Observation: VRA fiscal staff is unable to access information regarding consumers, in relation to payment for services, through the Consumer Rehabilitation Information System (CRIS). According to VRA staff, the fiscal unit is not provided access the information due to concerns regarding the privacy of consumer records. The lack of access to CRIS limits the ability of fiscal staff to monitor payments for consumer services and ensure the services are for VR consumers and provided in accordance with an IPE. During the onsite visit, RSA staff reviewed the VR confidentiality requirements and explained that all VR staff are required to ensure the confidentiality of consumer records.

Recommendation 1: RSA recommends that VRA consider allowing VRA fiscal staff to access information, in relation to payment and monitoring of services, in CRIS. The system could be configured to permit fiscal staff read-only access in order to address any concerns that information may be inadvertently changed by someone other than the Rehabilitation Counselor.

2. Social Security Reimbursement

Observation: At the time of the onsite visit, VRA did request reimbursement from Social Security Administration for successful outcomes for VR consumers who were on Social Security Income or Social Security Disability Income. After the onsite visit, RSA staff provided VRA with the contact information for the Social Security Administration staff that assist reimbursement for VR services.

Recommendation 2: RSA recommends that VRA investigate the potential for Social Security Administration reimbursement as a means to generate program income.

Fiscal Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that VRA is required to undertake. VRA 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 VRA to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action, including the recovery of Title I VR funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of the Education Department General Administrative Regulations (EDGAR).

1. Assigning Personnel Costs—Staff Working on Multiple Programs

Legal Requirements:

34 CFR 361.3 states that:

The Secretary makes payments to a State to assist in—

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

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 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 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.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix B, paragraph 8.h, 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.

Finding: VRA is not in compliance with 2 CFR part 225, Appendix B, 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 VRA, including IL and OIB. Given this, VRA has failed to comply with 34 CFR 361.12 and 34 CFR 80.20(a), which requires the agency to administer the VR program in such a manner that ensures the proper expenditure and accounting of VR funds.

While onsite, RSA reviewed VRA's personnel accounting records to ensure compliance regarding the assigning of personnel costs for staff who work on multiple programs. In particular, RSA noted that the salary of the Director of the IL Unit is paid solely from VR monies. According to the job duties for the Director of the IL Unit, the director performs no activities related to the VR program and instead works approximately 50 percent of the time on IL-part B activities and 50 percent on OIB activities.

Regulations at 34 CFR 361.3 require that VR funds must be used 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 staff who work under the VR program, constitute a VR-related administrative cost (34 CFR 361.5(b)(2)(xi)). Non-VR related personnel costs – such as those related to the Director of the IL Unit—do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, non-VR related personnel expenditures are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds.

Although the funding for the VR program represents the greatest share of VRA's funding, the practice of assigning IL-part B- and OIB-related personnel costs to the VR program because of limited funding in other programs is not in accordance with cost principles outlined in 2 CFR part 225. In order to ensure the proper administration of the programs and accountability of funds, VRA 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.4 requires VRA 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). Without such supporting documentation, VRA cannot ensure that the personnel costs were allocated appropriately to the proper programs. For this reason, VRA has failed to comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 364.34, 34 CFR 80.20(a), and 2 CFR part 225, Appendix B, 8.h.4 and 8.h.5.

Corrective Action 1: VRA must:

- 1.1 cease using Title I VR funds for personnel costs that are not allowable under the VR program and do not have supporting documentation as required under 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5; and
- 1.2 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 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 proportionally, either directly or indirectly, to each program administered by VRA in accordance with program requirements.

2. Unallowable and Unallocable Costs—VR Program

Legal Requirements:

34 CFR 361.3 states that:

The Secretary makes payments to a State to assist in--

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

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) states 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.

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.

- 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.

Finding: VRA is not in compliance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225 for the following reasons:

1. VRA charges the costs of operating facilities for the IL part B programs in four regional offices, including Arecibo and Caguas, to the VR program, not the IL program. These costs include electricity and other utilities.
2. VRA uses Title I VR funds to pay for IL part B and OIB related expenditures. VRA uses state and federal appropriations for the IL program to pay IL-related salaries for IL staff that provides services directly. Once VRA has expended the state and federal allotments for the Part B and OIB programs, additional program costs are charged to the VR Title I program (e.g., consumer services and administrative program costs, such as the salary for the Director of the IL Unit as discussed in finding 1 above). Additionally, VRA uses Title I VR funds to pay for Assistive Technology assessments, costing approximately \$3,500 per person, provided to OIB consumers.

As a recipient of VR funds, VRA must administer the program in a manner that ensures the proper expenditure and accounting of VR funds, and the proper reporting of VR data (34 CFR 361.12 and 34 CFR 80.20(a)). VRA must ensure that VR funds are spent solely for allowable expenditures, namely for the provision of VR services and the administration of the VR program (34 CFR 361.3). VR services for eligible VR individuals are those listed on the individual's IPE as being necessary to achieve an employment outcome (34 CFR 361.5(b)(58)(i) and 34 CFR 361.48). VR funds may not be spent on providing non-VR services to non-VR consumers. In order to be an eligible VR consumer, the individual must be an individual with a disability who needs VR services to achieve an employment outcome (34 CFR 361.42). OIB consumers would be eligible for VR services only if they also met the eligibility criteria for the VR program and intended to achieve an employment outcome. RSA saw no evidence, nor did VRA provide such evidence, that the OIB consumers receiving AT assessments paid for with VR funds were also VR consumers. Therefore, the VR funds paid for those assessments are not allowable under the VR program.

To constitute an administrative cost under the VR program, the expenditure must be incurred in the performance of VR administrative functions (34 CFR 361.5(b)(2)). Operating and maintaining designated state unit facilities, equipment, and grounds, constitute a VR-related administrative cost so long as those operating and maintenance costs benefit the VR program (34 CFR 361.5(b)(2)(viii)). Non-VR related operating costs – e.g., utilities costs arising under the IL program—do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, such IL-related expenditures are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds. Given that these costs are not allowable under the VR program, they are not allocable to the VR program in accordance with the federal cost principles set forth at 2 CFR part 225, Appendix A, paragraph C.

By charging non-VR expenses, as described above, to the VR award, VRA has not ensured that fiscal control and accounting procedures are sufficient to 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, as required by 34 CFR 361.12 and 34 CFR 80.20(a)). Therefore, VRA has failed to comply with 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 2:

- 2.1 cease using Title I VR funds to pay for unallowable expenditures under the VR program;
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that VR funds will be used solely for allowable VR expenditures, namely those arising from the provision of allowable VR services and the administration of the VR program, as required by 34 CFR 361.3; IL-part B- and OIB-related expenditures will be paid by IL-part B and OIB funds, as appropriate; and that VRA will administer the VR program in a manner that is consistent with the requirements set forth at 34 CFR 361.12, 34 CFR 80.20(a), and the federal cost principles set forth at 2 CFR 225; and
- 2.3 submit the total amount of VR funds expended on IL and IL-OIB expenses for each fiscal year from 2006 through 2010.

3. Internal Controls and Monitoring of Activities

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[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:

- (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: As a recipient of federal funds, VRA 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 VRA to ensure accurate financial accountability for the VR program (*Id.*). VRA 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, VRA 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 VRA's internal fiscal controls, RSA noted the following:

- A. While on-site, RSA reviewed VRA's practice of providing payment of funds directly to consumers. As part of that review, RSA noted that VRA does not maintain receipts or other supporting documentation as evidence that the consumers used the payments for appropriate VR expenditures. For example, VRA spends approximately \$13 million each year on maintenance and transportation services. VRA pays these funds directly to the consumers but does not require the consumers to submit mileage logs, receipts, or other documentation to support the funds were used for the purposes authorized. Similarly, consumers were not required to submit receipts for housing expenses or other expenses for which VRA had provided funds. Furthermore, RSA saw no evidence, nor was any provided by VRA, that VRA monitors the payments it makes 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, VRA 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).
- B. For maintenance services, counselors develop the IPE, authorize the service, and request and approve the payment. There was no evidence of a system of internal controls that monitored the VR counselor's data input to ensure that expenditures are for allowable services under the VR program and that VR funds were used solely for authorized uses, as required by 34 CFR 361.12 and 34 CFR 80.20(a)(2). Instead, the VR counselor has complete control of the process, with no internal monitoring of the counselor's actions. Having the counselor in total control of the service selection, data entry, service authorization, and payment approval provides no check on the validity of the need for service and/or that the funds are being properly entered, tracked, or reported, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

- C. RSA also reviewed VRA’s practice of purchasing lottery tickets as initial supplies for consumers to resell as part of their employment goals as lottery ticket salespersons. VRA policies permit counselors to purchase up to \$3,000 worth of lottery tickets that a consumer, in turn, resells as a street vendor. According to the information that RSA reviewed while onsite, VRA does not require consumers to submit any documentation to demonstrate that these lottery tickets were used for the intended VR purpose, namely as initial supplies for a sales position. Without such documentation, VRA cannot ensure that the tickets were indeed used by the consumer for an allowable VR activity, as required by 34 CFR 361.12 and 34 CFR 80.20(a). Moreover, RSA saw no evidence, nor did VRA provide such evidence, that VRA monitors these activities to ensure that the lottery tickets disbursed to consumers are indeed used for their intended purpose, and not simply retained by the consumer for personal use.

As demonstrated above, VRA has not implemented the internal procedures necessary to ensure the proper and efficient administration of the program, including the expenditure and accounting of Federal funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a). Therefore, VRA has failed to comply with 34 CFR 361.12 and 34 CFR 80.20(a)(2).

