

**FISCAL YEAR 2011
MONITORING REPORT
ON THE
PENNSYLVANIA OFFICE OF
VOCATIONAL REHABILITATION
PROGRAM**



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

AUGUST 8, 2011

TABLE OF CONTENTS

	Page
Section 1: Executive Summary	2
Section 2: Performance Analysis	6
Section 3: Emerging Practices	9
Section 4: Results of Prior Monitoring Activities.....	11
Section 5: Focus Areas.....	15
A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU)	15
B. Transition Services and Employment Outcomes for Youth with Disabilities	19
C. Fiscal Integrity of the Vocational Rehabilitation Program	23
Section 6: Compliance Findings and Corrective Actions	26
Appendix A: Agency Response	34
Appendix B: Legal Requirements.....	41

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 Pennsylvania Office of Vocational Rehabilitation (OVR) 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 (TA) 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 May 23, 2011 through May 27, 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 OVR, the State Rehabilitation Council (SRC), the Technical Assistance and Continuing Education (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.

- Transition -- Project Promoting Academic Success (Project PAS): OVR implemented Project PAS which provides a one-credit college course offered to students with disabilities in their junior or senior year of high school to help them determine if post-secondary education is an appropriate goal.
- Transition -- Summer Academy for Students who are Blind or Visually Impaired: OVR implemented a two-week summer academy for high school transition students who are blind or visually impaired to build on their current skills and independence in pursuit of possible college enrollment.
- Quality Assurance -- Commonwealth Workforce Development System (CWDS): OVR implemented an updated case management system to provide bureau directors and Regional Managers with access to reports to provide managerial support for decision-making, goal setting, and quality assurance (QA) activities.

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

Summary of Observations

RSA's review of OVR 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

- State Board of Vocational Rehabilitation (SBVR) Roles and Responsibilities: There is a lack of clarity regarding the roles and responsibilities of the SBVR.
- OVR Supervision at One-Stop Career Centers, known as CareerLinks: The MOU between OVR and its One-Stop partners incorporates a reference that OVR staff members at the One-Stop location are under the functional supervision of the CareerLink Administrator.
- Service Provision to Individuals Not Applying For or Receiving OVR Services: OVR maintains an agency resource document on OVR's participation in the One-Stop system that is out-of-date and contains inaccurate information.

Transition Services and Employment Outcomes for Youth with Disabilities

- OVR Transition Resources: Several internal agency resources are not being updated and utilized by different levels of the agency to facilitate systemic internal collaboration on transition service delivery.

Fiscal Integrity of the VR Program

- Fiscal Planning: OVR has not developed a sufficient long-range financial planning process that is linked to strategic programmatic activities.

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 OVR must undertake to bring itself into compliance with pertinent legal requirements are contained in Section 6 of this report.

- DSU Participation on the Local Workforce Investment Boards (LWIBs): The representation of OVR on the LWIB would cease upon the expiration of the current term.
- Program Income: OVR does not properly track and report program income through required financial status reports.
- Monitoring Grant Activities: OVR does not have procedures in place to monitor the grant-supported services provided through its letters of understanding (LOUs), its oversight of its comprehensive rehabilitation center, and its coordination with its One-Stop partners.
- Assigning Personnel Costs – VR Program: OVR uses VR funds for personnel costs that are incurred in the administration of the Independent Living (IL) Part B program, the Older Individuals Who Are Blind (OIB) program, and non-federal programs.
- Maintenance of Effort: OVR uses non-federal funds for a fiscal year at a level not equal to the non-federal expenditures from the fiscal year two years prior.
- Proposal Costs -- Not Allowable as Direct Cost: OVR charges staff time to proposal costs, i.e., grant proposals, as direct costs to the VR program.

Development of the Technical Assistance Plan

RSA will collaborate closely with OVR and Region III TACE to develop a plan to address the TA needs identified by OVR in Appendix A of this report. RSA, OVR and Region III 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 TA and establish initial timeframes for the provision of the assistance. RSA, OVR and Region III 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 Charles Sadler (TA Unit), Craig McManus (Fiscal Unit), David Jones (VR Unit), Christy Cavataio (VR Unit), Julya Doyle (Data Unit), Jean Yan (Data Unit), and Deb Cotter (IL Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

Acknowledgements

RSA wishes to express appreciation to the representatives of OVR and the SBVR for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the Pennsylvania Department of Labor and Industry, 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 programmatic data contained in Table 2.1 and is intended to serve as a broad overview of the VR program administered by OVR. 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 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 OVR open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. OVR 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
OVR Program Performance Data for FY 2006 through FY 2010**

Program Performance Data for FY 2006 – FY 2010								
Pennsylvania Office of Vocational Rehabilitation - Dept of Labor and Industry		2006	2007	2008	2009	2010	Change from 2006 to 2010	All Combined Agencies 2010
TOTAL CASES CLOSED	Number	27,973	27,059	21,935	23,352	25,061	-2,912	281,286
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	-10.4%	100.0%
Exited as an applicant	Number	2,986	2,416	2,279	3,044	3,563	577	47,487
	Percent	10.7%	8.9%	10.4%	13.0%	14.2%	19.3%	16.9%
Exited during or after trial work experience/extended employment	Number	182	190	106	132	173	-9	1,708
	Percent	0.7%	0.7%	0.5%	0.6%	0.7%	-4.9%	0.6%
TOTAL NOT DETERMINED ELIGIBLE	Number	3,168	2,606	2,385	3,176	3,736	568	49,195
	Percent	11.3%	9.6%	10.9%	13.6%	14.9%	17.9%	17.5%
Exited without employment outcome after signed IPE	Number	92	64	34	72	33	-59	5,824
	Percent	0.3%	0.2%	0.2%	0.3%	0.1%	-64.1%	2.1%
Exited from order of selection waiting list	Number	1,637	1,622	1,111	989	276	-1,361	1,390
	Percent	5.9%	6.0%	5.1%	4.2%	1.1%	-83.1%	0.5%
Exited without employment after eligibility	Number	4,116	3,521	2,656	2,750	3,687	-429	68,696
	Percent	14.7%	13.0%	12.1%	11.8%	14.7%	-10.4%	24.4%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	5,845	5,207	3,801	3,811	3,996	-1,849	75,910
	Percent	20.9%	19.2%	17.3%	16.3%	15.9%	-31.6%	27.0%
Exited with employment	Number	10,995	11,228	9,221	9,305	9,460	-1,535	78,860
	Percent	39.3%	41.5%	42.0%	39.8%	37.7%	-14.0%	28.0%
Exited without employment	Number	7,965	8,018	6,528	7,060	7,869	-96	77,321
	Percent	28.5%	29.6%	29.8%	30.2%	31.4%	-1.2%	27.5%

