FISCAL YEAR 2011
MONITORING REPORT
ON THE
MAINE DEPARTMENT OF
VOCATIONAL REHABILITATION
PROGRAM

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

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SECTION 1: EXECUTIVE SUMMARY

Background

Section 107 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct annual reviews and periodic on-site monitoring of programs authorized under Title I of the Rehabilitation Act to determine whether a state vocational rehabilitation (VR) agency is complying substantially with the provisions of its State Plan under section 101 of the 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 Supported Employment (SE) Services under Title VI, part B, of the Rehabilitation Act.

Through its monitoring of the VR and SE programs administered by the Maine Division of Vocational Rehabilitation (DVR) in fiscal year (FY) 2011, RSA:

- reviewed the VR agency's progress toward implementing recommendations and resolving findings identified during the prior monitoring cycle (FY 2007 through FY 2010);
- reviewed the VR agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment outcomes;
- recommended strategies to improve performance and required corrective actions in response to compliance findings related to three focus areas, including:
  - organizational structure requirements of the designated state agency (DSA) and the designated state unit (DSU);
  - transition services and employment outcomes for youth with disabilities; and
  - the fiscal integrity of the VR program;
- identified emerging practices related to the three focus areas and other aspects of the VR agency's operations; and
- provided technical assistance to the VR agency to enable it to enhance its performance and to resolve findings of noncompliance.

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from June 20, 2011 through June 24th, 2011 and a return visit from August 1, 2011 through August 5, 2011 is described in detail in the FY 2011 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program located at: www.ed.gov/rschstat/eval/rehab/107- reports/2011/monitoring-and-technical-assistance-guide.doc or, www.ed.gov/rschstat/eval/rehab/107-reports/2011/monitoring-and-technical-assistance-guide.pdf.

Emerging Practices

Through the course of its review, RSA collaborated with DVR, the State Rehabilitation Council (SRC), the New England Technical Assistance and Continuing Education (NE TACE) center and other stakeholders to identify the emerging practices below implemented by the agency to improve the performance and administration of the VR program.

- Improvement of Employment Outcomes, Including Supported Employment and Self-Employment: DVR has Memoranda of Understanding (MOU) with the Department of Health and Human Services (DHHS) Office of Adults with Cognitive and Physical Disabilities (OACPD) and the DHHS Office of Adult Mental Health Services (OAMHS) to ensure the availability of services for individuals with disabilities who want to work.
- Improvement of Employment Outcomes, Including Supported Employment and Self-Employment: The Bureau of Rehabilitation Services (BRS) has entered into a contractual agreement to procure hearing aids for eligible Maine clients of the Vocational Rehabilitation Program. This contract is in the form of a cooperative multi-state agreement.
- Transition: DVR modified its highly successful Career Exploration Workshop series to be appropriate for use with transition-age youth. The new curriculum is broken down into 45-minute modules, making it flexible for use in schools, adult education, and after-school programs.

A more complete description of these practices can be found in Section 3 of this report.

Summary of Observations

RSA's review of DVR resulted in the observations related to the focus areas identified below. The entire observations and the recommendations made by RSA that the agency can undertake to improve its performance are contained in Section 5 of this report.

Organizational Structure of the DSA and DSU

- Maine statute lacks clarity and/or consistency regarding the responsible entities for administering the VR programs, creating the potential for confusion regarding which entity is to perform the non-delegable functions of the DSU.
- Maine statute assigns powers and duties to the Maine Department of Labor (MDOL) commissioner, including the determination of eligibility, priority for VR services that are non-delegable functions of the DSU under the Rehabilitation Act. These functions were not performed by the MDOL commissioner but properly performed at the DVR counselor level in a manner consistent with federal regulations.

Transition Services and Employment Outcomes for Youth with Disabilities

RSA's review of transition services and employment outcomes achieved by youth with disabilities did not result in the identification of observations and recommendations.

Fiscal Integrity of the VR Program

RSA's review of the fiscal integrity of the VR program administered by DVR did not result in the identification of observations and recommendations.

Summary of Compliance Findings

RSA's review resulted in the identification of compliance findings in the focus areas specified below. The complete findings and the corrective actions that the DSU must undertake to bring itself into compliance with pertinent legal requirements are contained in Section 6 of this report.

- The Maine Workforce Investment Act (WIA) strategic state plan submitted to MDOL by the Maine Jobs Council (MJC), which serves as the statewide workforce investment board in Maine, does not describe how the VR program is represented on the MJC and how the member of the State Board representing the VR program will effectively represent the interests, needs, and priorities of the VR program (20 CFR 661.200(i)(3)).
- DVR does not disburse program income prior to requesting additional cash payments (34 CFR 80.21(f)(2)).
- DVR, in its administration of the VR program, has not ensured the proper expenditure and accounting of federal funds and the proper collection and reporting of all federal funds (34 CFR 361.12 and 34 CFR 80.20(a)).
- DVR does not require all recipients of federal funds to accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)).
- DVR does not utilize methods of administration to ensure the proper administration of the VR program and accurate accounting of VR funds, including the ability to track the expenditure of funds to the VR program (34 CFR 361.12 and 34 CFR 80.20(a)).
- DVR does not conduct monitoring activities of its contracts to ensure that grant-supported activities performed by the contractors comply with applicable federal requirements and that performance goals are achieved (34 CFR 80.40(a)).

Development of the Technical Assistance Plan

RSA will collaborate closely with DVR and the New England Technical Assistance and Continuing Education center (NE TACE), to develop a plan to address the technical assistance (TA) needs identified by DVR in Appendix A of this report. RSA, DVR and NE TACE will conduct a teleconference within 30 days following the publication of this report to discuss the details of the TA needs, identify and assign specific responsibilities for implementing technical assistance and establish initial timeframes for the provision of the assistance. RSA, DVR and NE TACE will participate in teleconferences at least semi-annually to gauge progress and revise the plan as necessary.

Review Team Participants

Members of the RSA review team included James Billy, Suzanne Mitchell, and Janette Shell (Technical Assistance Unit); Tanielle Chandler (Fiscal Unit); Yann-Yann Shieh (Data Collection and Analysis Unit); and Larry Vrooman and Dave Wachter (Vocational Rehabilitation Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information and the development of this report.

Acknowledgement

RSA wishes to express appreciation to the representatives of DVR for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the SRC, the Client Assistance Program and advocates, and other stakeholders in the monitoring process.

SECTION 2: PERFORMANCE ANALYSIS

This analysis is based on a review of the VR programmatic data contained in Table 2.1 below and is intended to serve as a broad overview of the VR program administered by DVR. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible VR programmatic trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during FY 2006 through FY 2010. Consequently, the table and accompanying analysis do not provide information derived from DVR open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. DVR may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

VR Program Performance Analysis

Table 2.1
DVR Program Performance Data for FY 2006 through FY 2010

Program Performance Data for FY 2006 - FY2010								
Maine Division of Vocational Rehabilitation		**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**	**Change from FY 2006 to FY 2010**	**All General Agencies 2010**
TOTAL CASES CLOSED	**Number**	**2,987**	**3,288**	**3,604**	**3,513**	**3,847**	**860**	**317,162**
	Percent	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**28.8%**	**100.0%**
Exited as an applicant	**Number**	259	246	313	348	511	252	49,928
	Percent	8.7%	7.5%	8.7%	9.9%	13.3%	97.3%	15.7%
Exited during or after trial work experience/extended employment	**Number**	0	1	1	0	31	31	2,738
	Percent	0.0%	0.0%	0.0%	0.0%	0.8%		0.9%
TOTAL NOT DETERMINED ELIGIBLE	**Number**	**259**	**247**	**314**	**348**	**542**	**283**	**52,666**
	Percent	**8.7%**	**7.5%**	**8.7%**	**9.9%**	**14.1%**	**109.3%**	**16.6%**
Exited without employment outcome after signed IPE	**Number**	30	36	31	39	47	17	4,268
	Percent	1.0%	1.1%	0.9%	1.1%	1.2%	56.7%	1.3%
Exited from order of selection waiting list	**Number**	109	141	115	117	345	236	6,587
	Percent	3.6%	4.3%	3.2%	3.3%	9.0%	216.5%	2.1%
Exited without employment after eligibility	**Number**	1,308	1,509	1,655	1,690	1,627	319	88,031
	Percent	43.8%	45.9%	45.9%	48.1%	42.3%	24.4%	27.8%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	**Number**	**1,447**	**1,686**	**1,801**	**1,846**	**2,019**	**572**	**98,886**
	Percent	**48.4%**	**51.3%**	**50.0%**	**52.5%**	**52.5%**	**39.5%**	**31.2%**
Exited with employment	**Number**	643	697	730	649	573	-70	87,039
	Percent	21.5%	21.2%	20.3%	18.5%	14.9%	-10.9%	27.4%
Exited without employment	**Number**	638	658	759	670	713	75	78,571
	Percent	21.4%	20.0%	21.1%	19.1%	18.5%	11.8%	24.8%