Corrective Action 3: VRA must:

- 3.1 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); VRA also must assure 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
- 3.2 develop and implement procedures to ensure that:
 - a. 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;
 - b. VRA monitors all grant-supported activities; and
 - c. internal controls are in place to ensure that all program assets are maintained and accounted for, and used solely for authorized purposes.

4. Building Improvement Expenses

Legal Requirements:

34 CFR 361.3 states:

The Secretary makes payments to a State to assist in--

- (a) The costs of providing vocational rehabilitation services under the State plan; and
- (b) Administrative costs under the State plan.

34 CFR 361.60, in pertinent part, states:

- (a) *Federal share*—(1) General. Except as provided in paragraphs (c)(2) of this section, the Federal share for expenditures made by the State unit under the State plan, including

expenditures for the provision of vocational rehabilitation services, administration of the State plan, and the development and implementation of the strategic plan, is 78.7 percent.

(2) *Construction projects*. The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.

(b) *Non-Federal share*—(1) General. Except as provided in paragraphs (b)(2) and (b)(3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.

34 CFR 361.5(b), in pertinent part, states:

(9) *Community rehabilitation program*.

(i) *Community rehabilitation program* means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

(A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.

(B) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(C) Recreational therapy.

(D) Physical and occupational therapy.

(E) Speech, language, and hearing therapy.

(F) Psychiatric, psychological, and social services, including positive behavior management.

(G) Assessment for determining eligibility and vocational rehabilitation needs.

(H) Rehabilitation technology.

(I) Job development, placement, and retention services.

(J) Evaluation or control of specific disabilities.

(K) Orientation and mobility services for individuals who are blind.

(L) Extended employment.

(M) Psychosocial rehabilitation services.

(N) Supported employment services and extended services.

(O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(P) Personal assistance services.

(Q) Services similar to the services described in paragraphs (A) through (P) of this definition.

(12) *Construction of a facility for a public or nonprofit community rehabilitation program* means—

(i) The acquisition of land in connection with the construction of a new building for a community rehabilitation program;

(ii) The construction of new buildings;

(iii) The acquisition of existing buildings;

(iv) The expansion, remodeling, alteration, or renovation of existing buildings;

(17) *Establishment, development, or improvement of a public or nonprofit community rehabilitation program means—*

(i) The establishment of a facility for a public or nonprofit community rehabilitation program as defined in paragraph (b)(18) of this section to provide vocational rehabilitation services to applicants or eligible individuals;

(iii) Other expenditures related to the establishment, development, or improvement of a community rehabilitation program that are necessary to make the program functional or increase its effectiveness in providing vocational rehabilitation services to applicants or eligible individuals, but are not ongoing operating expenses of the program.

(18) *Establishment of a facility for a public or nonprofit community rehabilitation program means—*

(i) The acquisition of an existing building and, if necessary, the land in connection with the acquisition, if the building has been completed in all respects for at least 1 year prior to the date of acquisition and the Federal share of the cost of acquisition is not more than \$300,000;

(ii) The remodeling or alteration of an existing building, provided the estimated cost of remodeling or alteration does not exceed the appraised value of the existing building;

(iii) The expansion of an existing building, provided that—

(A) The existing building is complete in all respects;

(B) The total size in square footage of the expanded building, notwithstanding the number of expansions, is not greater than twice the size of the existing building;

(C) The expansion is joined structurally to the existing building and does not constitute a separate building; and

(D) The costs of the expansion do not exceed the appraised value of the existing building;

(iv) Architect's fees, site survey, and soil investigation, if necessary in connection with the acquisition, remodeling, alteration, or expansion of an existing building; and

(v) The acquisition of fixed or movable equipment, including the costs of installation of the equipment, if necessary to establish, develop, or improve a community rehabilitation program.

Finding: From FY 2007 to FY 2009, VRA spent approximately \$7,563,895 in VR federal funds for building renovations. The buildings used by VRA to house VR staff and provide services are the property of PR. PR grants the agency use of the buildings under a use and grace policy.

PR funds part of the building renovation costs through a government account (non-federal funds) established to fund building repairs and renovation. VRA requests funds by submitting a proposal to the PR government to undertake major renovations to the VRA buildings. As part of the agreement with the PR government to obtain non-federal government funds for building repairs and renovations, VRA must supplement the PR general funds with VR federal funds.

VRA uses the PR general building funds to meet its federal match requirement under the VR program.

The following table details the number of VRA buildings renovated and the funds – both federal and non-federal—expended for that purpose during FYs 2007 through 2009. According to the information in the table below, VRA provided 21.3 percent of the total costs of the building renovation projects in non-federal funds during each of the affected years.

**Table 4.4
VRA Building Renovations**

FY	Number of Buildings	PR Amount	Federal Amount
2007	5	\$555,088	\$2,050,961
2008	11	\$578,261	\$2,136,633
2009	11	\$819,922	\$3,023,961

In accordance with its own policies and procedures, VRA uses a checklist to classify building renovation expenditures before approving the use of VR funds for that purpose. According to the checklist that RSA reviewed while onsite, if the building renovation project meets the following criteria, VRA classifies it as an “Establishment” project. If the project does not meet the following criteria, VRA classifies it as a “Construction” project. The VRA checklist determines whether the:

- Building was built at least 1 year before agency use and federal contribution is less than \$300,000.
- Cost of renovation or alteration of existing building does not exceed appraised value.
- Building is completely constructed; expansion of building would not exceed two times the current square footage of the building; if adding to building, annex will be attached to existing building.

As a recipient of federal VR funds, VRA must use VR funds solely for allowable activities, namely the provision of VR services and the administration of the VR program (34 CFR 361.3). In addition, VRA must provide non-federal funds to meet its match requirement under the VR program (34 CFR 361.60(b)(1)). For most VR expenditures, the non-federal share VRA must meet is 21.3 percent of the total VR expenditures (34 CFR 361.60(a)(1) and (b)(1)). Expenditures incurred for administrative costs, including building maintenance, and “establishment, development, or improvement of a CRP” require VRA to contribute 21.3 percent of the total costs. On the other hand, VRA must use non-federal funds to pay at least 50 percent of the total costs for those projects that meet the definition of “construction” (34 CFR 361.60(a)(2)). In order to determine VRA’s level of non-federal share for these renovation projects, RSA must first analyze them to determine the type of activities these renovations were.

Establishment, Development or Improvement of a CRP:

In order for a state VR agency to engage in activities to establish, develop, or improve a public or non-profit CRP and use non-federal expenditures incurred by those activities to satisfy its match

requirement under the VR program, the agency must first satisfy specific pre-planning requirements:

- a. The state VR agency must have written policies that set forth the nature and scope of services that will be provided to groups of individuals with disabilities, and the criteria that will be used to determine the provision of those services (34 CFR 361.49(b)(1)); and
- b. Establishment activities must have been identified as a need in the state agency's triennial needs assessment and the state VR agency must have included in its State Plan a discussion of the strategies it would use to meet that need (34 CFR 361.29).

As part of this analysis, RSA reviewed VRA's approved VR State plans for FYs 2006–2010 to determine whether VRA had complied with the pre-planning requirements for purposes of engaging in activities to establish, develop, or improve a CRP. RSA found only one reference to building renovations. On page 7 of 39 under section 4.11(a)(VI)(O) of its approved 2008 VR State Plan, VRA identifies, "the need to improve the facilities of the VRA, in order to insure that they are accessible and free of architectural barriers." Furthermore, page 27 of 39, Section 4.11(d) Goal 4.6, states: "the building in Ponce is old and falling apart. A new wing has been added to the CAA for VRCs to move into the wing and be co-located with the CAA. The building is owned by VRA, but titled to the government of Puerto Rico. There is a use and grace policy to use." The approved VR State plans for the other affected years did not contain any information about building renovation projects or the need for them in terms of providing VR services, as required by 34 CFR 361.29. In addition, VRA does not have written policies, as required by 34 CFR 361.49(b), regarding the nature and scope of services to groups of individuals with disabilities, including those activities for the establishment, development, or improvement of a CRP as set forth at 34 CFR 361.49(a)(1). Therefore, VRA has failed to meet the pre-planning requirements necessary for engaging in activities to establish, develop, or improve a CRP.

Even if VRA had satisfied the pre-planning requirements, as described above, RSA also has concerns about whether these activities satisfy the definition of "establishment, development, or improvement of a public or non-profit CRP" at 34 CFR 361.5(b)(17). It is RSA's understanding, from all of the information reviewed during the on-site monitoring process, that VRA – a public agency—uses these buildings to provide VR services directly, or facilitate the provision of those services, to VRA consumers and applicants. As such, VRA satisfies the definition of a CRP at 34 CFR 361.5(b)(9). The question still remains as to whether the building renovations meet the definition of "establishment, development, or improvement of a public or non-profit CRP." As such, the activity must be one that: 1) establishes a facility for a public or non-profit CRP to provide VR services to VRA applicants and consumers; 2) provides staffing, if necessary, to establish, develop, or improve a CRP for the provision of VR services; or 3) makes a CRP functional or increases its effectiveness in providing VR services to VRA applicants and consumers (34 CFR 361.5(b)(17)).