Program Performance Data for FY 2006 – FY 2010								
Pennsylvania Office of Vocational Rehabilitation - Dept of Labor and Industry		2006	2007	2008	2009	2010	Change from 2006 to 2010	All Combined Agencies 2010
	TOTAL RECEIVING SERVICES	Number	18,960	19,246	15,749	16,365	17,329	-1,631
Percent		67.8%	71.1%	71.8%	70.1%	69.1%	-8.6%	55.5%
EMPLOYMENT RATE		57.99%	58.34%	58.55%	56.86%	54.59%		50.49%
Transition aged youth closed	Number	9,170	8,987	7,613	8,168	9,027	-143	100,116
	Percent	32.8%	33.2%	34.7%	35.0%	36.0%	-1.6%	35.6%
Transition aged youth employment outcomes	Number	3,657	3,880	3,266	3,328	3,317	-340	27,745
	Percent	33.3%	34.6%	35.4%	35.8%	35.1%	-9.3%	35.2%
Competitive employment outcomes	Number	10,626	10,864	8,145	8,544	8,665	-1,961	73,995
	Percent	96.6%	96.8%	88.3%	91.8%	91.6%	-18.5%	93.8%
Supported employment outcomes	Number	385	349	270	261	261	-124	7,004
	Percent	3.5%	3.1%	2.9%	2.8%	2.8%	-32.2%	8.9%
Average hourly wage for competitive employment outcomes	Average	\$10.34	\$10.65	\$11.80	\$11.55	\$12.10		\$11.33
Average hours worked for competitive employment outcomes	Average	33.1	33.1	33.3	32.5	32.4		31.4
Competitive employment outcomes at 35 or more hours per week	Number	6,580	6,748	5,122	5,000	5,035	-1,545	38,784
	Percent	59.8%	60.1%	55.5%	53.7%	53.2%	-23.5%	49.2%
Employment outcomes meeting SGA	Number	7,699	7,749	6,281	6,100	6,298	-1,401	48,900
	Percent	70.0%	69.0%	68.1%	65.6%	66.6%	-18.2%	62.0%
Employment outcomes with employer-provided medical insurance	Number	3,705	3,727	908	907	1,140	-2,565	18,791
	Percent	33.7%	33.2%	9.8%	9.7%	12.1%	-69.2%	23.8%

VR Performance Trends

Positive Trends

Despite a significant economic decline statewide during the time of national recession, OVR's overall performance in serving individuals with disabilities remained generally consistent during FY 2006 through FY 2010, with a decline of 10.4 percent, as demonstrated by the total number of cases closed. In FY 2010, the total number of individuals receiving services was 17,239, of which 37.7 percent exited with employment outcomes in comparison to the national average of 28.0 percent for combined VR agencies. OVR maintained a 40.0 percent average of individuals exiting with employment outcomes over the five-year cycle.

While OVR's employment rate, (the ratio of those individuals who received services under an individualized plan for employment (IPE) who exited with employment compared to those who exited without employment), decreased slightly from 58.0 percent to 55.6 percent during the

five-year cycle, OVR still exceeds the 50.5 percent national average for combined VR agencies. In addition, the overall quality of employment outcomes has been slightly higher than that of combined agencies nationally with respect to quality indicators including hourly wage, average hours worked, and employment outcomes meeting significant gainful activity (SGA). The average hourly wage was \$12.10 in FY 2010 compared to the national average of \$11.33; the average hours worked for competitive employment outcomes was 32.4 hours compared to the national average of 31.4 hours; and the average of employment outcomes meeting SGA was 66.6 percent compared to the national average of 62.0 percent in FY 2010.

The total number of individuals who exited after eligibility but prior to receiving services declined 31.6 percent from 5,845 individuals in FY 2006 to 3,996 in FY 2010. In FY 2010, 15.9 percent exited the program in this manner compared to the national average of 27.0 percent for combined VR agencies. This decline has been consistent across different closure categories for those individuals who exited the VR program. For those individuals who exited without employment outcomes after a signed IPE, there was a 64.1 percent decrease from 92 to 22 individuals. For those individuals who exited from the OOS waiting list, there was an 83.1 percent decrease from 1,637 to 276 individuals. For those who exited without employment after eligibility, there was a 31.6 percent decrease from 4,116 to 3,687 individuals. Overall, after a VR consumer is determined eligible for services, OVR improved its performance in maintaining the individual in service delivery status.

Trends Indicating Potential Risk to the Performance of the VR Program

The total number of individuals receiving services from OVR declined 8.6 percent from 18,960 in FY 2006 to 17,329 in FY 2010. While more VR consumers are staying in service delivery status after the eligibility determination, there has been a 19.3 percent increase in the number of individuals who exited as applicants over the five-year period from 2,986 in FY 2006 to 3,563 in FY 2010.