Table 2.1 (continued)								
Maine Division of Vocational Rehabilitation		**FY 2006**	**FY 2007**	**FY 2008**	**FY 2009**	**FY 2010**	**Change from FY 2006 to FY 2010**	**All General Agencies 2010**
TOTAL RECEIVING SERVICES	**Number**	**1,281**	**1,355**	**1,489**	**1,319**	**1,286**	**5**	**165,610**
	Percent	**42.9%**	**41.2%**	**41.3%**	**37.5%**	**33.4%**	**0.4%**	**52.2%**
EMPLOYMENT RATE		**50.20%**	**51.44%**	**49.03%**	**49.20%**	**44.56%**		**52.56%**
Transition aged youth closed	**Number**	1,206	1,225	1,406	1,323	1,621	415	107,377
	Percent	40.4%	37.3%	39.0%	37.7%	42.1%	34.4%	33.9%
Transition aged youth employment outcomes	**Number**	255	246	281	229	216	-39	27,618
	Percent	39.7%	35.3%	38.5%	35.3%	37.7%	-15.3%	31.7%
Competitive employment outcomes	**Number**	609	676	729	649	570	-39	85,263
	Percent	94.7%	97.0%	99.9%	100.0%	99.5%	-6.4%	98.0%
Supported employment outcomes	**Number**	109	123	117	140	129	20	11,214
	Percent	17.0%	17.6%	16.0%	21.6%	22.5%	18.3%	12.9%
Average hourly wage for competitive employment outcomes	**Average**	$10.50	$11.03	$11.01	$11.10	$11.81		$11.14
Average hours worked for competitive employment outcomes	**Average**	27.3	28.4	27.6	26.2	24.8		30.9
Competitive employment outcomes at 35 or more hours per week	**Number**	251	305	314	253	215	-36	42,997
	Percent	39.0%	43.8%	43.0%	39.0%	37.5%	-14.3%	49.4%
Employment outcomes meeting SGA	**Number**	357	396	423	336	282	-75	56,039
	Percent	55.5%	56.8%	57.9%	51.8%	49.2%	-21.0%	64.4%
Employment outcomes with employer-provided medical insurance	**Number**	184	199	190	162	143	-41	19,288
	Percent	28.6%	28.6%	26.0%	25.0%	25.0%	-22.3%	22.2%

VR Performance Trends

Positive Trends

The percentage of competitive employment outcomes increased from 94.7 percent in FY 2006 to 100 percent in FY 2009 and 99.5 percent in FY 2010, surpassing the average for all general agencies in FY 2010. The percentage of individuals closed in supported employment increased from 17 percent in FY 2006 to 22.5 percent in FY 2010, compared to the national average for general agencies of 12.9 percent in that year. The average VR wage rose by $1.31 from $10.50 in FY 2006 to $11.81 in FY 2010, slightly above the national average of $11.14. Additionally, the percentage of employment outcomes with employer-provided medical insurance in FY 2010 was above the average for all general agencies.

The percentage of transition-age youth served by DVR increased from 37.3 percent in FY 2007 to 42.1 percent in FY 2010, exceeding the national average of 33.9 percent for general agencies in FY 2010. Employment outcomes achieved by transition-age youth remained higher than the average for all general agencies in FY 2010 despite a slight decrease from 39.7 percent in FY 2006 to 37.7 percent in FY 2010.

Trends Indicating Potential Risk to the Performance of the VR Program

The percentage of individuals who were determined eligible but exited the VR program prior to receiving services increased from 48.4 percent in FY 2006, to 52.5 percent in FY 2010. This is significantly higher than the average of 31.2 percent in FY 2010 for general agencies. The percentage of individuals who received VR services from DVR under an individualized plan for employment (IPE) decreased from 42.9 percent in FY 2006 to 33.4 percent in FY 2010, significantly lower than the average percentage for general VR agencies of 52.2 percent in FY 2010. Also, as demonstrated in Table 2.1, DVR's performance declined related to the employment rate, i.e., the ratio of those individuals who received services under an IPE who exited with employment compared to those who exited without employment. The employment rate decreased from 50.2 percent in FY 2006 to 44.56 percent in FY 2010, significantly below the national average of 52.56 percent in FY 2010.

DVR experienced a significant overall decline in the number of individuals who achieved an employment outcome in the five years charted in Table 2.1. Total employment outcomes decreased from 643 in FY 2006 to 573 in FY 2010. Although the percentage of competitive employment outcomes increased from FY 2006 to FY 2010, the total number of individuals who achieved competitive employment decreased by 39 individuals.

The percentage of individuals with competitive employment outcomes working 35 hours or more a week decreased from 39 percent in FY 2006 to 37.5 percent in FY 2010, well below the national average of 49.4 percent in FY 2010. Additionally, the percentage of those whose earnings were above the threshold of substantial gainful activity, as defined by the Social Security Administration, was 49.2 percent in FY 2010, well below the national average of 64.4 percent. Although still above the average for all general agencies in FY 2010, the percentage of individuals who received employer-provided medical benefits decreased from 28.6 percent in FY 2006 to 25 percent in FY 2010.

DVR is fully aware of the trends described above and throughout the course of the monitoring review discussed with RSA possible factors contributing to the reduction of the number of individuals served and the employment outcomes achieved. According to the agency, the primary factor contributing to these trends is the order of selection (OOS) under which it operated during the period, including the necessary closure of all priority categories in FY 2009 as a result of a severe shortage of fiscal and human resources. Another key contributing factor stemmed from the economic recession experienced by most of the country. Despite the agency's resource shortages and challenges in employment stemming from the economic downturn, DVR cannot avoid taking aggressive action to address those aspects of the VR process that can mitigate the negative impact of these factors and improve the agency's performance.

SECTION 3: EMERGING PRACTICES

While conducting the monitoring of the VR program, the review team collaborated with the DVR, the SRC, NE TACE, and agency stakeholders to identify emerging practices in the following areas:

- strategic planning;
- program evaluation and quality assurance practices;
- human resource development;
- transition;
- the partnership between the VR agency and SRC;
- the improvement of employment outcomes, including supported employment and self-employment;
- VR agency organizational structure; and
- outreach to unserved and underserved individuals.

RSA considers emerging practices to be operational activities or initiatives that contribute to successful outcomes or enhance VR agency performance capabilities. Emerging practices are those that have been successfully implemented and demonstrate the potential for replication by other VR agencies. Typically, emerging practices have not been evaluated as rigorously as "promising," "effective," "evidence-based," or "best" practices, but still offer ideas that work in specific situations.

As a result of its monitoring activities, RSA identified the emerging practices below.

Employment Outcomes

1. Improvement of Employment Outcomes, Including Supported Employment and Self-employment

Collaboration with Maine Department of Health and Human Services (DHHS): DVR has entered into Memoranda of Understanding (MOUs) with the DHHS Office of Adults with Cognitive and Physical Disabilities (OACPD) and the DHHS Office of Adult Mental Health Services (OAMHS) to clarify roles improve service delivery and outcomes for dually-served populations, and to leverage resources. The populations impacted include people with cognitive impairments, brain injuries, physical disabilities, and mental illness. A closer working relationship between the agencies has strengthened the provision of services for people with disabilities through the adoption of shared language, goals, and fiscal management. Specific outcomes of the MOUs included: improved collaboration between DHHS case managers and VR counselors; increased access to funding for ongoing support of individuals; and maximization of state general funds for federal match. Additionally, joint efforts have generated quality employment services standards and a workforce development system for community rehabilitation providers.

2. Improvement of Employment Outcomes, Including Supported Employment and Self-employment

Hearing Aid Protocol: The Maine VR program entered into a contractual agreement to procure hearing aids for eligible individuals of the VR Program. This contract is in the form of a cooperative multi-state agreement, in association with Minnesota, Michigan and Wisconsin. Effective October 4, 2010, the implementation of this contractual agreement has resulted in considerable savings of case service dollars on the purchase of hearing aids.

Transition

3. Increased Transition Services to Enhance Employment Outcomes

Transition Career Exploration Workshop (TCEW): In 2010, DVR modified and adapted its highly successful Career Exploration Workshop series to target the needs of transition-age youth. The new curriculum consists of 45 minute modules, providing flexibility for use in schools, adult education, and after-school programs. Through group activities, individual assessment, and games, young people engage in occupational exploration while increasing their awareness of their skills and abilities. Upon completion of the curriculum, each youth has compiled a portfolio and is better prepared to select an employment goal and implement a plan for employment. Maine DVR is partnering with the Maine Department of Education to support the use of the TCEW in schools across the state as a tool for better transition planning.