For purposes of this analysis, the relevant provision of this definition pertains to the establishment of a facility for a CRP, which, in pertinent part, means:

- Acquisition of an existing building, provided the building was completed in all respects at least one year prior to the date of acquisition and the federal share of the cost of acquisition does not exceed \$300,000;
- Remodeling or alteration of an existing building, provided the estimated cost of the renovation or alteration does not exceed the appraised value of the existing building; and
- Expansion of an existing building, provided that:
 - ✓ The existing building is complete in all respects;
 - ✓ The total size in square footage of the expanded building is no more than twice the size of the existing building;
 - ✓ The expansion is joined structurally to the existing building and does not constitute a separate building; and
 - ✓ The cost of the expansion does not exceed the appraised value of the existing building (34 CFR 361.5(b)(18)).

According to the information VRA provided to RSA during the monitoring process, VRA did not use federal VR funds to acquire any buildings during FYs 2007 through 2009. All buildings are owned by the PR government. Therefore, the age of the building or the \$300,000 Federal limit is not applicable to this analysis.

Instead, all building projects for the affected years involved the renovation, alteration, or expansion of existing buildings. In the event that VRA had satisfied the pre-planning requirements to engage in activities to establish, develop, or improve a CRP, information regarding the appraised value of the buildings, the size of the expansion as compared to the existing building, and whether the expansion is structurally joined to the existing building is critical for determining whether the projects met the definition of “establishment of a facility for a CRP” at 34 CFR 361.5(b)(18). RSA will need further information to determine whether the building renovation projects met the requirements to satisfy the definition of “establishment of a facility for a CRP” at 34 CFR 361.5(b)(18). Once RSA obtains this information, as well as information regarding the need for such renovations from the agency’s triennial needs assessments, RSA will be able to determine whether VRA provided sufficient match under the VR program when it provided 21.3 percent of the total costs with non-Federal funds, as the table above demonstrates.

Administrative costs:

Second, RSA analyzed the projects to determine whether they met the definition of “administrative costs,” for purposes of the VR program. Administrative costs include the operation and maintenance of DSU facilities and equipment (34 CFR 361.5(b)(2)(viii)). According to the federal cost principles, necessary maintenance, normal repairs and alterations are allowable to the extent that they, in pertinent part: (1) keep property in an efficient operating condition; and (2) do not add to the permanent value of property or appreciably prolong its intended life (2 CFR 225, Appendix B, paragraph 25). Costs which add to the permanent value of property or appreciably prolong its intended life should be treated as capital expenditures in accordance with the federal cost principles at 2 CFR 225, Appendix B, paragraph 15.

According to the information RSA reviewed during the monitoring process, at least one of repairs made by VRA could constitute necessary and routine maintenance and repairs. For

example, the project Mejoras CATT Sordos included the replacement of damaged signage. Expenditures incurred as part of normal building maintenance and repairs, such as replacing damaged signage, would meet the definition of administrative costs, for purposes of the VR program, and would be allowable costs (34 CFR 361.3, 34 CFR 361.5(b)(2), and 2 CFR part 225, Appendix B, paragraph 25). For these activities, VRA must provide non-federal funds to cover at least 21.3 percent of the total costs, pursuant to 34 CFR 361.60(b)(1). According to all the information RSA reviewed, to the extent that any of the projects involved routine maintenance and repairs of the agency's buildings and equipment, VRA satisfied the match requirement of 34 CFR 361.60(b)(1).

However, most of the projects would not be considered normal maintenance and repairs. For example, a new wing was added to the Ponce CAA so that VRCs could be co-located with the CAA. This expansion does not constitute a normal maintenance or repair of a building, as would be required to meet the definition of administrative costs for purposes of the VR program. Similarly, expenditures incurred as part of project Mejoras CATT Sordos included demolition and rebuilding restrooms, replacing elevators, replacing internal wiring, and replacing heating and air equipment. These expenditures were incurred for purposes of replacing and upgrading existing equipment, not simply repairing or maintaining them. Therefore, these expenditures do not constitute an administrative cost, for purposes of the VR program, as defined at 34 CFR 361.5(b)(2).

Construction of a CRP:

To the extent that the building renovation activities do not satisfy either of the requirements already described, RSA analyzed this issue to determine whether VRA satisfied the requirements for construction of a CRP. As stated earlier, in the event that the building renovation projects constituted "construction of a facility for a public or non-profit CRP," as defined at 34 CFR 361.5(b)(12), VRA would have been required to satisfy all relevant federal requirements. In particular, the federal share for that expenditure must not exceed 50 percent of the cost (34 CFR 361.60(a)(2)) and VRA must not use more than 10 percent of the State's allotment for that year on this cost (34 CFR 361.61). RSA will analyze each of these requirements separately. In FYs 2008 and 2009, VRA received \$71,531,013 and \$73,125,960, respectively, in federal VR funds. Pursuant to 34 CFR 361.61, VRA could have spent up to approximately \$7 million in VR funds on construction costs during each of those years. As the table above demonstrates, VRA spent much less than that amount on these activities. Therefore, in the event that these activities constitute "construction of a CRP," as defined at 34 CFR 361.5(b)(12), VRA satisfied the 10 percent requirement set forth at 34 CFR 361.61.

With regard to the non-federal share requirement of 34 CFR 361.60(a)(2), as demonstrated in the above table, VRA used non-federal funds to pay only about 21.3 percent of the total renovation costs during FYs 2007 through 2009. In addition, the following table includes the renovation costs for FY 2009 and the percent of the costs paid with federal VR funds for the various projects.

**Table 4.5
VRA Renovation Costs and Federal Amount Paid**

Building Name	PR Amount	Federal Amount	Federal Percent Paid
CAA Arroyo	533	1,968	72.92%
CAA Sordos Guaynabo	5,754	21,262	72.94%
ASEM Improvements	6,293	23,251	72.93%
CAA San German	14,985	54,368	72.44%
Unidad A/A Sordos	16,424	60,667	72.93%
Ciegos Adultos Bldg	18,288	63,067	71.00%
CAA Mayaguez	84,470	312,105	72.94%
CAA Rio Pedras	85,399	315,537	72.94%
UAA San German	89,242	329,735	72.94%
Edificio Ciegos-Adultos (Santurce)	191,813	708,717	72.94%
CAA Sur	306,721	1,133,284	72.94%

As tables 4.4 and 4.5 demonstrate, VRA used federal funds to pay substantially more of the costs than the allowed 50 percent maximum. Therefore, to the extent that the expenditures were incurred for the construction of a CRP, as defined at 34 CFR 361.5(b)(12), VRA failed to satisfy the non-federal share requirement for construction of a CRP, as set forth at 34 CFR 361.60(a)(2).

Corrective Action 4: VRA must:

- 4.1 to the extent applicable, cease engaging in activities to establish, develop, or improve a CRP without first fulfilling all pre-planning requirements, as set forth at 34 CFR 361.29 and 34 CFR 361.49(b);
- 4.2 submit a written assurance within 10 days of receipt of the final monitoring report that VRA will use VR funds only for allowable expenditures, as required by 34 CFR 361.3, and will provide sufficient non-federal expenditures to satisfy the match requirement for those activities, as required by 34 CFR 361.60. In particular, VRA must assure that, to the extent that it engages in construction activities, it will provide at least 50 percent of the total costs for construction with non-federal funds;
- 4.3 to the extent that any of the above renovation projects were conducted for the purpose of establishing, developing, or improving a CRP, submit information regarding:
 - The needs identified in the agency’s triennial needs assessment for these renovations
 - The appraised values of the various buildings, as compared to the costs of the renovation projects;
 - The size, in square footage, of the expanded building, as compared to the existing building; and
 - Whether additions and expansions were structurally joined to the existing buildings;
 - A description of the VR services being provided in the building and any other non-VR services;
- 4.4 to the extent that these projects involved routine maintenance and repairs, as included in the definition of administrative cost, submit information regarding those aspects of the

projects that were engaged solely to repair or maintain existing buildings or equipment. Such expenditures would include repairs made to wiring or heating equipment, but not replacement of those wiring and equipment.

TA

This section of the chapter describes the TA provided by RSA to VRA during the course of the review. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix A of this report titled, “VRA Response.”

TA Provided

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

- personnel activity reporting and time distribution;
- internal fiscal controls, particularly in relation to maintenance expenditures;
- confidentiality provisions related to all VR staff, including fiscal personnel;
- allowable sources of non-Federal matching funds; and
- VR construction authority and regulatory requirements for the renovation and maintenance of existing buildings.

Areas Requiring Additional Review

Computation of Maintenance of Effort (MOE)

VRA has applied the non-federal portion of costs which relate to construction to its match; however whether these non-federal funds, which were used as match were appropriately deleted from past MOE determinations requires further review and analysis.

CHAPTER 5: PROGRESS TOWARD REDRESSING FINDINGS FROM PRIOR RSA REVIEWS

As a result of the RSA review conducted in FY 2004, VRA implemented a corrective action plan. A summary of the progress that VRA has made on the corrective action plan appears below.

Corrective Action Plan

RSA approved a corrective action plan submitted by VRA to address findings identified during FY 2004 monitoring. The corrective action plan submitted by VRA delineated steps to be taken to correct the five compliance findings identified in FY 2004 and stated below:

1. Compliance with 34 CFR 361.42(a)(3) regarding the presumption of eligibility for Social Security recipients and beneficiaries;
2. Compliance with 34 CFR 361.41(b)(1) regarding the processing referrals and applications;
3. Compliance with 34 CFR 361.50(c) regarding the development of written policies governing the provision of services for individuals with disabilities and payment for services;
4. Compliance with 34 CFR 361.50(d) regarding written policies governing the provision of services for individuals with disabilities and the duration of services; and
5. Compliance with 34 CFR 361.53(d) regarding comparable services and benefits, specifically interagency coordination and the development of agreements with Institutions of Higher Education (IHE).