During the FY 2011 monitoring, RSA provided TA on coding issues to ensure accurate data reporting. As a result of the TA, OVR confirmed and subsequently corrected a coding error related to the decrease in the employment outcomes with employer-provided medical insurance from 33.2 percent in FY 2007 to 9.8 percent in FY 2008.

In the area of SE, OVR requested TA regarding its performance in comparison to the national combined agency average. In this area, OVR's performance decreased from 3.5 percent for all employment outcomes in FY 2006 to 2.8 percent in FY 2010, compared to the national average of 8.9 for combined VR agencies in FY 2010.

While those individuals who exited with employment outcomes in FY 2010 is 9.7 percent higher than that for combined VR agencies, there has been a 14 percent decrease since FY 2006 from 10,995 to 9,460 individuals in FY 2010. During that same period, the number of competitive employment outcomes decreased 18.5 percent from 10,626 in FY 2006 to 8,665 in FY 2010.

SECTION 3: EMERGING PRACTICES

While conducting the monitoring of the VR program, the review team collaborated with the OVR, the SRC, the 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.

1. Transition -- Project Promoting Academic Success (Project PAS)

OVR implemented Project PAS, a program that provides a one-credit college course offered to students with disabilities in their junior or senior year of high school to help them determine if post-secondary education is an appropriate goal. This course is offered on a college campus to maximize the student's experience in the post-secondary education environment. The class meets two hours weekly over a period of eight weeks. The curriculum described below.

- Week 1: Setting the Stage - Differences Between High School, Work, and College
- Week 2: Active Learning
- Week 3: Learning Styles
- Week 4: Disability Law
- Week 5: Assistive Technology
- Week 6: Overview of Reading and Study Skills
- Week 7: Evaluating Learning and Progress
- Week 8: Problem Solving and Decision-Making

Beyond providing the student with the opportunity to experience a post-secondary education environment before leaving high school, Project PAS also provides the student with the knowledge and resources to be successful in post-secondary education upon pursuit of the IPE

goal. OVR has found this program to be a cost-effective measure to assess a student's probability of success, in contrast to sponsoring a student who may not be prepared for post-secondary education on a full-time basis. Currently, Project PAS includes 13 post-secondary educational institutions with a total of 23 sites. OVR has exceeded its goal to replicate Project PAS at 20 sites throughout the Commonwealth.

2. Transition -- Summer Academy for Students who are Blind or Visually Impaired

OVR implemented a two-week summer academy for high school students who are blind or visually impaired to build on their current skills and independence in pursuit of possible college enrollment. The experience is available to residents of Pennsylvania who are current consumers of the OVR Bureau of Blindness and Visual Services. Students are housed at OVR's comprehensive rehabilitation center with daily living skills offered in the following focus areas: note-taking, travel, self-advocacy, networking techniques, career awareness, social skills, and enhancing access technology skills. During the summer of 2010, 18 individuals between the ages of 16 to 20 participated. A self-assessment has been administered to the students at the beginning and end of the summer program with results demonstrating improvements by students in the different focus areas.

3. Quality Assurance -- Commonwealth Workforce Development System (CWDS)

OVR's current custom-designed case management system, CWDS, has enhanced the agency's capacity to generate timely reports, including both standard and ad hoc reports that are used by management to monitor the VR program. The comprehensive system is used by front-line staff for case management functions and for immediate access to job information and services and has improved capacity to provide relevant data to the SRC and the Pennsylvania state legislators. The system facilitates the sharing of relevant information with partner agencies, including the Department of Labor and Industry's (DLI) Bureau of Workforce Development Partnership and the Department of Public Welfare's Bureau of Employment and Training Programs; thus, strengthening these partnerships through enhanced communication.

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

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 OVR agreed to address during the prior monitoring cycle in FY 2007 and the resolution of findings from that review. The additional TA requested by the agency to enable it to implement these prior recommendations and to resolve any outstanding compliance findings is contained in Appendix A of this report titled “Agency Response.”

Recommendations

In response to RSA’s monitoring report dated September 7, 2007, for FY 2007, OVR agreed to implement the recommendations below. A summary of the agency’s progress toward implementation of each recommendation appears below after each recommendation.

1. Transition-Age Youths

Recommendation: RSA recommends that OVR:

1.1 hire a new transition coordinator by October 1, 2007 to continue and enhance effective collaborative relationships with state and federal entities serving youths, and family and student organizations;

Status: In March 2008, OVR hired a new statewide transition coordinator who has represented OVR in the Pennsylvania Community of Practice on Transition and implemented a five-year model demonstration grant from RSA.

1.2 develop and implement common data elements with collaborating partners to enhance tracking and reporting capabilities; and

Status: OVR is a member of the Pennsylvania Statewide Leadership Team on Transition and is continuing ongoing efforts to improve data collection and tracking of common data elements with collaborating partners. The primary challenge for OVR has been to identify mechanisms within a system of different data systems among partners. OVR’s transition aggregate data continues to be shared with partners when requested.

1.3 analyze data to assess impact of collaborative activities on outcomes.

Status: Because common data elements have not been established by the Pennsylvania Statewide Leadership Team, OVR is not able to assess the impact of the outcomes from the collaborative activities. Nevertheless, OVR has been successful in analyzing data to assess outcomes through its partnership with Project Search and Project PAS.

2. Individuals Who are Blind or Visually Impaired

Recommendation: RSA recommends that OVR:

2.1 focus counselors on providing services to achieve employment outcomes;

Status: The Bureau of Blindness and Visual Services (BBVS) continues to implement steps to reduce the number of homemaker closures and redirect those placements into the workforce. Guidance has been provided to VR counselors through in-service training on employer services and placement techniques. OVR reports that the number of homemaker closures decreased from 85 individuals in FY 2008 to 54 individuals in FY 2010.