A complete description of the practices described above can be found on the RSA website at http://rsa.ed.gov/emerging-practices.cfm.

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SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES

During its review of the VR and SE programs in FY 2011, RSA assessed progress toward the implementation of recommendations that DVR agreed to address during the prior monitoring cycle in FY 2008 and the resolution of findings from that review.

Recommendations

In response to RSA's monitoring report dated September 12, 2008, for the federal fiscal year 2008, DVR agreed to implement the recommendations below. A summary of the agency's progress toward implementation of each recommendation appears below after each recommendation.

1. Implementation of the Order of Selection

Recommendations: RSA recommends that DVR:

1.1 conduct an analysis to determine if eligible individuals are properly assigned to the priority categories for the provision of services, particularly Category 1;
1.2 including the results of this analysis, redefine the criteria by which individuals are assigned to each of the priority categories to ensure that individuals with the most significant disabilities are given priority in the provision of services;
1.3 separate Category 1 into two or more categories so that not all of DVR's categories are closed; and
1.4 provide training to staff to assure accurate and consistent assignment of eligible individuals to the priority categories, particularly to Category 1.

Status: DVR leadership supported making changes in the OOS definitions based on recommendations from RSA and developed a small work group to examine materials from other states. DVR redefined the OOS categories and the identification of most significantly disabled. A rule change was initiated in September, 2009, and promulgated in January 1, 2010. DVR provided training to VR counselors and continues to work on consistent and equitable OOS determination. The Daily Operations Group (DOG) has been working to ensure that the transition from the old OOS to the new one will be seamless for staff and clients.

Maine DVR initiated a process to eliminate its wait list and provide the "right service at the right time" to its consumers. DVR monitors key steps in the VR process such as: "Entering the VR System," "VR Plan Development," "VR Plan Accomplishment," and "Exiting the VR System." The No Queue for You (NOQ4U) – Waitlist Elimination Project was supported by training for staff and access to materials, procedures, and forms on the DVR intranet.

With the use of funds provided under the American Recovery and Reinvestment Act of 2009 (ARRA), DVR secured temporary hires to provide support to Title I applicants/clients. These hires perform outreach activities, contacting clients who have been on a waiting list or have lost contact with the agency to re-engage them in the VR process and ultimately to assist them in gaining employment.

As a result of the efforts undertaken by DVR in response to the OOS recommendation, the following accomplishments have been made:

- the order of selection has been re-defined in DVR rules dated January 1, 2010;
- the OOS Most Significantly Disabled (MSD) designation dropped from 96.6 percent to 47.1 percent and all OOS categories are being served; and
- the waitlist was reduced from 1104 in Oct 2009 to zero in Oct 2010.

2. Dropout Rate

Recommendations: RSA recommends that DVR:

2.1 conduct an analysis to determine the factors creating the long delay between eligibility and implementation of the IPE; and

2.2 develop measurable goals, including annual and long-term targets, to reduce the number of individuals who drop out of the VR process prior to the development of the IPE and strategies to achieve the goals.

Status: DVR implemented strategies to reduce dropout rates and to determine factors creating the delay between eligibility and implementation of the IPE. One strategy has been to promote tools to engage and assist individuals in exploring and determining their vocational goals in a timely manner. DVR implemented a Statewide Career Exploration protocol to support the reduction of time in plan development and established measurements implemented in the January 2008 Case Review System to evaluate the impact of activities.

In December of 2008, a consultant began working with a team from DVR to develop the Career Exploration Workshop (CEW) for statewide implementation. In April 2009, the CEW was piloted with DVR staff. In June 2009, the CEW began in the Bangor office and spread statewide with the consultant using a “train the trainer” model to train staff. More than 700 consumers have participated in the CEW since June 2009. Data related to outcomes associated with CEW are in the early stages of collection, but it is anticipated that among those outcomes will be decreased costs, decreased time in status 10, decreased dropout rates, and an increase in successful closures.

DVR also evaluated its use of trial work experiences and extended evaluation to ensure that these services were being appropriately provided. Supervision of VR counselors and training resulted in improved understanding of RSA guidance and Maine DVR procedures regarding the use of trial work experience.

Despite these efforts, DVR needs to devote more attention to the dropout rate and consider its implications. Utilization of the SRC and the comprehensive statewide needs assessment process could be valuable in identifying and analyzing contributing factors.

3. Office of Rehabilitation Services Information Services (ORSIS) System

Recommendations: RSA recommends that DVR:

3.1 continue discussions with other agencies or vendors for acquiring another case management system to provide for centralized tracking of consumer services and their costs through the VR system, development of IPEs, accounting for results of standards and indicators, counselor and/or office budgets or goals, and the generation of effective management reports and RSA forms;

3.2 centralize ORSIS office servers with the central office as an interim measure prior to the acquisition of a new system to increase efficiency.

Status: The DOG, which has representation from DVR field staff, SIQA and the Office of Information Technology (OIT), meets twice a month to prioritize and resolve issues related to DVR's electronic case management system and daily operations. Migration and consolidation of the servers are being addressed by this group and the BRS lead team as part of a larger State of Maine OIT initiative. The DOG established a preliminary project plan to address the need for the next generation of ORSIS, which included gathering information from other state agencies and vendors. Following the consideration of the emerging requirements and conducting an initial evaluation of potential new systems, DVR, through the next generation workgroup, was able to rule out the following: updating ORSIS; developing a new system in-house; or adapting the Washington State System (STARS) for use by BRS. All were determined as being too costly for development.

The next phase was the initiation of a request for proposals which ultimately resulted in the BRS decision to adopt the AwareVR system for data management. The project to implement AwareVR as Maine's new electronic case management software is on schedule and on budget to "go-live" by October 2011. This implementation is critical to DVR operations and RSA reporting, given that the current system, ORSIS, is over 15 years old, not reliable, and built on a technological platform that is no longer supportable. Aware was selected as the new vendor on August 20, 2010, and the contract went into effect October 4, 2010. Statewide end-user training was completed in August 2011, and the project is in the final stage of data migration, deployment certification and product enhancement.

4. Evaluation and Monitoring of CRPs

Recommendations: RSA recommends that DVR:

4.1 review and refine measurable criteria for evaluation of CRP services;

4.2 include staff from DVR and CRP's in developing the "report card,"

4.3 explore developing a performance-based fee for services system as an incentive for better outcomes; and

4.4 provide CRP evaluation information to consumers to facilitate informed choice in the selection of services and service providers.

Status: The BRS contracts with several individuals and organizations (referred to as Community Rehabilitation Providers or CRPs) throughout the state to provide employment services. In order to enter into a contract with a CRP, the BRS requires the CRP to become accredited or approved through one of three processes: Commission on Accreditation of Rehabilitation Facilities (CARF), State of Maine Mental Health Licensing, or the BRS In-State Approval Process.

The In-State Approval Process for community employment service providers is to assure compliance with established standards and ongoing quality improvement for new and existing community employment programs. Approval allows applicants to provide applicable services for up to twelve months, allowing time to become CARF accredited for community employment services. Regardless of whether a CRP chooses CARF, Mental Health Licensing, or the BRS In-State Approval Process, BRS staff will periodically visit CRPs, participate in regional CRP meetings whenever possible, engage in ongoing communications with all CRPs, and promote and participate in events designed to support the CRP community.

In addition, DVR initiated a Quality Assurance and Reporting clause (Rider A) in its contracts with CRPs, requiring the CRP to maintain a program of quality improvement that includes the following:

- a process for ongoing evaluation of success in achieving desired outcomes;
- a process to obtain input and involvement from people served and other stakeholders in its evaluation and planning activities;
- a process that assures effective communication and coordination with the client/representatives and the referring VR Counselor;
- a process that assures consumer input and reflects informed choice;
- a process to ensure that each consumer who receives services receives a copy of the monthly progress reports; and
- a process that ensures that all reports sent to a consumer are in their preferred method for reading print material.

CRPs submit monthly progress reports on all active clients authorized for services to the VR counselors, along with invoices (R-20s) detailing the actual hours and description of services provided during the month. These reports and invoices (where appropriate) are submitted no later than ten days after the end of the month in which the service(s) were provided. The CRP also provides quarterly data as outlined in the BRS CRP Quarterly Report format. These quarterly reports are submitted electronically.

VR and SE Compliance Findings and Corrective Actions

As a result of the monitoring conducted during FY 2008, DVR developed a corrective action plan (CAP) that included the steps DVR must take to resolve the compliance findings identified in the monitoring report dated September 12, 2008, timelines for the implementation of the steps and the methods by which the agency and RSA would evaluate the agency's progress toward the resolution of the findings. A summary of DVR's progress toward the resolution of each finding appears below.