Status:

Prior to initiation of FY 2010 monitoring, VRA provided documentation and verification of completion of the steps described in the corrective action plan, and resolution of the compliance issues, for the first four findings. After the on-site portion of the review, RSA continued to provide technical assistance to VRA as it revised its agreements with the University of Puerto Rico to address the provision of auxiliary aids and services and other vocational rehabilitation services to persons with disabilities.

On February 23, 2011, RSA completed its review of the information provided by VRA in response to the findings and recommendations from the Section 107 monitoring and technical assistance review conducted in fiscal year 2004 and determined that VRA met the criteria for affirming that the corrective actions were effective and all previous findings from the FY 2004 monitoring review were met and completed. Specifically, RSA determined that the interagency agreement for the provision of auxiliary aids and services and other vocational rehabilitation services signed by VRA and the University of Puerto Rico on November 1, 2010, met the requirements of section 101 (a)(8)(B) of the Rehabilitation Act and its implementing regulations

at 34 CFR 361.53(d). Therefore, Puerto Rico's FY 2004 CAP has been successfully completed and no further VRA action is necessary.

APPENDIX A: VRA RESPONSE

Responses to Observations, Recommendations, Compliance Findings or Corrective Actions

Chapter 1: VR/SE program Performance Observations and Recommendations

1. Allocation of Resources Available to VRA

Recommendation 1: RSA recommends that VRA:

- 1.1 reallocate resources to provide effective and timely services to and expend more on individuals with disabilities, rather than the administration of the VR program and other services;
- 1.2 in order to determine the appropriate allocation of fiscal and human resources, evaluate VRA's available resources to determine service area needs and determine how VRA can reallocate its internal fiscal and human resources to increase: the number of individuals served; timely eligibility determination, IPE development and services provision; and decrease the attrition of individuals from the VR service delivery system after application and eligibility determination, before IPE development;
- 1.3 conduct a joint analysis of fiscal management and program performance, including the evaluation of expenditures on administration and other services, as well as counseling, purchased services and services to groups to assess the impact on the funding of direct client services and performance outcomes;
- 1.4 consult with peers of similar grant size and state population to determine if fiscal management and programming conducted by like agencies, including fiscal and staff resource allocation, would be applicable to VRA; and
- 1.5 assess and evaluate the current staff structure and allocation of staff that can perform delegable and non-delegable functions, including the alignment of responsibilities for staff supporting counselors with VR counselors to increase the timely and efficient provision of outreach, assistance and services to individuals served by VRA.

Agency Response: VRA did not respond.

Technical Assistance: VRA did not request technical assistance.

- 1.6 develop strategies to increase the efficiency, timeliness and effectiveness of the VRA service delivery system.

Agency Response: The Office of VR Counseling Services (OVRCS) has carried out studies at the state and regional levels on the performance of the legal requirements of eligibility determination within the 60-day period and development of the Individualized Plan for Employment (IPE) within the 120-day period.

As part of the findings from said studies, the VRA developed a Corrective Action Plan (CAP), which has included the verification of compliance with the required eligibility determination within 60 days in each of the six service regions. In addition, as part of the strategy to comply with the aforementioned determination, the VRA has recruited 40 new VR counselors, decreasing the caseloads to 200-230 cases per counselor from more than 350 cases. Special monitoring has been implemented to fortify the discrepancies observed in the Caguas Region. The following were the compliance level of each region:

- San Juan ----- 91% compliance
- Bayamón----100% compliance
- Ponce----- 93% compliance
- Arecibo ----- 90% compliance
- Caguas ----- 68% compliance
- Mayaguez---- 90% compliance

Furthermore, during April, June, July, August and September of 2010, the OVRCS offered training and guidance on the VR services provision process to newly recruited personnel. In addition, the Agency offered training to regional directors, directors of centers of VR counseling services, supervisors and VR counselors from all of the Agency's regions. Compliance with legal requirements, as per the RSA recommendations, were emphasized during these training activities.

During the offered training/guidance activities, compliance with the following public policies of the VRA was emphasized: eligibility determination within 60 days; development and signature of IPE within 120 days from the eligibility certification date; and eligibility determination for SSDI beneficiaries.

In August of 2010, the VRA started a pilot project geared towards compliance with commitments described in our State Plan, particularly with the federal requirements of eligibility determination within the 60-day period and development of the IPE within the 120-day period. The project also assigns agency staff to provide to the VR counselors, on a weekly basis, precise and concise information that will allow them to make eligibility determinations and develop of the IPE within the statutory periods.

In addition, to strengthen the Agency's training and development efforts, six VR counseling services technicians were recruited to provide assistance and follow-up on eligibility determinations of the VR counselors.

To this end, during September of 2010, the OVRCS offered guidance on the documentation of service records to VR counselors, supervisors, regional directors and directors of centers of VR counseling services to all of the Agency's six service regions.

Technical Assistance: VRA did not request technical assistance.

1.7 assess and evaluate the number of individuals served, the rate of attrition from application and eligibility statuses and employment outcomes to determine the impact of fiscal and staff allocation on, and other reasons for, the decreased or stagnant performance.

Agency Response: To compensate the impact of fiscal and staff allocation on the individuals' attrition rates, the previously described pilot project was implemented and has contributed to a 5.5% increase in the population served for FY 2010 (increase verified at the end of this fiscal year). By the second quarter of FY 2011, the agency has achieved 77% of served population, which represents a 15% increase when compared with FY 2008.

Furthermore, during September of 2010, the Office of Programmatic Quality Control and Regional Support (OPQCRS) and OVRCS carried out professional staff meetings throughout the six service regions, emphasizing on the following topics: goals and priorities of the State Plan; service records documentation; and common issues when codifying the RSA-911 report. In addition, the purpose of the meetings were to create awareness in the direct service personnel on the importance of proactive decision-making towards an increase in the population served, and the importance of a speedy as well as, responsive eligibility determination process in order to achieve higher employment outcomes.

Technical Assistance: VRA did not request technical assistance.

1.8 evaluate individual counselor caseloads to determine the extent to which they are comprised of inactive cases and implement strategies that enable counselors to effectively close cases when appropriate, thus providing the agency with a more accurate depiction of active cases and the resources required to meet the needs of individuals served.

Agency Response: The VRA, as a proactive action for required compliance, as of April 2010 evaluated the individual counselor caseloads and made the following determinations:

- redistributed cases so that the VR counselors are able to handle individual caseloads with between 200-230 cases of consumers, with a final goal tally of 200 cases per counselor; and
- created 30 new work zones throughout the six services regions and recruited 10 VR counselors to occupy vacant positions.

Technical Assistance: VRA did not request technical assistance.

1.9 develop and implement strategies to improve performance related to the processing of applications and provision of assessments related to eligibility determination to decrease the rate of attrition from application and eligibility statuses, improve timely eligibility determination and IPE development, and effect improvement on the quality and quantity of employment outcomes.

Agency Response: The VRA will continue with the training of its direct service personnel, as well as with similar actions as the ones previously described in the aforementioned 1.6, 1.7, and 1.8 sections in order to fully comply with Agency’s State Plan.

Technical Assistance: VRA did not request technical assistance.

2. Dissemination and Implementation of Policies, Procedures, Staff Development and Training

Recommendation 2: RSA recommends that VRA:

2.1 consolidate the four policy and procedure manuals into one manual easily accessible by staff through hard copy, the intranet or case management system that includes the normative, informative and administrative communications from central office.

Agency Response: The Center of VR Counseling Services (CVRCS) has a Manual which has integrated the VR process and its coordination with the Centers of Assessment and Adjustment (CAAs) and Centers of Support and Employment Modes (CSEMs). The purpose of the manual is to articulate and standardize the VR services provision process. It also describes the organizational structure of the CVRCS, its main functions, working and professional interdependent processes/procedures, and supporting resources.

Since April of 2010, the manuals applicable to the CVRCSs, CAAs, and CSEMs are available through Intranet, as well as all regulatory communications issued in the VRA since 2000. Furthermore, the OVRCS sends through the “Outlook” application all updated communication issued from its office, as well as subsequently sending it to the Information System Office to be posted through Intranet simultaneously.

Technical Assistance: VRA did not request technical assistance.

2.2 develop and implement a formal training protocol for field office supervisors to provide consistent guidance, training and interpretation of policies and procedures across field offices.

Agency Response: The VRA has developed and implemented through the VR Counseling Supervision Manual a formal training protocol to strengthen and develop the Agency’s policies and procedures, thereby maximizing the VR counselors’ skills and training. Furthermore, the Agency maintains the personnel informed of updates in the State’s public policies. In addition, the OVRCS continuously develops training activities for the Agency’s staff, in accordance with identified needs.

Technical Assistance: VRA did not request technical assistance.

2.3 develop and implement a strategy to assess staff needs for training in specific content areas and a plan for training on policies and procedures available to all staff responsible for implementation including new counselors.

Agency Response: The OVRCS and the Division of Training are constantly developing training activities and/or professional meetings focused on areas where the “staff need” assistance.

Since April of 2010, the OVRCS has been providing training to the newly recruited VR counselors on the areas needed for an effective/efficient services provision/process, as well as on existing regulations and public policy applicable in the VRA. Specific training has been offered on the following: Transition Services; Eligibility Determination Within 60 Days; Development of the IPE Within 120 Days; Service Record Documentation; and the Referral Process. In addition, new counselors are afforded in depth training of all services provided by the Agency.