2.2 establish one new Business Enterprise Program (BEP) location in FY 2008, and two new BEP locations in FY 2009;

Status: By FY 2010, BEP established five new BEP locations. BEP was able to fully staff all of these locations to include seven new program participants and one program reinstatement.

2.3 provide initial, advanced, and upward mobility training to 10 BEP managers in FY 2008, and 15 BEP managers in FY 2009; and

Status: OVR provided a series of training to include bi-annual Serv-Safe Instruction, monthly report training, and vending machine training. Additionally, BEP Facility Managers had opportunities to attend training outside of OVR to include the BLAST National Conference and Randolph Sheppard Training.

2.4 enhance BEP training at Hiram G. Andrews Center (HGAC) to develop BEP facility managers for new locations and upward mobility.

Status: In FY 2009, a workforce group was established to review and improve HGAC training initiatives for new BEP Facility Managers. The HGAC training facility has been upgraded with support from American Recovery and Recovery Act stimulus funding.

3. Quality Improvement

Recommendation: RSA recommends that OVR:

3.1 identify data and capacities available within the new CWDS that can be used to assess agency performance and support continuous improvement of service delivery;

Status: Currently, OVR Managers have improved access to standard reports to assist them with decision-making, goal setting and QA activities. For district office tracking, one report entitled "Budget Summary Report for District" lists the total number of cases and the average number of months in each status, including current fiscal year expenses and unencumbered expenses (see specific details related to CWDS in Section 3 above).

3.2 hire two program analysts in FY 2008;

Status: OVR hired two additional analysts in FY 2008.

3.3 develop key indicators, performance measures and reports by September 30, 2008; and

Status: The new CWDS allows OVR to view standard reports for a wide array of data to support QA activities. In addition, ad hoc reports can be created to query data that is unavailable through standard reports. Currently, OVR program and fiscal staff members do not meet jointly to examine trends in agency performance.

3.4 implement improvement recommendations resulting from analysis of performance data by September 30, 2008.

Status: OVR reports utilization of data generated from CWDS to inform the SBVR and executive staff in the development of goals and objectives for program improvement in its annual State Plan submission. During the on-site review, RSA observed continuing challenges in OVR's capacity to use data in program evaluation and in developing data-driven goals and objectives. One specific challenge relates to OVR's management of the OOS. For example, the bureau director of the Bureau of Vocational Rehabilitation Services (BVRS) does not receive periodic CWDS reports that contain information to support planning initiatives to better serve individuals on the OOS waiting list. The sharing of regional and statewide trends in service-delivery patterns and expenditures will ensure more informed decision-making on the allocation of resources as to whether to open or close OOS categories.

4. Consumer Involvement

Recommendation: RSA recommends that OVR:

4.1 access capacity building training for Citizens Advisory Councils (CACs) and/or alternative community advocates to improve their effectiveness in providing input into the VR program; and

Status: OVR has an extensive statewide network of stakeholders affiliated with the district offices to supplement input from the SBVR and the SRC. OVR bureau directors stated that its internal practice for all policy revisions requires the active participation of stakeholders on workgroups before presentation to the SBVR for review and approval. The SRC has reached out to the CACs for input through conference calls. According to OVR staff members and stakeholders, there is a great deal of inconsistency statewide in terms of the ability of the district offices, the SRCs and the CACs to interact in a positive manner.

4.2 develop and implement strategies to increase participation on public meetings.

Status: OVR expanded the public meeting times to include evening hours to capture input from those individuals previously unable to attend meetings during the work day.

Compliance Findings and Corrective Actions

As a result of the monitoring conducted during FY 2007, OVR developed a corrective action plan (CAP) that included the steps OVR must take to resolve the compliance findings identified in the monitoring report dated September 7, 2007, 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 OVR's progress toward the resolution of each finding appears below.

Through the implementation of the CAP, OVR successfully resolved compliance findings in the following programmatic and fiscal area:

1. State Funded VR Program

During RSA's FY 2007 on-site review, OVR was found to be operating a VR service delivery program, separate from the Title I VR program, that used federal funds to pay VR counselor salaries who then provided services to individuals who were on the agency's OOS waiting list. RSA directed OVR to cease the use of federal funds in supporting individuals who were on the OOS waiting list. OVR sent instructions to the field offices that they were to develop cost allocation plans to more appropriately charge their time to specific programs. On August 4, 2009, RSA determined that OVR had fulfilled its CAP by ceasing the use of Title I funds for service delivery to individuals who were not applicants to, or receiving services from, the VR program. During the on-site review, RSA verified that Title I funds are not being used in the administration of the state-funded VR program through the review of documents and discussions with OVR staff. In particular, OVR provided budget documents showing that the legislature terminated the state-funded VR program appropriation effective the State Fiscal Year (SFY) 2009-2010.

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 OVR with the federal requirements related to its organization within the SBVR and the ability of OVR 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 the SBVR and OVR under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which OVR 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 OVR 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:

- SBVR and OVR directors and senior managers;
- SBVR and OVR staff members responsible for the fiscal management of the VR program;
- SRC chairpersons and members;
- Client Assistance Program staff members; and
- TACE center representatives.

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

- a diagram illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- 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;
- the number of FTEs in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:
 - individuals who spend 100 percent of their time working on the rehabilitation work of OVR;

- individuals who work on rehabilitation work of OVR and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals under OVR who do not work on rehabilitation projects of the DSU.
- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing Pennsylvania's procurement requirements and processes.