DVR has not successfully resolved the following compliance finding and continues to work toward its resolution:

1. Delay in the Development of the IPE

Status: In addition to addressing the delay in IPE development in their 2009 State Plan, DVR implemented the following activities:

- a statewide career exploration protocol to support more timely plan development;
- evaluation of the impact of these activities through measurements implemented in the January 2008 Case Review System; and
- a "Time in 10" report that captures data for all cases in Status 12, and calculates the average time spent in plan development (status 10).

Development of the Career Exploration Workshop (CEW) began in December 2008 and was piloted in April and June of 2009. The CEW originated in the Bangor office and expanded statewide using a "train the trainer" process to build capacity in the VR staff. More than 700 individuals have participated in the CEW since June 2009 and data related to outcomes associated with CEW is in the early stages of collection.

The first DVR "Time in 10" report was issued in December 2008. These reports capture information on all cases in Status 12, and calculate average time spent in plan development (status 10). DVR leadership reviews these reports quarterly to analyze changes in status 10 numbers. Information in that report provides breakdown by region, office and counselor to assist in analysis.

Results and findings of supervisory reviews have indicated that the appropriate use of extended evaluation has increased since the OOS rule change (135 individuals in status 06 or closed from that status in October, 2010); and that trial work experiences are being used appropriately (145 applicants in FY 2009 and 22 in FY 2010). Most significantly, the average time in plan development has been reduced from 505 days in FY 2007 to 285 days in FY 2010. However, the agency is not meeting its 180-day standard.

SECTION 5: FOCUS AREAS

A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU)

The purpose of this focus area was to assess the compliance of Maine DVR with the federal requirements related to its organization within the Maine Department of Labor (MDOL) and the ability of Maine DVR to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

- compliance with statutory and regulatory provisions governing the organization of MDOL and DVR under 34 CFR 361.13(b) and (c);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which DVR exercises responsibility over the expenditure and allocation of VR program funds, including procurement processes related to the development of contracts and agreements;
- procedures and practices related to the management of personnel, including the hiring, supervision and evaluation of staff; and
- the manner in which DVR participates in the state's workforce investment system.

In the course of implementing this focus area, RSA consulted with the following agency staff and stakeholders:

- MDOL and DVR directors and senior managers;
- MDOL and DVR staff members responsible for the fiscal management of the VR program;
- SRC chairperson and council members;
- Maine Department of Administration and Financial Services (DAFS) human resources and fiscal management staff;
- Client Assistance Program staff members; and
- TACE center representatives.

In support of this focus area, RSA reviewed the following documents:

- a MDOL organizational chart dated January 24, 2011 illustrating the relative position of bureaus, divisions and programs within the DSA;
- an organizational chart showing the relative position of the four divisions located within the Bureau of Rehabilitation Services (BRS);
- a diagram identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- job descriptions for the BRS director and DVR director;

- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing Maine’s procurement requirements and processes.

Overview

MDOL is the DSA in Maine and contains four bureaus: the Bureau of Rehabilitation Services (BRS); the Bureau of Labor Standards (BLS); the Bureau of Unemployment Compensation (BUC); and the Bureau of Employment Services (BES). Each of these bureaus consists of a bureau director and one or two administrative support staff.

As characterized by the acting BRS director, the DVR director and the MDOL commissioner, the DVR director reports to the BRS director who in turn reports to the MDOL commissioner. The BRS director serves as a liaison between the commissioner and the three primary service provision units and the Division of Quality Assurance within the BRS as well as between the four bureaus within MDOL to coordinate overarching department level strategic planning and coordination of services and activities. Under this arrangement, the BRS director functions as a deputy to the MDOL commissioner and does not perform functions that infringe upon or overlap the non-delegable duties of the DSU directors. All division directors, including the DVR and Division for the Blind and Visually Impaired (DBVI) directors, have three lines available for communicating and reporting to the MDOL commissioner – directly, through their respective bureau director, and through the Office of Policy and Legislation.

In the past, MDOL operated with a deputy commissioner to whom the bureau directors reported. However, this position has been vacant since the beginning of the current administration. MDOL has expressed the intent to appoint a deputy commissioner in the future, but maintains that the BRS director will continue to report directly to the commissioner. Thus, the BRS director will continue to perform the same reporting functions as a deputy commissioner for DVR and the other divisions under BRS.

The BRS staff consists of the BRS director and an administrative secretary. The BRS director is responsible for the direction and coordination of the units within BRS including DVR, DBVI, the Division of Deaf, Hard of Hearing and Late Deafened (DDHH), and the Division of Quality Assurance (QA). DVR and DBVI are the primary divisions within BRS containing the majority of staff. DDHH consists of the division director and a rehabilitation assistant while the QA division consists of the director and four staff. DVR currently has 125 staff and DBVI has 33 staff.

Maine centralizes information technology (IT), human resources (HR) and fiscal administration functions in a separate agency, the Division of Administration and Financial Services (DAFS). DAFS operates at the department level and supports all state departments in Maine. DAFS assigns specific staff to provide HR and fiscal support to the divisions.

Consistent with the independent explanations of the roles and functions of the BRS director by MDOL and DVR staff, the BRS director's position description indicated representative tasks including:

- coordination of activities, functions and programs within BRS to ensure objectives and strategies are consistent with MDOL's mission and that established goals and objectives are obtained;
- reviews and evaluates division director performance in order to ensure the effective, efficient and responsive service delivery;
- meets with representatives of government, the media, employers, citizens' advisory groups, and the public in order to advocate for persons with disabilities and enhance awareness of rehabilitation service programs;
- confers with directors of other agencies and related activities in order to enhance interagency cooperation and coordination of services to persons with disabilities; and
- responds to legislative inquiries, requests for information and testimony in order to provide information and MDOL position.

A similar examination of the role of the DVR Director and the position description indicated the following representative tasks are performed by the DVR Director:

- plans, organizes, develops administers and evaluates the day-to-day operations of general rehabilitation programs in order to ensure efficient and effective operations;
- develops, coordinates, implements and modifies programs, policies and procedures and client services;
- initiates, reviews, evaluates and explains changes in agency policies and rehabilitation services programs in order to ensure uniform understanding and efficient transition to new policies, program techniques and procedures;
- plans, develops and reviews program information and reporting systems in order to ensure accuracy and usefulness;
- coordinates and oversees budget preparation and implementation in order to apply budget adjustments and revisions and ensure sufficient funding for existing and proposed programs;
- reviews, evaluates, and monitors employee selection, appraisal, promotion, and training policies, procedures and techniques in order to ensure adequate qualified staffing; and
- confers with members of legislative committees, other government agencies, private agencies, and consumer groups in order to ensure understanding of present and proposed programs and associated funding.

RSA's review of the organizational structure of DVR resulted in the identification of the following observations and recommendations. The TA requested by DVR to enable it to carry out these recommendations is contained in Appendix A to this report titled "Agency Response."

Observations and Recommendations

5.A.1 Maine Statute Lacks Clarity and/or Consistency in VR Program Administration Responsibilities and Non-delegable Functions

Observation: The Maine statute lacks clarity and/or consistency regarding the responsible entities for administering the VR programs, creating the potential for confusion regarding which entity is to perform the non-delegable functions of the DSU.

- Title 26, Chapter 19, Subchapter 2, §1412-C of the Maine Revised Statutes establishes the Bureau of Rehabilitation Services, "which shall administer that group of rehabilitation services specifically related to the federal vocational rehabilitation programs." This creates the potential for the non-delegable responsibilities of the DSU director to be assumed by the BRS director.
- Section 1411-B establishes the "Rehabilitation Services Unit" as a "functional unit of rehabilitation services which is equal in administrative level and status with other major administrative units within the department." The chapter also contains sections establishing DBVI and the DBVI director position (§1418-A), the DDHH and the DDHH director position (§1413-E), and assigns administrative responsibility for those divisions to their respective directors. Consequently, §1418-A and §1411-B create a potential conflict regarding the assignment of responsibility for the administration of DBVI.
- Organizational history provided by BRS, DVR, and DBVI revealed that prior to the adoption of the 1995 revisions to the Maine statutes, Maine operated as a combined VR program under the Maine Department of Education. The statutory revisions were intended to establish the VR programs under the MDOL and to establish DBVI as a separate DSU equal in status to DVR.
- Through interviews and an examination of the relevant position description, the RSA review team found that the DVR director exercises the non-delegable functions of the DSU consistent with the requirements of the Rehabilitation Act of 1973, as amended. Nevertheless, the wording contained in Title 26, §1412-C, creates ambiguity by indicating that the BRS director holds administrative responsibility.