Technical Assistance: VRA did not request technical assistance.

3. Utilization of the CAAs

Recommendation 3: RSA recommends that VRA:

3.1 reallocate CAA resources to provide effective and timely services to and expend more on individuals with disabilities, rather than the administration of the CAAs, to include SJKC.

Agency Response: The Center of Assessment and Adjustment (CAA) offers our consumers work experience through informal exposure based on their specific individual needs, interest and capabilities, as well as current job markets. These experiences are offered along with evaluative services through the use of technological assistance, functional evaluations, occupational evaluations and vocational evaluation in order to properly identify the occupational needs of our consumers and maximize the human resources of our Agency to strengthen our direct service areas.

Technical Assistance: VRA did not request technical assistance.

3.2 eliminate redundant supervisory positions to increase the number of direct service staff and realign staff to increase services that have a direct impact on the employment of individuals with disabilities.

Agency Response: All vacant supervisory positions have been phased out of the Agency’s HR schematic. In addition, the VRA has hired an external consultant that will revise its comprehensive system of personnel development classification in order to provide a more cost efficient personnel structure and maximize direct services to the consumers.

Technical Assistance: VRA did not request technical assistance.

3.3 in order to further determine the appropriate allocation of fiscal and human resources, evaluate VRA’s available resources, CAA operations, services and its role in the VR program to determine service area needs and determine how VRA can reallocate its internal fiscal and human resources to increase: the number of individuals served; the utilization of

CAA resources to assess and document functional limitations to assist with the facilitation of eligibility determination; and the timeliness of delivering and reporting on services.

Agency Response: Cases are not referred to the CAAs to determine eligibility; they have already been determined eligible when referred. The public policy of VRA establishes that the VRC should make the determination of eligibility with the available information. To such effect, the referrals to the CAAs are to identify the needs of the consumer in order to achieve an employment goal; collaborate with the vocational rehabilitation (VR) counselor in the occupational matching of the consumer; provide physical and mental restoration services, and expose the consumer to a series of experiences that shall increase his knowledge of his employment goal, the existing labor market and his capacities.

RSA Response: RSA encourages VRA to consider utilizing the resources it has assigned to the CAAs to provide assessments that can be analyzed by VR counselors for the purpose of determining eligibility when information described in VRA's response above does not exist. As stated in VRA's response, it currently does not refer individuals to the CAAs until eligibility has been determined.

Technical Assistance: VRA did not request technical assistance.

3.4 develop a strategic plan, aligned with the VRA strategic plan, to increase utilization and maximization of the CAA's capacity to meet the needs of individuals with disabilities and reduce redundancy of services across centers.

Agency Response: The Strategic Plan of the VRA has goals and objectives directed to increase and maximize the use of the CAAs in order to meet the needs of the disabled consumers referred by the counselors. The agency has strengthened their capacity through the following actions: the assignment of highly professional staff with specialized knowledge on disabling conditions, application of technological assistance, and use of available technology, among others; and the assignment of needed resources/tools such as access to Internet, e-mail service, use of Microsoft Office and Intranet as well as use of the application O*NET On-line; among others, to assist the professional staff.

Technical Assistance: VRA did not request technical assistance.

3.5 expand the case management system used in the field or develop a case management system for all CAAs to accurately track services provided and the duration of each service for future analysis of efficiency and effectiveness.

Agency Response: The VRA has implemented a computerized application known as ARVI, which allows for the entry of socio-demographic data of the consumer, date of referral, services requested, and indicators to be evaluated. The Agency is involved in the process of maximizing the operational aspects of the applications in order to speed up the referral process, maximize communication, speed up the submittal of reports, uniform working documents, and speed up the services provision process. Furthermore, the Agency projects the electronic management of service records of cases referred to the CAAs through CRIS.

Technical Assistance: VRA did not request technical assistance.

3.6 develop and implement a quality assurance system including, but not limited to, tracking of employment outcomes achieved by individuals served at the center and individual satisfaction surveys in order to evaluate the effectiveness of CAA services.

Agency Response: The information regarding employment outcomes of consumers receiving services from the CAAs is obtained through the Office of Programmatic Quality Control and Regional Support. Such outcomes are shown through CRIS II. Individual satisfaction surveys on the services received from the Agency, including the CAAs, are not carried out through a computerized application, the VRA hires professionals who are experts in scientific investigation processes, including the use of questionnaires and focal group meetings.

Technical Assistance: VRA did not request technical assistance.

4. Discrepancies in and the Accuracy of Reported Data

Recommendation 4: RSA recommends that VRA:

4.1 analyze the differences identified in this observation to evaluate properly the reasons for the discrepancies between VRA's RSA-911 figures and services provided.

Agency Response:

- The AVT tables were analyzed and we identified that from the 23 service categories, some service codes were incorrectly classified. We proceeded to identify and make corrections in the categories of assessment, counseling and job search.
- FY 2009 data was revised in order to validate it. When using the correct coding, the percentage of assessment, at the end of such year, increased to 46%.
- In terms of the services offered in the Centers of Support and Employment Modes (CSEMs) which were not being reported, the OVRCS carried out a review, in coordination with the Finance Division, to incorporate the CSEMs as vendors and collect the services through a service authorization, in the job search subcategory of services.
- For the orientation and counseling services a specific code was created to collect data.

Technical Assistance: VRA did not request technical assistance.

4.2 provide VRA staff with necessary training related to case management system edits and procedures to code, record and report accurate information.

Agency Response: The training has been provided and was centered on common issues pertaining the coding of services and accurate reporting of data in the VRA's RSA-911 report, and the appropriate documentation of service records. Further training will be provided to new personnel.

Technical Assistance: VRA did not request technical assistance.

4.3 evaluate the review process and case management reports used by supervisors to ensure compliance with appropriate coding.

Agency Response: The Agency reviewed the process and continuously provides follow-up and monitoring to ensure that the results of the data generated in the reports are concise and consistent with reality, in order to ensure their reliability, precision and compliance with appropriate coding.

Technical Assistance: VRA did not request technical assistance.

5. The Quality Assurance System and the Service Record Review Process

Recommendation 5: RSA recommends that VRA:

5.1 develop a QA process for the review of service records by staff not functioning as VR counselor supervisors.

Agency Response: The OPQCRS carries out electronic monitoring reviews of the service records closed and of active consumers in the various statuses with the purpose of identifying tendencies, strengths and compliance levels, among others.

Technical Assistance: VRA did not request technical assistance.

5.2 develop a systematic process for conducting service record reviews.

Agency Response: In order to address this recommendation, the OVRCS has implemented the Regulatory Communication No. 2011-18 of April 19, 2011 on the Procedure to Guarantee Quality Control in the Review/Monitoring of Service Records of Applicants/Consumers of the VRA. On the other hand, the OPQCRS will continue with the electronic review of 100% of the service records closed during any given fiscal year.

Technical Assistance: VRA did not request technical assistance.

5.3 develop instruments for conducting service record reviews.

Agency Response: Agency has complied and developed numerous reports which can be considered instruments for conducting service record reviews. The office is constantly creating new reports in accordance to detected needs.

Technical Assistance: VRA did not request technical assistance.

5.4 develop mechanisms to collect and aggregate the results of the review process and provide the results to the Training Unit to inform the design and evaluation of training.

Agency Response: During the FY 2010, the Agency has coordinated and developed with the Training Division the mechanisms to collect and aggregate the results of the review process and

furthermore, the Training Unit is evaluating the offering of various training activities for the service regions within the Agency and as accorded to its specific needs.

Technical Assistance: VRA did not request technical assistance.

VR/SE Program Compliance Findings and Corrective Actions

1. Closures as Lottery Ticket Salespersons

Corrective Action: VRA must:

1.1 submit an assurance within 10 days after receipt of the final monitoring report that RVRA will ensure that all requirements of 34 CFR 361.56 are satisfied prior to closing an individual's case, especially those individuals that the agency believes has achieved an employment outcome as a lottery ticket salesperson; VRA also must assure that the agency will ensure that individuals are earning at least the minimum wage in their employment prior to determining that they have achieved competitive employment; VRA also must assure that it will accurately collect and report data, especially those regarding whether the individuals have achieved competitive employment, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Agency Response: The Office of Programmatic Quality Control and Regional Support (OPQCRS) developed a spreadsheet to estimate the earnings from the regular lottery (weekly drawing tickets) and from the extraordinary lottery (tri-annual drawing tickets) based on 90 days, with the aim of certifying if the lottery ticket salesperson complies with the existing minimum wage at the time and if such individual has engaged in this type of activity for at least 90 days in a stable manner.

In addition, the Office of VR Counseling Services (OVRCS) is working to develop and establish the appropriate public policy related to the lottery sales position as an employment outcome. The policy will include aspects pertaining to the control of earnings, hourly wages and periodic follow-up, among others.

Furthermore, the VRA will submit the requested assurance to comply with this corrective action.

Technical Assistance: VRA did not request technical assistance.

1.2 submit information as to the date VRA closed each of the cases, detailed in the spreadsheets, for FYs 2008 and 2009 for those individuals VRA reported as having achieved competitive employment when they achieved an employment outcome as a lottery ticket salesperson.

Agency Response: See the requested information on the following spreadsheets for FY 2008 and FY 2009: Self-Employment as a lottery ticket salesperson – FY 2008.

RSA Response: VRA submitted the information requested by RSA related to the FY 2008 and FY 2009 closure dates for each self-employment case closure in which an individual had a self-employment goal of lottery ticket salesperson on their Individualized Plan for Employment (IPE).