Overview

The Pennsylvania SBVR is the DSA for OVR and is one of 10 boards located within DLI. The secretary of the DLI serves as the chairperson of the SBVR. OVR is one of seven offices, bureaus, and divisions located within DLI, led by five deputy secretaries and the OVR executive director. Four of the deputy secretaries and the OVR executive director report directly to the secretary, while the remaining deputy secretary reports to DLI executive deputy secretary. OVR is located at a level comparable to the other offices, bureaus, and divisions located in DLI and the OVR executive director has a status comparable to the other deputy secretaries leading them. At the time of the on-site review, the secretary had been nominated by the Governor, but not confirmed by the Pennsylvania Senate. The confirmation occurred subsequently on June 23, 2011.

OVR's organizational diagram includes the following five components: HGAC, Bureau of Central Operations (BCO), BVRS, BBVS, and the Office for the Deaf and Hard of Hearing (ODHH). ODHH was described as an office that is not actually part of OVR, but was housed there because it serves individuals with disabilities. ODHH occupies space in the OVR building but there is no relationship between the two offices. The staff and other costs are not shared by OVR. The OVR deputy director stated that he approves leave for the ODHH director, but does not participate in any other supervisory or performance appraisal activities.

OVR has a total of 1,038 FTEs assigned as follows: HGAC – 206; BCO – 31; BVRS – 648; BBVS – 151; and Headquarters - 2. Currently, OVR has 143 vacancies and an overall complement of 1,181 total positions. DLI has a total of 6,280 FTEs and a total complement of 7,691 positions. OVR stated that 63.73 Commonwealth FTEs spend a portion of their time to support OVR in such areas as Human Resources, Comptroller's Office, Budget Office, Administrative Services, and Information Technology.

The SBVR was created by the Pennsylvania Senate Bill 1190 on June 28, 1988. The bill states that there are to be 10 members of the Board, to include individuals with disabilities, selected by the Governor, and requires SBVR to administer, supervise, and control OVR. At the time of the on-site review, there were six vacancies on the Board. In addition to the four current members on the Board, two additional members were serving until a successor could be appointed and qualified. The bill establishes broad policy-making authority for the Board, including those policies related to the development and delivery of VR services. The Board is also responsible for performing the following functions: cooperation with other departments, agencies and institutions; reciprocal agreements with other states regarding service-delivery; expenditure of funds; preparing and publishing VR program plans for a three-year period; reviewing and evaluating policies to ensure that they are effective; determining the extent to which agency

policies and procedures are impacting community-based rehabilitation programs; providing advice and recommendations to the General Assembly and the Governor; and providing the General Assembly and the Governor with an annual report that describes trends in performance and the effectiveness of the VR program.

RSA's review of OVR's organizational structure resulted in the identification of the following observations and recommendations. The TA requested by OVR to enable it to carry out these recommendations is contained in Appendix A to this report titled "Agency Response." In addition, the compliance finding identified by RSA through the implementation of this focus area is contained in Section 6 of this report.

Observations and Recommendations

5.A.1: SBVR Roles and Responsibilities

Observation: As indicated in the overview section above, Senate Bill 1190 assigns broad policy-making authority to the SBVR, including those policies related to the development and delivery of VR services. The Board is also responsible for performing functions related to the VR State Plan and VR service delivery. The factors described below impede the SBVR's ability to fulfill its responsibilities.

- OVR does not share general policy information related to the administration of the State Plan with the SBVR in a timely manner to enable members to provide input. Stakeholders informed the RSA team that the Board asked for changes in OVR's draft policy on vehicle modification, but the policy was never issued, nor was the Board informed of any further developments. The minutes also contained requests for updates from OVR at the quarterly meetings that would not have been necessary if the Board and OVR had been sharing information regularly.
- There is a high vacancy rate on the SBVR with only four of ten SBVR positions filled at the time of RSA's on-site monitoring.
- Since the roles and responsibilities of the SBVR and the SRC are somewhat similar, there appears to be lack of clarity distinguishing the roles and responsibilities of each.

Recommendation: RSA recommends that OVR:

- 5.A.1.1 in collaboration with the secretary of DLI, take the necessary steps to appoint new members to fill the SBVR vacancies;
- 5.A.1.2 develop and implement training materials for new members of the SBVR on their roles and responsibilities and on OVR's policies and procedures; and
- 5.A.1.3 provide joint training to members of the SBVR and the SRC to improve their understanding of their respective roles and responsibilities and how they can work together to assist OVR to make improvements in the VR program.

5.A.2: OVR Supervision at the CareerLinks

Observation: The CareerLink One-Stop Partner Agreements that serve as the MOU between the various One-Stop partners and the Local Workforce Investment Boards (LWIBs) contain the following boiler-plate language: “When fulfilling services for the One-Stop system, all partners are under the functional direction of the Pennsylvania CareerLink Administrators.” While there was no documentation to support that CareerLink Administrators had authority for primary supervisory responsibilities including hiring, firing, and evaluating job performance, there appeared to be various interpretations of the meaning associated with the term “functional direction.”

- Some OVR district administrators have added an additional statement to the signature page of the agreement to assert the DSU’s responsibility to provide supervision and direction to OVR staff.
- In discussing this requirement with CareerLink and OVR staff members, it was stated that the “functional direction” entailed day-to-day tasks related to OVR’s occupancy in the CareerLink center, such as processing job orders and routine reports.

Recommendation: RSA recommends that OVR:

- 5.A.2.1 remove the statement from the MOU concerning functional direction of OVR staff members working at the CareerLinks by the Pennsylvania CareerLink Administrators; and
- 5.A.2.2 include discussions pertaining to MOU development and implementation in regularly scheduled meetings between the Bureau of Vocational Services director and the district administrators to resolve issues pertaining to OVR participation in CareerLinks.