Recommendation 5.A.1: RSA recommends that DVR:

5.A.1.1 seek revision of the relevant sections of the statute to clearly delineate the role of DVR in exercising the administrative responsibility for the general VR program as required by the regulations found at 34 CFR §361.13(c).

5.A.2 Maine Statute Assigns DSU Responsibilities to the DSA

Observation: The Maine Statute assigns the determination of eligibility of individuals for rehabilitation and priority for services to the MDOL Commissioner.

- Title 26, Chapter 19, Subsection 2, §1411-D.8. of the Maine Revised Statutes states that the commissioner "[s]hall determine the eligibility of individuals for rehabilitation services or evaluation and vocational services and the priority for those services in accordance with rules established by the department." The federal regulations found at 34 CFR §361.13(c)(1), specify this responsibility as a non-delegable function of the DSU.

- RSA's review determined that these functions were not performed at the MDOL level but were instead properly performed at the DVR counselor level in a manner consistent with the regulations found at 34 CFR §361.41(a) specifying that eligibility and priority decisions must be made by qualified personnel within the DSU.

Recommendation 5.A.2: RSA recommends that DVR:

5.A.2.1 seek revision of the relevant sections of the statute to reconcile the language of the statute and the actual performance of the non-delegable functions by the DSU as required in the regulations found at 34 CFR 361.13(c)(1); and

5.A.2.2 seek revision of the relevant statute to remove the mandatory reference to the commissioner's responsibility for those required DSU functions.

Technical Assistance

RSA provided technical assistance to DVR related to this focus area during the course of its monitoring activities. Specifically, RSA provided TA on strategic planning, State Plan development and information regarding the non-delegable functions of the DSU director required by the regulations found at 34 CFR §361.13(c)(1), including:

- determination of eligibility;
- nature and scope of VR services;
- provision of VR services;
- case closure and the achievement of an employment outcome;
- policy formulation and implementation;
- allocation and expenditure of VR funds; and
- participation as a partner in the One-Stop service delivery system.

B. Transition Services and Employment Outcomes for Youth with Disabilities

The purpose of this focus area was to assess DVR's performance related to the provision of transition services to, and the employment outcomes achieved by, youth with disabilities and to determine compliance with pertinent federal statutory and regulatory requirements.

> Section 7(37) of the Rehabilitation Act defines "transition services" as a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community

> participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

In the course of implementing this focus area, RSA identified and assessed the variety of transition services provided in the state, including community-based work experiences and other in-school activities, and post-secondary education and training, as well as the strategies used to provide these services. RSA utilized five-year trend data to assess the degree to which youth with disabilities achieved quality employment with competitive wages. In addition, RSA gathered information related to the coordination of state and local resources through required agreements developed pursuant to the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) and the Rehabilitation Act, and communities of practice. RSA also gathered information regarding emerging practices initiated by the VR agency in the area of services to youth with disabilities, as well as technical assistance and continuing education needs of VR agency staff.

To implement this focus area, RSA reviewed:

- DVR's progress toward the implementation of recommendations and the resolution of findings related to the provision of transition services identified in the prior monitoring report from FY 20008 (see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures; and
- VR agency resources and collaborative efforts with other federal, state and local entities.

In support of its monitoring activities, RSA reviewed the following documents:

- the agreement between the VR agency and the state education agency (SEA); and
- VR policies and procedures for the provision of transition services.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed DVR relevant data from FY 2006 through FY 2010, describing:

- the number and percentage of transition-age youth who exited the VR program at various stages of the process;
- the amount of time these individuals were engaged in the various stages of the VR process, including eligibility determination, development of the individualized plan for employment (IPE) and the provision of services;
- the number and percentage of transition-age youth receiving services, including assessment, university and vocational training, rehabilitation technology and job placement; and

- the quantity, quality and types of employment outcomes achieved by transition-age youth.

RSA also compared the performance of DVR with peer agencies during the same period, as well as with national averages for other VR agencies.

As part of its review activities, RSA met with the following DSA and DSU staff and stakeholders to discuss the provision of services to youth with disabilities**:**

- the DVR administrator/director;
- DVR VR counselors and transition staff;
- the DVR transition coordinators serving as liaisons with the SEA and other agencies; and
- state and local school personnel, including special education teachers and guidance counselors.

RSA's review of transition services and employment outcomes achieved by youth with disabilities did not result in the identification of observations and recommendations.

Technical Assistance

The RSA review team provided TA to DVR in the area of transition services and employment outcomes for youth with disabilities while on-site in Maine.

RSA provided TA to DVR regarding the interagency agreement with the Maine Department of Education. The TA focused upon the inclusion of descriptions of the financial roles and responsibilities of each partner and the mechanism for resolving disagreements between the agencies.

RSA also provided TA regarding the development of IPEs for transition students. The focus of this assistance was the ongoing nature of the development of a vocational goal for transition-age youth, including assessment of rehabilitation needs, career exploration and work experience. RSA suggested the use of IPE amendments to refine a provisional or more global vocational goal rather than delaying the development of an initial plan in order to identify the "perfect" goal.

C. Fiscal Integrity of the Vocational Rehabilitation Program

The purpose of this focus area was to assess fiscal performance related to the VR program and to determine compliance with pertinent federal statutory and regulatory requirements, including OMB circulars. For purposes of the VR program, fiscal integrity is broadly defined as the proper and effective management of VR program funds to ensure that they are spent solely on allowable expenditures and activities. Through the implementation of this focus area, RSA reviewed: VR agency resource management; the management of match and maintenance of effort (MOE); internal and external monitoring and oversight; and allowable and allocable costs.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from FY 2006 thru FY 2010, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

Specifically, RSA engaged in the review of the following to ensure compliance with federal requirements:

- the FY 2008 monitoring report issued pursuant to Section 107 of the Rehabilitation Act (see Section 4 above for a report of the agency's progress toward implementation of recommendations and resolution of findings);
- A-133 audit findings and corrective actions;
- state/agency allotment/budget documents and annual fiscal reports; and
- grant award, match, MOE, and program income documentation.

In addition RSA reviewed the following as part of the monitoring process to ensure compliance:

- VR agency policies, procedures, and forms (e.g., monitoring, personnel certifications and personnel activity reports), as needed;
- internal agency fiscal reports and other fiscal supporting documentation, as needed; and
- VR agency cost benefits analysis reports.

RSA's review of the fiscal integrity of the VR program administered by DVR did not result in the identification of observations and recommendations.

Technical Assistance

RSA provided TA to DVR related to this focus area during the course of its monitoring activities. Specifically, RSA made a presentation to DVR fiscal staff regarding the reallotment process, MOE and match requirements. RSA staff provided TA regarding data collection and reporting based on DVR's federal financial reports SF-269/SF-425 submissions in the RSA-MIS as they compared to the SF-269/SF-425 reporting requirements.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that DVR is required to undertake. The TA requested by the agency to enable it to carry out the corrective actions is contained in Appendix A to this report titled "Agency Response." The full text of the legal requirements pertaining to each finding is contained in Appendix B.

DVR 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 DVR to develop the plan and undertake the corrective actions.

RSA reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of the Education Department General Administrative Regulations (EDGAR).

1. VR Representation on the State Workforce Investment Board

Legal Requirement:

- Workforce Investment Act (WIA) Requirements - 20 CFR 661.200(i)(3)

Finding:

The Maine Workforce Investment Act (WIA) Strategic Plan submitted to MDOL by the Maine Jobs Council (MJC) does not describe how the VR program is represented on the MJC and how the member of the State Board representing the VR program will effectively represent the interests, needs, and priorities of the VR program as required by 20 CFR 661.200(i)(3). The MJC is the body that serves as the statewide workforce investment board in Maine. This finding is based upon the information below.

- The DVR state director is not aware of a Maine Jobs Council (MJC) member that represents DVR on the council and is also not aware of provisions for a member to effectively represent the interests, needs and priorities of the program as required by 20 CFR 661.200 (i)(3).
- The MDOL strategic plan does not describe how the interests, needs and priorities of the VR program will be effectively represented by the commissioner of MDOL or another member of the MJC as required by 20 CFR 661.200(i)(3).

Corrective Action 1: DVR must:

1.1 consult with the DSA and the MJC to develop a description of how DVR interests, needs and priorities are to be effectively represented on the council;
1.2 include this description in the DVR State Plan for Titles I and VI, part B, attachment 4.11d, State's Strategies; and
1.3 include this description in the Maine State Plan required by the Workforce Investment Act.