It is evident from RSA's review of the submitted data, that VRA's case management system did not reflect the federal minimum wage changes from \$5.85 to \$6.55 and from \$6.55 to \$7.25, which took effect on July 24, 2008 and July 24, 2009, respectively. As a result of VRA's system not adjusting and reflecting the effective federal minimum wage rates VRA inaccurately reported 44 individuals as having achieved competitive employment on or after July 24, 2008 and 32 individuals as having achieved competitive employment on or after July 24, 2009, who did not earn the federal minimum wage rate. Therefore, VRA was not in compliance with 34 CFR 361.12 or 34 CFR 80.20(a) in terms of the number of the cases it reported as having achieved competitive employment, as defined at 34 CFR 361.5(b)(11). Pursuant to 34 CFR 361.12 and 34 CFR 80.20(a), VRA must ensure that it accurately collects and reports data under the VR program. RSA acknowledges that VRA stated it will submit the requested assurance that all requirements of 34 CFR 361.56 will be satisfied prior to closing an individual's case, VRA will ensure that individuals are earning at least the federal minimum wage and it will accurately collect and report data, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Technical Assistance: VRA did not request technical assistance.

2. Improper Closure of Cases and Use of Comparable Services and Benefits

Corrective Action 2: VRA must:

2.1 cease closing VR applicant cases without making an eligibility determination, unless the exceptions of 34 CFR 361.44 apply.

Agency Response: The public policy of the VRA in Puerto Rico establishes that the VR counselor will review and analyze the existing data, including medical and psychological evidence, educational record, occupational experiences, information provided by the applicant, his family or representative and his own observations to determine the need for VR services; as well as to determine the functional limitations towards the achievement of an employment outcome (status 10), extended evaluation/trial work experience (status 06) or ineligibility (closed in status 08 from status 02 or status 06).

On the other hand, the VRA provided guidance, in July of 2010, to the VR counselors and supporting staff on the importance of not closing VR applicant cases without making an eligibility determination. A public policy was developed on the exception of closing VR applicant cases without making an eligibility determination in accordance with the applicable legal requirements of 34 CFR 361.44.

Technical Assistance: VRA did not request technical assistance.

2.2 submit a written assurance within 10 days of receipt of the final monitoring report that it will comply with the eligibility determination requirements of 34 CFR 361.42 and 34 CFR 361.44, and that it will comply with the comparable services and benefits requirements of 34 CFR 361.53 by not imposing this requirement on certain exempt services; VRA also must ensure that it will communicate these requirements to its VR counselor staff to ensure that the requirements are implemented properly.

Agency Response: In order to achieve goals and comply with its programmatic commitments, the VRA has issued regulatory communications describing the public policy, processes, procedures and guidelines to be applied in accordance with the 1998 Amendments to the Rehabilitation Act (P.L. 105-220 of August 7, 1998). Furthermore, the Agency has established a “Waiver Letter Generation” (WLG) code in CRIS, so that the VR counselor is able to document properly the service records of those individuals with whom he or she has agreed with to an extension in order to determine eligibility.

This code also facilitates the supervisory process, guidance and follow-up offered by the VR counseling supervisor in order to be alert on the Agency’s commitment of determining eligibility within 60 days.

Technical Assistance: VRA did not request technical assistance.

2.3 revise its policies and procedures to comply with 34 CFR 361.42, 34 CFR 361.44, and 34 CFR 361.53, as it indicated to RSA it was in the process of doing.

Agency Response: The VRA is providing guidance on the public policy and procedures needed by VR counselors in order to comply with the requirements of 34 CFR 361.42, 34 CFR 361.44 and 34 CFR 361.53.

Furthermore, the OVRCS, in addition to revising the Agency’s public policy and procedures regarding compliance with the previously described legal requirements, will continue with the following actions: visiting the regions to provide training to the VR counseling staff, holding professional meetings, and carrying out meetings of the Central Advisory Committee (CAC) to offer technical assistance/advice on matter related to programmatic and regulatory aspects of the VR program.

Training activities were developed in order to strengthen the performance of the VR counselors on the following:

- closure of applicants’ record of services when the exceptions of 34 CFR 361.44 apply;
- requirements for the use of comparable services and benefits; and
- criteria for eligibility determinations.

Technical Assistance: VRA did not request technical assistance.

2.4 submit a copy of revised policies to RSA to demonstrate completion of the corrective actions.

Agency Response: The VRA will submit a copy of revised policies to comply with this corrective action.

Technical Assistance: VRA did not request technical assistance.

3. Untimely Eligibility Determination

Corrective Action 3: VRA must:

3.1 submit a written assurance within 10 days of the receipt of the final monitoring report that VRA will comply with 34 CFR 361.41(b)(1) by making eligibility determinations within the required 60-day period.

Agency Response: The VRA is actively committed to strengthening the existing public policy related to the compliance of 34 CFR 361.41 (b)(1). The direct service personnel, as well as the supporting one, will continue to be trained on the needed skills and tools for the full compliance of eligibility determinations within the required 60-day period. In addition, a pilot project was started in August of 2010 geared towards the compliance with the State Plan, as well as with the required federal performance standards of eligibility determination and development of IPE. As of March 31 of 2011, the VRA has achieved 99% compliance with eligibility determination within 60 days.

The VRA will submit the requested assurance to comply with this corrective action.

Technical Assistance: VRA did not request technical assistance.

3.2 submit the steps, including timelines, that VRA will take to ensure that the eligibility determination of eligibility for each individual is made in accordance with the requirements of 34 CFR 361.41(b)(1).

Agency Response: The VRA has an existing policy in order to comply with 34 CFR 361.41 (b)(1). Such policy is included in the Regulatory Communication No. 2004-20: Management of Referrals and Service Applications in the VRA.

When an individual submits an application for VR services, an eligibility determination must be made within sixty 60 days, except when there are exceptional situations when the applicant may authorize an extension of the established period.

An individual is considered an applicant when:

1. He has completed and signed the application for VR services;
2. Has provided to the VRA the needed information to initiate an assessment in order to determine eligibility, priority for services; and
3. When he is available to complete the assessment process.

The Agency has established parameters for the review of the service records of applicants/consumers. These are described in the Regulatory Communication No. 2011-18 of April 19, 2011 on the Procedure to Guarantee Quality Control in the Review/Monitoring of the Service Records of Applicants/Consumers of the VRA.

The VRA will submit the requested steps, including timelines, to comply with this corrective action.

Technical Assistance: VRA did not request technical assistance.

4. Improper Imposition of Additional Eligibility Requirements

Corrective Action 4: VRA must:

4.1 cease imposing additional eligibility requirements on individuals with mental disabilities.

Agency Response: VRA has ceased imposing additional eligibility requirements on individuals with mental disabilities. It developed an appropriate procedure when dealing with these individuals. The VR counseling personnel are being advised on their responsibility for applying the same eligibility criteria to all applicants. The Agency has developed procedures that establish that a person may not be denied services due to mental disability. VRC counselors shall be responsible for obtaining medical evidence if the consumer fails to provide the same.

Technical Assistance: VRA did not request technical assistance.

4.2 submit a written assurance within 10 days of receipt of the final monitoring report that VRA will comply with the eligibility determination requirements of 34 CFR 361.42, especially with regard to not imposing additional eligibility criteria for any applicant, including those with mental disabilities.

Agency Response: VRA will submit the requested assurance to comply with this corrective action. It shall continue to emphasize the implementation of Regulatory Communication No. 2011-18 of April 19, 2011 on the Procedure to Guarantee Quality Control in the Review/Monitoring of the Service Records of Applicants/Consumers of the VRA.

Technical Assistance: VRA did not request technical assistance.

4.3 revise its written policies regarding eligibility determination procedures, as it said it would do, so that they are consistent with the requirements of 34 CFR 361.42(a)(1) and do not impose additional requirements.

Agency Response: VRA is revising its public policies and existing procedures to guarantee the requirements of 34 CFR 351.42 (a)(1).

Technical Assistance: VRA did not request technical assistance.

4.4 submit a copy of revised policies to RSA to demonstrate completion of the corrective actions.

Agency Response: VRA shall submit copy of the revised public policies in accordance with 34 CFR 351.42 (a)(1).

Technical Assistance: VRA did not request technical assistance.

5. Untimely Development of the IPE

Corrective Action 5: VRA must:

5.1 cease the untimely development of IPEs.

Agency Response: Since August of 2010, the VRA has been conducting professional meetings as well as providing training and guidance on the development of the IPE within the established 120-day period. These actions have contributed to an increase of 77% compliance with the federal requirement. VRA will continue strengthening such compliance.

Technical Assistance: VRA did not request technical assistance.

5.2 provide written assurance within 10 days of receipt of the final monitoring report that the agency will ensure that all IPEs are developed within the time period that VRA has established as its standard pursuant to 34 CFR 361.45(e).

Agency Response: VRA shall provide, once the final monitoring report is received, the statistical report which evidences the percentage of compliance with the development of the IPE within the 120-day period.

Technical Assistance: VRA did not request technical assistance.

5.3 submit the actions that VRA will take, including timelines, to ensure that IPEs are developed in a timely manner (e.g., in accordance with the agency's established timeline developed pursuant to 34 CFR 361.45(e)) as required by 34 CFR 361.45(a)(1).

Agency Response: VRA continues strengthening compliance with the development of the IPEs within the established 120-day period. Since January of 2011, the OVRCS and the OPQCRS have provided guidance to the staff of the six regions on the compliance with the development of the IPE within the 120-day period.