5.A.3: Service Provision to Individuals Not Applying For or Receiving OVR Services

Observation: OVR provided RSA with a document entitled “OVR’s Role in the CareerLinks” that provides guidance on the agency’s participation in the One-Stop system created under the Workforce Investment Act (WIA). The document is out-of-date and contains inaccurate information.

- One example of inaccurate information contained in the document concerns OVR’s use of the state-funded VR program that was not in compliance with the federal law and that was the subject of a corrective action in RSA’s FY 2007 monitoring report. OVR has since ceased funding this program.
- There is conflicting guidance provided within the document entitled “OVR’s Role in the CareerLinks.” Page 3 contains the information below directing OVR staff not to provide services to individuals not applying for or receiving OVR services.

“... an OVR staff person and VR funds cannot be used to meet the needs of non-VR clients. As an example, an OVR counselor cannot assist a non-VR customer in the career resource area. This is a direct violation of the Rehabilitation Act and could jeopardize funding.”

However, on page 4 of the same document, contrary guidance is provided to OVR staff as follows:

“OVR staff also is trained to provide many Core and Intensive Services, so if an OVR counselor is conducting a group session for eligible OVR customers, other job seekers may participate in that group activity as well. Similarly, OVR placement counselors may do job placement of a general nature as long as OVR customers are a focus and can directly benefit from these efforts.”

Recommendation: RSA recommends that OVR:

- 5.A.3.1 remove statements from the document entitled “OVR’s Role in the CareerLinks” that direct OVR staff members to provide services to individuals who are not applying for or receiving services from OVR; and
- 5.A.3.2 develop and implement training both for OVR staff and CareerLink partners on the VR program eligibility and service delivery requirements.

Technical Assistance

RSA provided TA below to OVR related to the organizational structure requirements of the DSU and DSA while onsite in Pennsylvania.

- DSU as a Member of the LWIB: RSA clarified the federal requirements pertaining to the representative of the DSU being a mandatory member of the LWIB.
- Roles and Responsibilities of SBVR: RSA discussed the SBVR’s responsibilities with respect to the language contained in Senate Bill 1190, dated June 28, 1990.
- VR Services to Applicants and Eligible Individuals: RSA discussed VR program requirements related to providing services to individuals who are applicants and eligible individuals for VR services.

B. Transition Services and Employment Outcomes for Youth with Disabilities

The purpose of this focus area was to assess OVR’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 TA and continuing education needs of VR agency staff.

To implement this focus area, RSA reviewed:

- OVR'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 2007 (see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities; and
- cooperative agreements through LOUs.

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

- the agreement between the VR agency and the SEA;
- sample agreements between the VR agency and local education agencies (LEA), if applicable;
- samples of other cooperative agreements, if applicable; 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 OVR 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 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 OVR with peer agencies during the same period, as well as with national averages for other combined VR agencies. For purposes of this review, the peer agencies selected were Georgia, Illinois, Ohio, and Puerto Rico combined 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:

- OVR senior staff;
- OVR Statewide Transition Coordinator;
- OVR counselors with high transition designated caseloads;
- OVR counselors;
- OVR transition coordinators;
- Director of Special Education of the Pennsylvania Department of Education;
- Pennsylvania Training and Technical Assistance Network (PaTTAN) staff members; and
- Client Assistance Program staff members.

RSA’s review of transition services and employment outcomes achieved by youth with disabilities resulted in the identification of the following observations and recommendations. The TA requested by OVR to enable it to carry out these recommendations is contained in Appendix A of this report titled “Agency Response.” The implementation of this focus area did not result in the identification of compliance findings.

Observations and Recommendations

5.B.1: OVR Transition Resources

Observation: While OVR has established strong external collaborative partnerships through its transition community of practice, it has not updated internal VR agency resources, promoted opportunities for sharing transition practices internally, and has not utilized the CWDS to generate transition data to assess effectiveness of the transition program.

- The OVR Transition Program Policies and Guidelines issued in July 10, 1995, does not include the most current SEA with subsequent addendums issued and attached for reference, includes an obsolete reference to the current VR terminology of IPE as Individual Written Rehabilitation Plan (IWRP), and lacks detailed guidance on the purchases of equipment and other services with school districts.
- Stakeholders observed the need for OVR to update and revise the OVR Transition Program Policies and Guidelines to provide more guidance to VR counselors as an agency resource.

- Several VR counselors that maintain relationships with school districts indicated they are not familiar with the SEA and LEA. The SEA and its addendums have become the foundation of OVR’s statewide community of practice while the LEA establishes the groundwork for local coordination between VR district office and the school district.
- Several VR counselors with designated transition caseloads are not familiar with having transition coordinators as a resource within their district office to receive updates on headquarter directives and guidance. Each of the 21 OVR district offices has transition coordinators serving as liaisons to the statewide transition coordinator that convenes monthly conference calls to address the topics of Project Search, Project PAS, and general transition issues on a quarterly basis.
- OVR organizes an annual transition conference that is attended by over 800 stakeholders. However, VR counselors indicated that this conference has been the only opportunity to share practices with other OVR district offices. VR counselors with designated transition caseloads are seeking more opportunities to share practices.
- The statewide transition coordinator has not utilized data from the CWDS to monitor general transition service delivery trends and performance in coordination with the district transition coordinators.

Recommendation: RSA recommends that OVR:

- 5.B.1.1 update the OVR Transition Program Policies and Guidelines in coordination with feedback from VR counselors and stakeholders to identify areas where both topics and procedural issues need to be updated and revised as an agency resource;
- 5.B.1.2 educate VR counselors about the SEA and LEA through trainings as a resource to support OVR’s community of practice and the agreed upon roles and responsibilities among partners in transition service delivery;
- 5.B.1.3 establish statewide uniformity on how transition coordinators are used as an agency resource to communicate headquarter directives as well as a mechanism for VR counselors to provide feedback to the statewide transition coordinator;
- 5.B.1.4 develop additional internal resources to promote more opportunities for VR counselors to share transition practices statewide; and
- 5.B.1.5 utilize the CWDS to generate transition data reports as an agency resource on general transition trends to monitor service delivery trends and assess agency performance.