2. Program Income Disbursement

Legal Requirement:

- EDGAR - 34 CFR 80.21(f)(2)

Finding:

DVR is not in compliance with 34 CFR 80.21(f)(2) that requires grantees to disburse program income prior to requesting additional cash payments. This means that DVR must disburse all program income prior to requesting a drawdown of additional federal VR funds. RSA reviewed DVR's SF-425 reporting for FY 2010 and found that the agency had unexpended program income available when additional cash payments were requested. As a result, DVR drew down additional federal VR funds to cover expenditures while program income remained available for disbursement. Table 6.1 below includes the program income data DVR reported on its FY 2010 SF-425 reports for the VR program.

Table 6.1
DVR FY 2010 SF-425 Program Income Reported

Fiscal Year	Quarter	[10l] Total Federal Program Income Earned	[10n] Federal Program Income Expended - Addition Alternative	[10o] Unexpended Federal Program Income (line l - line m or n)	[12e] Federal Program Income Transferred
2010	1	238,818	72,837	165,981	0
2010	2	315,660	0	315,660	0
2010	3	310,504	0	310,504	0
2010	4	780,794	0	780,794	0
2010	5	780,794	0	780,794	0
2010	6	780,794	0	780,794	0
2010	7	780,794	28,232	752,562	0

The data indicate that DVR maintained a significant amount of unexpended program income between the 4th and 7th quarters reported for FY 2010. To verify this finding, RSA monitoring staff compared the amount of funds drawdown by DVR, per the Department of Education's G5 Grant's Management System, with the amount of program income funds available for expenditure for FY 2010 (4th – 7th quarters). The results of the comparison clearly showed that DVR, on multiple occasions, drew down additional federal VR funds while there was a positive balance of undisbursed program income available.

Corrective Actions 2: DVR must:

2.1 cease drawing down federal VR funds prior to disbursing all available program income; and
2.2 provide a written assurance to RSA, within 10 days of the final monitoring report that it will disburse all program income before drawing down any federal VR funds as required by 34 CFR 80.21(f)(2).

3. Unallowable Costs

Legal Requirements:

- VR Program Regulations – 34 CFR 361.12
- EDGAR - 34 CFR 80.12(a); 34 CFR 80.20(a); 34 CFR 80.22(a); 34 CFR 80.40(a); 34 CFR 76.560(b)
- OMB Circulars - 2 CFR 225, Appendix A, C.1. & 3.a.

Finding:

As a recipient of federal funds, DVR must administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds and the proper collection and reporting of all federal funds (34 CFR 361.12 and 34 CFR 80.20(a)). DVR must ensure that federal funds are spent solely for allowable costs (34 CFR 80.22(a)) and in a manner consistent with the federal cost principles. Although indirect costs are generally allowable under the VR program, DVR must have an approved indirect cost rate agreement in place before it can charge indirect costs (34 CFR 76.560(b) and 2 CFR 225, Appendix A, paragraph C.3.d). Without such an agreement in place, DVR is not permitted to charge indirect costs to the VR program. Since DVR did not have an approved indirect cost rate, the indirect costs DVR reported charging against the VR program in FYs 2009 and 2010 are not allowable or allocable to the VR program.

DVR’s last approved indirect cost rate agreement covered a three-year period (7/2005-6/2008). However, for FY 2009, DVR reported charging $714,336 in indirect costs to the VR program. The agency did not have an approved indirect cost rate or cost allocation plan and therefore, the charges are unallowable. Table 6.2 below contains the indirect cost charges reported by DVR in FY 2010.

Table 6.2
DVR FY 2010 Indirect Cost Expenditures Charged to VR Program

Fiscal Year	Quarter	Base	Federal Share
2010	1	56,822	56,822
2010	2	163,381	163,381
2010	3	225,065	225,065
2010	4	0	114,018
2010	5	421,881	421,881
2010	6	421,881	421,881
2010	7	421,881	421,881
		Total	1,824,929

The amount entered for indirect costs in the 4th quarter report was less than the amount reported for the 3rd quarter. This indicates that DVR was not reporting a cumulative amount of indirect costs charged. Only the indirect costs charged for the quarter were reported on the SF-425. As a result, the amount of indirect costs charged would be the total of all the quarterly amounts reported for FY 2010 ($1,824,929). Since DVR did not have an approved indirect cost rate or cost allocation plan, these charges represent unallowable costs. It should also be noted that DVR's FY 2011 SF-425 report indicates that additional unallowable indirect costs were charged to the FY 2011 VR award.

Corrective Action 3: DVR must:

3.1 cease charging indirect costs to VR without an approved indirect cost rate or cost allocation plan approved by the cognizant agency;
3.2 submit a written assurance to RSA within 10 days after the final report is issued that only an approved indirect cost rate or cost allocation plan shall be used in charging the grant, as required by the federal cost principles at 2 CFR 225. In addition, DVR must assure that it will administer the program in a proper and efficient manner that ensures the proper expenditure and accounting of funds, as required by 34 CFR 361.12 and 34 CFR 80.12(a); and
3.3 submit revised SF-269 and SF-425 reports in accordance with an approved Corrective Action Plan.

4. Financial Reporting

Legal Requirements:

- VR Program Regulations - 34 CFR 361.12; 34 CFR 361.63(c)(2)
- EDGAR - 34 CFR 80.20(a); 34.CFR 80.25; 34 CFR 80.40

Finding:

DVR is not in compliance with 34 CFR 361.12 and 34 CFR 80.20(a) which require all recipients of federal funds to accurately report the financial results of all federally-assisted activities. VR grantees are required to submit accurate SF-269/SF-425 Federal Financial Reports (FFR). As part of the monitoring process, RSA staff reviewed the financial information entered into the RSA-MIS by DVR staff.

The following issue was noted in regard to table 6.1 included in Finding 2 above:

- The totals reported on the SF-425 are to be cumulative; however, the amount of program income reported as received on the 3rd quarter report ($310,504) clearly does not include the previous amounts of program income received ($554,478).

Program income is considered earned in the fiscal year in which the funds are actually received by the grantee (34 CFR 361.63; 34 CFR 80.25). Therefore, the amount of program income reported for a given FY should not change after the grantee submits its 4th quarter (September 30th) report for that fiscal year. A review of program income reported using SF-269s identified the following issues with regard to the amount of program income received:

- The FY 2006 fourth quarter SF-269 indicated that DVR earned $1, 455,574 in program income. The FY 2006 Final SF-269 reported this amount as $1,458,711.
- The FY 2007 fourth quarter SF-269 indicated that DVR earned $1,876,632 in program income. The FY 2007 Final SF-269 reported this amount as $951,003.
- The FY 2008 fourth quarter SF-269 indicated that DVR earned $917,174 in program income. The FY 2008 Final SF-269 reported this amount as $0.
- The FY 2009 fourth quarter SF-269 indicated that DVR earned $1,029,502 in program income. The FY 2009 Final SF-269 reported this amount as $1,159,332.

In addition, the following reporting issues were identified:

- DVR staff did not enter the required SF-269 indirect cost data for FY 2009. The reports did not include the type of indirect cost rate, the amount of the indirect cost base, or rate.

Corrective Action 4: DVR must:

4.1 cease submitting inaccurate federal financial reports, specifically, SF-269s and SF-425s;
4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will ensure the accuracy of future financial reports, including the reporting of program income on the SF-425 reports as required by 34 CFR 361.12 and 34 CFR 80.20; and
4.3 correct the SF-269 and SF-425 reporting issues identified above and any additional reporting issues that may be identified during the development and implementation of the Corrective Action Plan.

5. Internal Controls

Legal Requirements:

- VR Program Regulations - 34 CFR 361.3; 34 CFR 361.12; 34 CFR 361.40(a)
- EDGAR - 34 CFR 80.20(a); 34 CFR 80.40(a)
- OMB Circulars - 2 CFR 225, Appendix A, C.1. & 3.a.

Finding:

DVR is not in compliance with 34 CFR 361.12 and 34 CFR 80.20(a) because DVR does not utilize methods of administration to ensure the proper administration of the VR program and accurate accounting of VR funds, including the ability to track the expenditure of funds to the VR program.

RSA reviewed DVR's contracts with the State of Maine, Department of Labor, Bureau of Rehabilitative Services and Maine Medical Center Department of Vocational Services to expand the capacity of the Work Incentives Planning and Assistance (WIPA) program. The contracts included budgets that were submitted by Maine Medical Center and approved by DVR. The budgets did not provide sufficient details to ensure that costs billed under the categories were allowable VR costs.

The following issues were noted when reviewing the Maine Medical Center contract and invoices.