VRA will submit the requested actions, including timelines, to comply with this corrective action.

Technical Assistance: VRA did not request technical assistance.

6. SRC Composition

Corrective Action 6: VRA must:

6.1 cease permitting SRC members to serve beyond their expired terms.

Agency Response: VRA has ceased to allow SRC members to serve beyond their expired terms.

Technical Assistance: VRA did not request technical assistance.

6.2 submit a written assurance within 10 days of the receipt of the final monitoring report that VRA will ensure that the SRC complies with all requirements of section 105 of the Rehabilitation Act and 34 CFR 361.17, especially with regard to the composition and term limit requirements.

Agency Response: VRA is complying with the requirements regarding the composition and term limit requirements. It shall submit the written assurance required within the allotted time.

Technical Assistance: VRA did not request technical assistance.

6.3 submit a plan, including timelines, of the steps that VRA will take to work with the Governor's office or state appointing authority to ensure that current SRC vacancies are filled immediately and that future vacancies will be filled on a timely basis.

Agency Response: VRA has submitted the plan and recommendations to the Governor's Office for the appointment of the three existing SRC vacancies.

Technical Assistance: VRA did not request technical assistance.

7. Provision of Services to Non-VR Consumers

Corrective Action 7: VRA must:

7.1 cease using Title I VR funds to provide services to non-VR consumers, including "courtesy" and "Act 79" clients.

Agency Response: VRA will cease using Title I VR funds to provide *courtesy services* to non VR consumers. However, we wish to clarify that we are obligated by law to provide services for Act 79 clients. These unallowable costs are covered by non federal funds and are never used as match as certified by fiscal staff.

RSA Response: VRA cannot use Title I VR funds to serve individuals who are not applicants for or consumers of the VR program. RSA acknowledges that VRA has responded that it will cease using Title I VR funds to provide courtesy services to non VR consumers. Although VRA is required to provide services to individuals defined in Act 79 with state appropriated funds, it is not permitted to use Title I VR funds to provide those services, nor can it utilize unallowable expenditures under the VR program for match purposes. RSA acknowledges that VRA will submit a written assurance to include the details outlined in corrective action 7.2.

Technical Assistance: VRA did not request technical assistance.

7.2 submit a written assurance within 10 days of the issuance of the final monitoring report that it will use VR funds solely for allowable expenditures – namely for the provision of VR services and the administration of the VR program, as required by 34 CFR 361.3; that VRA will administer the VR program in a proper and efficient manner that ensures the proper

expenditure and accounting of VR funds and reporting of data, as required by 34 CFR 361.12 and 34 CFR 80.20(a); that it will allocate all costs to the appropriate program(s) in accordance with Federal cost principles; that it will track the number of individuals served and expenditures incurred so that data can be properly reported and expenditures traced to the appropriate program(s), as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Agency Response: VRA will submit a written assurance within 10 days of the issuance of the final monitoring report that it will use VR funds solely for allowable expenditures- namely for the provision of VR services and the administration of the VR program, as required by 34 CFR 361.3; that VRA will administer the VRA program in a proper and efficient manner that ensures the proper and expenditure and accounting of VR funds and reporting of data, as required by 34 CFR 361.12 AND 34 CFR 80.20(a); that it will allocate all costs to the appropriate program (s) in accordance with Federal cost principles.

Technical Assistance: VRA did not request technical assistance.

7.3 implement methods of administration that ensure financial accountability for the VR program so that all funds can be traced for allowable purposes, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Agency Response: Fiscal staff has clarified that expenditures for services provided for Act 79 have always been accounted for separately in accordance with (GAAP) General Accepted Accounting Principles. Fiscal staff have never used Act 79 funds as match and believe there has been a misinterpretation of budget details. Upon review of budget documents, amounts set aside for Act 79 services are subtracted from total non federal share of funds. These funds have always been sufficient to cover costs of services. VRA will include “Act 79” total hrs worked in our Personnel Activity Reports, in order to allocate the portion of time spent on provision of these services and will accordingly charge the non federal program.

RSA Response: VRA is not permitted to use VR funds to provide services to non-VR consumers. Therefore, VRA failed to comply with 34 CFR 361.3 by using VR funds for non-VR purposes. According to information provided on-site, VRA reported that Title I VR funds were used to provide services to courtesy services and to supplement the state appropriated funds that have not been sufficient to provide services to individuals defined under Act 79 by VRA staff. VRA also provided information related to the direct state and federal costs reported for October 2005 through September 2009 for budget amounts assigned to Act 79 expenditures as reported in VRA’s internal projected budget. The detailed projected budget provided on-site provided the amount of non-federal Act 79 funds that would be used for match purposes in serving those individuals and the amount of federal VR funds that would be used to serve those individuals. However, in its response, VRA clarified that the amounts set aside for the provision of services for persons identified in Act 79, are subtracted from the total non-federal share of funds.

As stated in this report, expenditures used for match purposes under the VR program must be those spent on allowable VR costs (34 CFR 361.60(b)(1)). RSA appreciates the clarification that VRA currently does not and will not use expenditures on non-VR consumers through Act 79 for match purposes. In addition, RSA acknowledges that VRA reported that it has ceased using

Title I VR fund to provide courtesy services to non-VR consumers. Furthermore, RSA notes that VRA reported that it will not use Title I VR funds for personnel costs that are not allowable under the VR program and that personnel activity reports will be maintained to support the allocation of personnel costs to the appropriate program. All costs associated with the provision of services through Act 79, including staff resources, cannot be charged to Title I VR funds.

Technical Assistance: VRA did not request technical assistance.

Chapter 2: IL Program

Program Performance Observations and Recommendations

1. SILC Member Recruitment and Retention

Recommendation 1: RSA recommends that VRA and CEVI, together with the governor's office, establish processes to:

- 1.1 assess and define the appointment statuses, disability classifications and term dates for prospective members at the time that they are nominated by the SILC and appointed by the governor;
- 1.2 improve communication with the represented state agencies and businesses related to the CEVI's purpose and benefits as well as the corresponding federal requirements; and
- 1.3 re-assess Puerto Rico SILC composition standards in Executive Order 1993-44 and consider revising them in light of the less prescriptive federal requirements, as appropriate.

Agency Response: VRA did not respond.

Technical Assistance: VRA did not request technical assistance.

IL Program Compliance Findings and Corrective Actions

1. SILC Appointment and Composition

Corrective Action 1: VRA and CEVI must take corrective action to ensure that:

- 1.1 all SILC members are appointed by the Governor, as required by 34 CFR 364.21(b)(1).

Agency Response: We stress that all the members of the Council have been appointed by the Honorable Governor and that our records are evidence of this fact.

Technical Assistance: VRA did not request technical assistance.

- 1.2 no SILC member serves more than his or her three year term, unless reappointed, and serves no more than two consecutive full terms, as required by Section 705(b)(6).

Agency Response: Article VII of SILC Rules was amended in the regular session of April 1, 2011 in order to establish that the members of the Council shall serve for one term of three (3) years with the right to be reelected for a second term. The third paragraph which established that the member of the Council would remain in office until his successor was appointed was eliminated. A copy of the amended rules is enclosed.

Technical Assistance: VRA did not request technical assistance.

1.3 the executive order establishing the SILC and the CEVI bylaws accurately reflect federal requirements.

Agency Response: With respect to the Executive Order, the Executive Committee shall meet on Monday, May 2, 2011, to discuss the amendments to the Executive Order so that the same is in accord with the Federal requirements.

In addition, we wish to inform that SILC also amended its rules (Article I, Section 1, Subsection b) in order to establish that the majority of the voting members of SILC are persons with disabilities who are not employees of a state agency nor of an independent living center. It must be pointed out that SILC is at present in non-compliance with the above mentioned as it arises from the reports on the composition, voting members, and terms which was submitted to RSA at the end of the month of March as a requirement to comply with the State Plan. A copy of the submitted report is enclosed.

RSA Response: RSA acknowledges VRA and CEVI progress in addressing this finding. In order to ascertain CEVI compliance with the federal requirements, RSA requests that VRA provide for RSA review a copy of the revised CEVI bylaws and executive order establishing the SILC. (VRA responses to RSA did not include the revised SILC bylaws.) In addition, RSA requests regular updates regarding efforts to ensure that individuals with disabilities not employed by any state agency or center constitute the majority of CEVI's members, including voting members, as required by Section 705(b)(4)(A)(B).

Technical Assistance: VRA did not request technical assistance.

2. Service Provider Requirements

Corrective Action 2: VRA must take corrective action to develop, establish, and maintain written standards and procedures to be applied by service providers to assure expeditious and equitable handling of referrals and applications for IL services, in compliance with 34 CFR 365.30.

Agency Response: The Administrator has taken corrective action by issuing a regulatory communication (RC No. 2011-19) a procedures manual and a follow-up document (Notice of Action Taken on Referral) to such effect. See Appendix 2A and 2B.

Technical Assistance: VRA did not request technical assistance.

Chapter 3: OIB

OIB Program Performance Observations and Recommendations

1. Policies and procedures

Recommendation 1: RSA recommends that VRA:

1.1 ensure that the MIRADA policies and procedures manual under development addresses the OIB purposes in 34 CFR 367.1, eligibility criteria in 34 CFR 367.5 and the confidentiality requirements in 34 CFR 364.56.

Agency Response: The policies and procedures manual that is being developed for the Older Blind Program shall ensure compliance with the purposes established in Federal Regulations in 34 CFR 367.1, 34 CFR 367.5 and 34 CFR 364.56.