Technical Assistance

RSA provided TA to OVR in the area of transition services and employment outcomes for youth with disabilities while on-site in Pennsylvania.

- Information and Referral (I&R) coding: RSA provided guidance that referrals by OVR to HGAC should not be documented as I&R since HGAC is OVR’s state-operated community rehabilitation program (CRP).
- Sharing Common Data Elements Among Partners: In response to OVR’s request, RSA provided a reference to another VR agency that is collaborating with partners to develop common data elements.

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 2007 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:

- service provider contracts;
- 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-benefit analysis reports.

RSA's review of the fiscal integrity of the VR Program administered by OVR resulted in the identification of the following observation and recommendation. The TA requested by OVR to enable it to carry out this recommendation is contained in Appendix A to this report titled "Agency Response." In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Observation and Recommendation

1. Fiscal Planning

Observation: Based upon discussions during the on-site review, there is limited evidence that OVR has developed and implemented a structured, long-range fiscal planning process that takes

into consideration the resources needed to achieve State Plan and strategic plan goals, I&E activities planned by the agency, projected federal and state financial resources and funding reductions, staffing plans, number of consumers projected to be served each fiscal year and the cost of serving these consumers, the projected cost and financial impact of prior year commitments for IPEs on the resources available in the current fiscal year and future funding periods, and the impact of these costs on OOS management.

- OVR's fiscal management is budget-driven and does not incorporate all the programs OVR administers. Resource management is disjointed, with various staff performing separate tasks without ensuring that fiscal and program staff are integrated, including management of the budget, meeting with comptroller and department staff, central office fiscal staff processing contracts and invoices, and BVRS managing the OOS. OVR does not operate under a strategic plan or driving document that could serve as a basis for planning activities.
- The current fiscal planning process does not project resources and expenditures beyond the current budget year, limiting OVR's ability to plan for future fiscal years and adjust to potential challenges, shifts in the state budget or agency priority changes, including legislative constrictions that result in limited flexibility in shifting funds across categories.
- OVR's carryover balances have consistently grown from \$10,882,985 (9.1 percent of the Federal award) in FY 2006 to \$47,559,854 (36.9 percent of the Federal award) in FY 2010, exceeding the FY 2010 national average of 29.3 percent. OVR does not have a plan to spend the carryover funds. OVR must request permission from the Pennsylvania legislature to increase its budgetary spending authority to utilize these funds.
- In FY 2009, OVR did not meet its MOE requirement, resulting in a total MOE penalty of \$211,404.

Recommendation: RSA recommends that OVR:

- 5.C.1.1 develop and implement a multi-year fiscal planning process, updating it on a regular basis and integrating the input of fiscal and program staff, to use as a program management tool. The plan should, at a minimum, project:
 - a) anticipated financial resources (federal and non-federal);
 - b) plans for the utilization of available resources, documenting the need for additional resources, and identifying excess resources;
 - c) administrative (including indirect) expenses;
 - d) staff salaries, fringe benefits and overhead costs;
 - e) I&E activities;
 - f) State Plan goals and strategies;
 - g) costs related to goals and priorities arising as a result of the comprehensive statewide needs assessment (CSNA); and
 - h) costs related to providing VR services to program consumers and the impact upon OOS; and
- 5.C.1.2 determine an acceptable carryover level and develop a plan to reduce excessive carryover balances.

Technical Assistance

RSA provided TA below to OVR related to the fiscal integrity of the VR program while on-site in Pennsylvania.

- Sources of Match: RSA conducted TA presentation on sources of match illustrating the specific fiscal and programmatic requirements of each match source, including an opportunity to answer OVR's questions.
- Personnel Cost Allocation: RSA provided TA regarding the requirement of the VR agency staff who split time across multiple cost objectives to develop and maintain documentation supporting the time charged to each cost objective.
- Program Income: RSA instructed OVR to include rental income at HGAC as a source of program income to be reported on the SF-269 and SF-425s.
- Program and Financial Planning: RSA provided guidance on the importance of collaborative program and financial planning as a resource for OVR to achieve its organizational objectives under budgetary constraints. While the State Plan for the VR and SE Programs are tools for capturing state agency goals, priorities, strategies, and methods for evaluating progress, RSA encouraged additional internal planning mechanisms be implemented based on the results of its CSNA and agency resources.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that OVR 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.

OVR must develop a CAP 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 CAP can be developed within 45 days from the issuance of this report and RSA is available to provide TA to assist OVR 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 EDGAR.

1. DSU Participation on the Local Workforce Investment Boards (LWIBs)

Legal Requirements:

- VR Program Regulations - 34 CFR 361.23(a)(5)
- Workforce Investment Act - Section 117(b)(2)(A)(vi)

Finding:

OVR’s representation on LWIBs is not consistent with federal regulations at 34 CFR 361.23(a)(5) that the mandatory federal partners be represented on the LWIBs. On August 15, 2009, the Department of Labor and Industry, Bureau of Workforce Development issued a document entitled, “Guidelines for Local Workforce Investment Boards” stating that, “At least two of the mandatory Pennsylvania CareerLink partners must be represented on the LWIB.” OVR was alerted to this guidance shortly before RSA’s on-site visit when the Lancaster LWIB informed its current members (including the OVR district representative) that their membership on the LWIB would lapse when their current terms expired. Prior to the issuance of these guidelines, OVR reported that they were participants in all 67 LWIBs in the state.