- The contract budget included a total of $40,370 in indirect costs. Indirect costs charged through a contract, may only be applied with an approved or established indirect cost rate. DVR must have supporting documentation to prove that the indirect costs are necessary, allowable and reasonable. Onsite, DVR staff provided a Medicare Cost Report as supporting documentation for the indirect cost charges. The budget sheets and the Medicare Cost Report, without additional documentation, are not sufficient to determine whether costs being charged are allowable or allocable to the VR program.
- Quarterly invoices submitted by Maine Medical Center include an amount, date, payment period and total amount due. The invoices include a description of the services as "Amount due for reimbursable costs incurred on the purchased services…" The invoices do not include a description of what services were provided during the payment period or a breakdown of the amount charged for those services. The information contained on the invoices is not sufficient for DVR to determine whether the services provided are allowable or allocable to the VR program.
- Invoices are billed and paid quarterly in equal amounts. At the end of the year, DVR receives a rebate check for any amount overpaid. The rebate checks clearly indicate that DVR may be paying for services that they are not receiving.

The examples listed above demonstrate that DVR cannot ensure it expends and accounts for VR grant funds in accordance with the laws and procedures for expending and accounting for VR grant funds as required by 34 CFR 80.20(a). Moreover, DVR cannot ensure its ability to trace the expenditure of VR funds to a level of expenditures adequate to establish that such funds have been spent in accordance with federal requirements, and, therefore, RSA finds that DVR has not complied with 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 5: DVR must:

5.1 cease using VR funds to pay unallowable costs or costs that lack the supporting documentation necessary to ensure that such costs are allowable;
5.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will ensure VR funds are expended only for allowable costs and ensure supporting documentation is maintained for VR expenditures; and
5.3 develop and implement policies and procedures for maintaining and verifying supporting documentation for VR expenditures (both incurred by DVR and its contractors), and ensuring that funds are not used in violation of restrictions and prohibitions or applicable statues, and that all program assets are maintained and accounted for, and used solely for authorized purposes.

6. Failure to Monitor Grant Activities

Legal Requirement:

- VR Program Regulations - 34 CFR 361.3; 34 CFR 361.12; 34 CFR 361.40(a)
- EDGAR - 34 CFR 80.20(a); 34 CFR 80.40(a)
- OMB Circulars - 2 CFR 225, Appendix A, C.1. & 3.a.

Finding:

DVR is not in compliance with 34 CFR 80.40(a) because it does not conduct monitoring activities of its contracts to ensure that grant-supported activities performed by the contractors comply with applicable federal requirements, and that performance goals are achieved.

As the recipient of federal funds, DVR is required to monitor and manage the daily operations of all grant-supported activities (34 CFR 80.40(a)). The agreement to purchase services, between the State of Maine, Department of Labor and Maine Medical Center, constitutes grant-supported activities and must be monitored by DVR to ensure that Maine Medical Center complies with all applicable federal requirements. DVR does not have monitoring procedures in place to monitor the services provided by Maine Medical Center to ensure that funds expended are for allowable services for applicants or eligible consumers of the VR program. DVR's lack of monitoring the activities under the contract, as required by 34 CFR 80.40(a), resulted in charging expenditures to the VR program that were not allowable, as discussed in Finding 5 above. Therefore, DVR has not complied with 34 CFR 80.40 and has not ensured that grant-supported activities conducted by the contractors comply with applicable federal requirements.

Corrective Action 6: DVR must:

6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will comply with 34 CFR 80.40(a) and monitor all grant supported activities to ensure compliance with applicable federal requirements and that performance goals are achieved;

6.2 develop and implement policies and procedures to monitor the activities and services of all contracts to ensure that services provided are allowable under the VR program; and

6.3 evaluate the contractor's performance against pre-established performance measures to ensure the contractor is providing quality services in a timely manner.

APPENDIX A: AGENCY RESPONSE

Section 4: Results of Prior Monitoring Activities

DVR requests additional technical assistance described below to enable it to carry out the following recommendations and/or compliance findings identified in the FY 2008 monitoring report.

Recommendations

1. Implementation of the Order of Selection
2. Dropout Rate
3. Office of Rehabilitation Services Information Services (ORSIS) system
4. Evaluation and Monitoring of CRPs

Additional Technical Assistance requested: None

Corrective Actions

1. Delay in the Development of the IPE

Additional Technical Assistance requested: None

Section 5: Focus Areas

A. Organizational Structure

Observation 5.A.1: Maine Statute Lacks Clarity and/or Consistency in VR Program Administration Responsibilities and Non-delegable Functions

Recommendation 5.A.1: RSA recommends that DVR:

5.A.1.1 seek revision of the relevant sections of the statute to delineate the role of the DVR in exercising the administrative responsibility for the general VR program as required by the regulations found at 34 CFR 361.13(c).

Agency Response: The agency recognizes the concerns raised and is planning to address and work on these recommendations internally.

Technical Assistance: DVR does not request technical assistance

Observation 5.A.2: **Maine Statute Assigns DSU Responsibilities to the DSA**

Recommendation 5.A.2: RSA recommends that DVR:

5.A.2.1 seek revision of the relevant sections of the statute to reconcile the language of the statute and the actual performance of the non-delegable functions by the DSU as required in the regulations found at 34 CFR 361.13(c)(1); and to remove the mandatory reference to the commissioner's responsibility for those required DSU functions

Agency Response: The agency recognizes the concerns raised and is planning to address and work on these recommendations internally.

Technical Assistance: DVR does not request technical assistance

Section 6: Compliance Findings and Corrective Actions

1. VR Representation on the State Workforce Investment Board

Corrective Action 1: DVR must:

1.1 consult with the DSA and the MJC to develop a description of how DVR interests, needs and priorities are effectively represented on the council;
1.2 include this description in the DVR State Plan for titles I and VI, part B attachment 4.11d, State's Strategies; and
1.3 include this description in the ME state plan required by the Workforce Investment Act.

Agency Response: The State Workforce Investment Board in Maine has been undergoing some changes with the arrival of a new gubernatorial administration. DVR just recently received assurances that Maine's VR programs will have a designated seat on this board beginning with the November, 2011 meeting of this new board.

RSA Response: RSA maintains the finding based on the facts presented in the report. DVR must undertake the corrective actions specified therein to resolve the finding and ensure that a comprehensive description of how DVR will be represented on the council and include this description in the 2013 VR state plan. RSA will be available to provide technical assistance as DVR develops its state plan.

Technical Assistance: DVR does not request technical assistance.

2. Program Income Disbursement

Corrective Action 2: DVR must:

2.1 cease drawing down federal VR funds prior to disbursing all available program income; and

2.2 provide a written assurance to RSA, within 10 days of the final monitoring report, that it will disburse all program income before drawing down any federal VR funds as required by 34 CFR 80.21(f)(2).

Agency Response: Finding 2: Program Income Disbursement

Maine has been following the regulation at 31 CFR 361.64 that states *"any program income received during a fiscal year that is not obligated by the State by the beginning of the succeeding fiscal year remain available for obligation by the State during that succeeding fiscal year".*

In addition, the electronic reporting computer system provides an pop-up message that reads in part "If reporting for the fiscal year end, the amount of program income reported here is available for obligation and expenditure during the subsequent Federal fiscal year" when completing a SF-269 expenditure report.

The State was not notified that this process was no longer going to be allowed when RSA began using the SF-425 expenditure report.

Maine received a copy of Commissioner Rutledge's August 2011 response to the Council of State Administrators of Vocational Rehabilitation. Since then, we have reduced our federal draw by the amount of the program income received. We will continue this process going forward.

The Bureau of Rehabilitation Services is currently reviewing the reporting changes needed for program income received in federal fiscal years 2010 and 2011. We expect that all program income not yet expended will be reported as expended on the reports due on March 31, 2012. We do not believe that corrective action can be fully implemented in time for the September 30, 2011 reports.

RSA Response: The regulation at 34 CFR 361.64 does not negate the EDGAR requirement that program income be disbursed prior to drawing down federal funds. In a situation where program income is received in September (last month of the fiscal year) in the year that funds are awarded, it is possible that the program income may exceed expenditures that the agency incurs through that month. In this instance, the program income can be carried over into the second year (regardless of whether or not federal funds have been carried over during that same time period), and are therefore available for obligation in year two; however, this is not in conflict with regulations at 34 CFR 80.21(f)(2) that the program income must be disbursed prior to drawing down additional federal funds. The finding stands as it was originally written. The required assurance was not submitted with this response. As indicated in the corrective action, the assurance must be submitted within 10 days of the issuance of the final report. RSA is available to provide TA on complying with this requirement.

Technical Assistance: DVR does not request technical assistance.