Technical Assistance: VRA did not request technical assistance.

1.2 develop a single, comprehensive eligibility form that addresses the four required elements of OIB eligibility.

Agency Response: The form for determination of eligibility was revised and the eligibility certification form was developed pursuant to what is established in the regulations of 34 CFR 365.5.

Technical Assistance: VRA did not request technical assistance.

1.3 provide staff training on MIRADA's policies and procedures manual, confidentiality requirements and the revised eligibility form.

Agency Response: A cycle of trainings was established to train Older Blind personnel on the policies and procedures manual; confidentiality requirements and revised forms to determine eligibility. The final report on compliance and achievements shall be reported in Report 70 B of this fiscal year.

Technical Assistance: VRA did not request technical assistance.

2. Allocation of Resources

Recommendation 2: RSA recommends that VRA:

2.1 conduct a comprehensive needs assessment to determine the extent to which individuals are underserved or unserved in the four regions of the Commonwealth not currently served by the OIB program.

Agency Response: We are scheduling the needs assessment recommended by RSA for fiscal year 2012. This is due to the following:

- February to September 2011 – outreach and expansion services shall be provided throughout the San Juan and Caguas regions with personnel contracted with ARRA funds. The final service report shall provide us with valuable information to determine the service needs in these regions;
- May to September 2011 – services expansion programs are being developed through contracts with ARRA funds in the municipalities of Ponce, Yauco, Yabucoa, Luquillo, Guayama and Fajardo, areas not served by the program. The final reports from these programs shall provide supporting evidence to assess the service needs in unserved areas; and
- we shall identify and evaluate the results of the studies administered to the elderly population by the Office of the Advocate for the Elderly and the University of Puerto Rico Public Health School to be used as data for the planning of service expansion.

Technical Assistance: VRA did not request technical assistance.

2.2 based on the results of the needs assessment, determine the manner in which staff resources can be best allocated to meet any unmet needs, including alternative allocations of job responsibilities.

Agency Response: The results obtained from the activities carried out in the areas not served by the OIB and the information gathered from the studies conducted shall allow us to obtain the data needed for the planning and expansion of services to unserved areas or areas served below the expectancy of OIB.

- The MIRADA Program has at present six (6) direct service employees, one (1) part time support employee, one (1) full time administrative employee and one (1) that is part-time.
- Although the Program is not available in four of the six regions of VRA, MIRADA has provided services to consumers in the following regions: Caguas, San Juan, Mayagüez and Ponce through outreach activities.

Technical Assistance: VRA did not request technical assistance.

Chapter 4: Fiscal management of the VR, SE, IL and OIB Programs

Fiscal Management Observations and Recommendations

1. VRA Fiscal Staff Access to Consumer Rehabilitation Information System

Recommendation 1: RSA recommends that VRA consider allowing VRA fiscal staff to access information, in relation to payment and monitoring of services, in CRIS. The system could be configured to permit fiscal staff read-only access in order to address any concerns that information may be inadvertently changed by someone other than the Rehabilitation Counselor.

Agency Response: VRA did not respond.

Technical Assistance: VRA did not request technical assistance.

2. Social Security Reimbursement

Recommendation 2: RSA recommends that VRA investigate the potential for Social Security Administration reimbursement as a means to generate program income.

Agency Response: VRA did not respond.

Technical Assistance: VRA did not request technical assistance.

Fiscal Management Compliance Findings and Corrective Actions

1. Assigning Personnel Costs – Staff Working on Multiple Programs

Corrective Action 1: VRA must:

1.1 cease using Title I VR funds for personnel costs that are not allowable under the VR program and do not have supporting documentation as required under 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5.

Agency Response: VRA will cease using Title 1 VR funds for personnel costs that are not allowable under the VR program.

Technical Assistance: VRA did not request technical assistance.

1.2 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 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 proportionally, either directly or indirectly, to each program administered by VRA in accordance with program requirements.

Agency Response: VRA will submit a plan to RSA to ensure compliance with 2 CFR part 225, Appendix B 8.h.4 and 8.h.5. The corrective plan will include steps taken to resolve the finding, timeline for completion and methods of evaluation that the steps taken have resolved the finding within 45 days from the issuance of the final report.

Technical Assistance: VRA did not request technical assistance.

2. Unallowable and Unallocable Costs – VR Program

Corrective Action 2:

2.1 cease using Title I VR funds to pay for unallowable expenditures under the VR program.

Agency Response: VRA has ceased using Title 1 VR funds for unallowable expenditures.

Technical Assistance: VRA did not request technical assistance.

2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that VR funds will be used solely for allowable VR expenditures, namely those arising from the provision of allowable VR services and the administration of the VR program, as required by 34 CFR 361.3; IL-part B- and OIB-related expenditures will be paid by IL-part B and OIB funds, as appropriate; and that VRA will administer the VR program in a manner that is consistent with the requirements set forth at 34 CFR 361.12, 34 CFR 80.20(a), and the Federal cost principles set forth at 2 CFR 225.

Agency Response: VRA will submit a written assurance to RSA within 10 days of receipt of final monitoring report that VR funds will be used solely for allowable VR expenditures.

Technical Assistance: VRA did not request technical assistance.

2.3 submit the total amount of VR funds expended on IL and IL-OIB expenses for each fiscal year from 2006 through 2010.

Agency Response: VRA will submit the total amount of VR funds expended on IL and IL-OIB expenses for each fiscal year from 2006 through 2010.

Technical Assistance: VRA did not request technical assistance.

3. Internal Controls and Monitoring of Activities

Corrective Action 3: VRA must:

3.1 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); VRA also must assure 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).

Agency Response: VRA will submit a written assurance to RSA within 10 days of receipt of 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), VRA will assure 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).

Technical Assistance: VRA did not request technical assistance.

3.2 develop and implement procedures to ensure that:

- a. 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;
- b. VRA monitors all grant-supported activities; and
- c. internal controls are in place to ensure that all program assets are maintained and accounted for, and used solely for authorized purposes.

Agency Response: VRA is developing procedures to ensure that fiscal controls permit the tracking of expenditures, will monitor all grant-supported activities and will ensure that internal controls are in place to ensure that all program assets are maintained and accounted for and used solely for authorized purposes.

Technical Assistance: VRA did not request technical assistance.

4. Building Improvement Expenses

Corrective Action 4: VRA must:

4.1 to the extent applicable, cease engaging in activities to establish, develop, or improve a CRP without first fulfilling all pre-planning requirements, as set forth at 34 CFR 361.29 and 34 CFR 361.49(b).

Agency Response: VRA has ceased using VR Title 1 funds for all Building Improvement expenses in compliance with 34 CFR 361.5 (b) (12), and 34 CFR 361.60 (a) (2).

Technical Assistance: VRA did not request technical assistance.

4.2 submit a written assurance within 10 days of receipt of the final monitoring report that VRA will use VR funds only for allowable expenditures, as required by 34 CFR 361.3, and will provide sufficient non-Federal expenditures to satisfy the match requirement for those activities, as required by 34 CFR 361.60. In particular, VRA must assure that, to the extent

that it engages in construction activities, it will provide at least 50 percent of the total costs for construction with non-Federal funds.

Agency Response: VRA will submit to RSA a written assurance within 10 days of receipt of the final monitoring report that VRA will use VR funds only for allowable expenditures, and will provide sufficient non-federal expenditures to satisfy the match requirement for those activities.

Technical Assistance: VRA did not request technical assistance.

4.3 to the extent that any of the above renovation projects were conducted for the purpose of establishing, developing, or improving a CRP, submit information regarding:

- The needs identified in the agency's triennial needs assessment for these renovations
- The appraised values of the various buildings, as compared to the costs of the renovation projects;
- The size, in square footage, of the expanded building, as compared to the existing building; and
- Whether additions and expansions were structurally joined to the existing buildings;
- A description of the VR services being provided in the building and any other non-VR services.

Agency Response: VRA does not sponsor improvements to CRPs nor to any other building.

RSA Response: CRPs include state operated CRPs, such as the Centers of Assessment and Adjustment (CAA) and Units of Assessment and Adjustment (UAA), as they are programs operated by VRA which directly provide one or more of the VR services defined at 34 CFR 361.5(b). Renovation costs were reported for CAA's in Arroyo, Sordos Guaynabo, San German, Mayaguez, Rio Pedras, Sur and the UAA in San German. VRA must submit the requested documentation described in corrective action 4.3 for any renovation project conducted for the purpose of establishing, developing, or improving a public or non-profit CRP, to include state operated CRPs such as the CAAs and UAAs.

Technical Assistance: VRA did not request technical assistance.

4.4 to the extent that these projects involved routine maintenance and repairs, as included in the definition of administrative cost, submit information regarding those aspects of the projects that were engaged solely to repair or maintain existing buildings or equipment. Such expenditures would include repairs made to wiring or heating equipment, but not replacement of those wiring and equipment.

Agency Response: As of January 2010, VRA has ceased to sponsor any, and, or all improvement that would increase the value of any building in which vocational rehabilitation services are provided. At the present VRA lacks funds to finance capital improvement projects. Future projects shall be in strict compliance with 34 CFR 361.5 (b) (12), and 34 CFR 361.60 (a) (2).

Technical Assistance: VRA did not request technical assistance.

APPENDIX B: 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 C: EXPLANATIONS APPLICABLE TO FISCAL PROFILE TABLES 4.1-4.3

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 Rehabilitation 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 Rehabilitation 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).