3. Unallowable Costs

Corrective Action 3: DVR must:

3.1 cease charging indirect costs to VR without an approved indirect cost rate or cost allocation plan approved by the cognizant agency;

3.2 submit a written assurance to RSA within 10 days after the final report is issued that only an approved indirect cost rate or cost allocation plan shall be used in charging the grant, as required by the federal cost principles at 2 CFR 225. In addition, DVR must assure that it will administer the program in a proper and efficient manner that ensures the proper expenditure and accounting of funds, as required by 34 CFR 361.12 and 34 CFR 80.12(a); and

3.3 submit revised SF-269 and SF-425 reports in accordance with an approved Corrective Action Plan.

Agency Response: The State of Maine's Department of Labor is still awaiting the federal Department of Labor's approval for the indirect cost rate proposal for state fiscal years 2009, 2010, 2011 and 2012. We have been working with the federal Department of Labor for months on this issue.

The State of Maine is unable to submit revised reports until the indirect cost rates are approved as there is no general fund allotment available to pay for these indirect costs.

RSA Response: RSA maintains the finding based on the facts presented in the report. DVR must undertake the corrective actions specified therein to resolve the finding and cease charging indirect costs to VR without an approved indirect cost rate or cost allocation plan approved by the cognizant agency. The required assurance was not submitted with this response. As indicated in the corrective action, the assurance must be submitted within 10 days of the issuance of the final report.

Technical Assistance: DVR requests technical assistance.

4. Financial Reporting

Corrective Action 4: DVR must:

4.1 cease submitting inaccurate federal financial reports, specifically, SF-269s and SF-425s;

4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will ensure the accuracy of future financial reports, including the reporting of program income on the SF-425 reports as required by 34 CFR 361.12 and 34 CFR 80.20; and

4.3 correct the SF-269 and SF-425 reporting issues identified above and any additional reporting issues that may be identified during the development and implementation of the Corrective Action Plan.

Agency Response: Due to staff turnover, the expenditure reports were not consistent when reporting program income. We will correct the program income portion of all reports listed by the end of October 2011. The expenditure reports as of March 31, 2012 and going forward will be accurate.

RSA Response: The finding stands as written. The required assurance was not submitted with this response. As indicated in the corrective action, the assurance must be submitted within 10 days of the issuance of the final report.

Technical Assistance: DVR does not request technical assistance.

5. Internal Controls

Corrective Action 5: DVR must:

5.1 cease using VR funds to pay unallowable costs or costs that lack the supporting documentation necessary to ensure that such costs are allowable;
5.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will ensure VR funds are expended only for allowable costs and ensure supporting documentation is maintained for VR expenditures; and
5.3 develop and implement policies and procedures for maintaining and verifying supporting documentation for VR expenditures (both incurred by DVR and its contractors), and ensuring that funds are not used in violation of restrictions and prohibitions or applicable statues, and that all program assets are maintained and accounted for, and used solely for authorized purposes.

Agency Response: The agency notes that DVR internal controls are in compliance with the purchasing regulations of the State of Maine. It further notes that annual Single State Audits and the 2008 RSA Monitoring found no compliance issues in this area, so DVR has operated with the understanding that internal controls were sufficient for the expenditure of federal funds.

DVR will immediately require vendors to provide itemized invoices that describe in sufficient detail the contractual expenditures for DVR review to ensure that they are reasonable, necessary and allowable as VR costs. DVR will work with its vendors to ensure that documentation is compiled and available that will serve as verification of these expenditures.

In circumstances where a vendor has negotiated rates with the State of Maine, DVR will review how the rates were established and what is included to ensure that the costs are necessary, allowable and reasonable. If charges are included that are not allowable by the VR program or reasonable procedures for maintaining and verifying supporting documentation for VR expenditures cannot be established, DVR will establish a fee-for-service rate, so that all costs funded by DVR are allowable and verifiable.

RSA Response: RSA appreciates the steps that the agency will take to address this finding, specifically that DVR, "…will require vendors to provide itemized invoices that describe in sufficient detail the contractual expenditures for [its] review to ensure that they are reasonable, necessary and allowable as VR costs." However, in response to the draft finding, DVR did not provide any additional information or supporting documentation that would necessitate changing the finding. Therefore, the finding remains unchanged and DVR is required to comply with all corrective actions associated with the finding. The required assurance was not submitted with this response. As indicated in the corrective action, the assurance must be submitted within 10 days of the issuance of the final report.

Technical Assistance: DVR requests technical assistance.

6. Failure to Monitor Grant Activities

Corrective Action 6: DVR must:

6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will comply with 34 CFR 80.40(a) and monitor all grant supported activities to ensure compliance with applicable federal requirements and that performance goals are achieved;
6.2 develop and implement policies and procedures to monitor the activities and services of all contracts to ensure that services provided are allowable under the VR program; and
6.3 evaluate the contractor's performance against pre-established performance measures to ensure the contractor is providing quality services in a timely manner.

Agency Response: DVR receives and reviews vendor reports of performance with pre-established measures as outlined in each contract before authorizing payment for services rendered. The agency also convenes at least quarterly meetings as part of its ongoing monitoring process to ensure that quality services are being provided in a timely manner to VR applicants or eligible clients.

DVR will work with its vendors to establish tighter monitoring procedures to ensure that funds expended are allowable under the VR program.

RSA Response: RSA appreciates that DVR will establish tighter monitoring procedures. However, to ensure fiscal accountability for grant activities charged to VR, it is important to use pre-established performance measures to ensure that services have actually been rendered. RSA considers DVR's acknowledgement of refunds received, at the conclusion of a grant period, to be an indication that payments are being authorized for services not rendered. In response to the draft finding, DVR did not submit any additional information or supporting documentation that would necessitate changing the finding. Therefore, the finding remains unchanged and DVR is required to comply with all corrective actions associated with the finding. The required assurance was not submitted with this response. As indicated in the corrective action, the assurance must be submitted within 10 days of the issuance of the final report.

Technical Assistance: DVR does not request technical assistance.

APPENDIX B: LEGAL REQUIREMENTS

This Appendix contains the full text of each legal requirement cited in Section 6 of this report.

Workforce Investment Act

20 CFR 661.200(i)(3) What is the State Workforce Investment Board?

(i) For the programs and activities carried out by One-Stop partners, as described in WIA section 121(b) and 20 CFR 662.200 and 662.210, the State Board must include:

. . .

(3) If the director of the designated State unit, as defined in section 7(8)(B) of the Rehabilitation Act, does not represent the State Vocational Rehabilitation Services program (VR program) on the State Board, then the State must describe in its State Plan how the member of the State Board representing the VR program will effectively represent the interests, needs, and priorities of the VR program and how the employment needs of individuals with disabilities in the State will be addressed.

VR Program Regulations

34 CFR 361.3

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

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 361.40(a)

(a) The State plan must assure that the designated State agency will submit reports, including reports required under sections 13, 14, and 101(a)(10) of the Act-

(1) In the form and level of detail and at the time required by the Secretary regarding applicants for and eligible individuals receiving services under this part; and

(2) In a manner that provides a complete count (other than the information obtained through sampling consistent with section 101(a)(10)(E) of the Act) of the applicants and eligible individuals to-

(i) Permit the greatest possible cross-classification of data; and

(ii) Protect the confidentiality of the identity of each individual.

34 CFR 361.63(c)(2)

(c) *Use of program income.* (1) Except as provided in paragraph (c)(2) of this section, program income, whenever earned, must be used for the provision of vocational rehabilitation services and the administration of the State plan. Program income is considered earned when it is received.

(2) Payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes may also be used to carry out programs under part B of Title I of the Act (client assistance), part B of Title VI of the Act (supported employment), and Title VII of the Act (independent living).

Education Department General Administrative Regulations (EDGAR)

34 CFR 76.560(b)

A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. to obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement.

34 CFR 80.12(a)

(a) A grantee or subgrantee may be considered “high risk” if an awarding agency determines that a grantee or subgrantee:

(1) Has a history of unsatisfactory performance, or

(2) Is not financially stable, or

(3) Has a management system which does not meet the management standards set forth in this part, or

(4) Has not conformed to terms and conditions of previous awards, or

(5) Is otherwise not responsible; and if the awarding agency determines that an award will be made, special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award.

34 CFR 80.20(a)

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

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

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

34 CFR 80.21(f)(2)

Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

34 CFR 80.22(a)

Limitation on use of funds. Grant funds may be used only for: (1) the allowable cost of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and (2) reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or the subgrantee.

34 CFR 80.25

(a) *General.* Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.

(b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.

(c) *Cost of generating program income.* If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.

(d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues are specifically identified in the grant agreement or Federal agency regulations as program income.

(e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See §80.34.)

(f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§80.31 and 80.32.

(g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.

(1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.

(2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.

(3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.

(h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

34 CFR 80.40(a)

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

OMB Circulars

2 CFR part 225, Appendix A, C.1. & 3.a.

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…

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

…

3. Allocable costs.

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