Corrective Action 1: OVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.23(a)(5) and Section 117(b)(2)(A)(vi) of the WIA;
- 1.2 submit a plan, including timelines, describing the corrective actions that will be taken, to ensure:

- a) the document, “Guidelines for Local Workforce Investment Boards,” is revised to reflect the mandatory participation of OVR on the LWIBs; and
- b) the development of OVR policies, procedures and guidance to inform OVR staff members of the requirements to participate on the LWIBs.

2. Program Income

Legal Requirements:

- VR Program Regulations - 34 CFR 361.12
- VR Program Regulations - 34 CFR 361.63(a) and (b)
- EDGAR - 34 CFR 80.20(a)
- EDGAR - 34 CFR 80.21(f)(2)

Finding:

OVR is not in compliance with federal regulations at 34 CFR 361.12 and 34 CFR 80.20(a) that require recipients of federal funds to accurately report the financial results of all federally-funded activities. VR grantees are required to submit accurate SF-269 and SF-425 Federal Financial Reports. OVR’s program income is reported by Comptroller’s Office personnel. The source of the program income on the reports is social security reimbursements. However, OVR operates a state-operated CRP that generates program income from activities supported with VR funding (34 CFR 361.63(b)). The source of this income is funding from the Defense and Veteran’s Brain Injury Center that rents space at HGAC. In SFY 2010 (July 1, 2009 – June 30, 2010), the rental income from the Defense and Veteran’s Brain Injury Center amounted to \$561,339.18. As a result, OVR is not tracking or reporting this program income on the SF-269 or SF-425 financial reports, and the program income is not under the control of the OVR director.

Regulations at 34 CFR 80.21(f)(2) require grantees to disburse program income prior to requesting additional cash payments. This means that OVR must disburse all program income prior to requesting a drawdown of additional federal VR funds. HGAC utilizes the program income that it generates as income to offset operating costs specific to the center. Since OVR is not tracking this program income at HGAC in comparison to OVR’s overall expenditures, the Comptroller’s office is drawing down funds on behalf of OVR to cover expenditures, despite the fact that program income remains available for disbursement at HGAC. As a result, OVR is not reporting program income accurately as required by 34 CFR 361.12 and 34 CFR 80.20(a), and is not disbursing program income prior to requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

Corrective Action 2: OVR must:

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

2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report program income completely and accurately on the SF-269/FFR-425 reports as required by 34 CFR 361.12 and 34 CFR 80.20(a). OVR must correct the amount of program income reported on the SF-269 and SF-425 reports for years FY 2006 through FY 2010.

3. Monitoring Grant Activities

Legal Requirements:

- VR Program Regulations - 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a)
- EDGAR - 34 CFR 80.40(a)

Finding:

OVR is not in compliance with federal regulations at 34 CFR 80.40(a) that require grantees to be responsible for managing daily operations of grant supported activities, and 34 CFR 361.12 and 34 CFR 80.20(a) that require states to have procedures that ensure financial accountability. Letters of Understanding (LOUs) that OVR enters into with CRPs and vendors constitute grant supported activities and must be monitored by OVR to ensure compliance with applicable federal requirements and that performance goals are achieved.

- As the recipient of federal funds, OVR is required to monitor and manage the daily operations of all grant-supported activities (34 CFR 80.40(a)). OVR has entered into approximately 300 LOUs with vendors to provide services to its consumers. The LOUs identify the services the entity is approved to provide, as well as the rate for each specific service. During the on-site monitoring visit, RSA discussed the LOUs with agency staff and learned that the agency does not monitor the LOUs due to a lack of staff and resources. Formerly, there were five central office staff that performed this function. However, vacancies in these positions have not been filled due to state government budget reductions and hiring freezes.

The LOUs are in effect for up to five years. A review of sample LOUs revealed that several are no longer in effect. The document language stipulates that the LOU is in force 5 years from the start date, or identifies a specific expiration date. In several instances both dates have passed for these sample LOUs, resulting in OVR procuring services based upon LOUs that are not active or updated. This prevents OVR from ensuring services provided are based upon current documentation or performance targets resulting from changes to agency priorities over time. OVR cannot effectively monitor outdated LOUs or ensure financial accountability of the services paid for under the agreements.

- Additionally, HGAC functions as the state-operated CRP. However, the authorizing statute provides it some additional autonomy from OVR including the routing of all funds through a dedicated account at the State Treasury office. Regardless, since nearly 100 percent of HGAC's operating costs are received directly through VR funding, or from program income

generated with VR funding, HGAC operations qualify as grant supported activities and OVR must monitor them to ensure compliance with federal requirements.

- Furthermore, OVR's financial participation as a mandatory partner at the 67 CareerLinks is based upon the development of Resource Sharing Agreement Budgets (RSABs) developed at the local workforce investment board (LWIB) level. Bureau of Workforce Development Partnership (BWDP) staff typically develop the RSABs without input from local district administrators. Discussions with district administrators onsite indicated that some have the ability to voice concerns about the RSAB allocations; however, it has been determined that once the final OVR allocation to BWDP has been determined at the executive director level, OVR does not employ any monitoring activities to ensure that the grant supported activities paid for at CareerLinks locations are compliant with applicable federal requirements. As a result, OVR cannot demonstrate that charges to the VR program are substantiated by VR benefits received at the CareerLinks locations.

Overall, OVR does not have procedures in place to monitor the services provided: 1) through the LOUs that provide services to OVR's consumers, 2) HGAC operations, or 3) CareerLinks to ensure that funds expended were for allowable services to eligible consumers of the VR program. As a result, OVR has not monitored the activities under the LOUs, HGAC, or CareerLinks as required by 34 CFR 80.40(a), to ensure that grant-supported activities comply with applicable federal requirements, and that performance goals are achieved. OVR does not have procedures in place to ensure the financial accountability of LOUs, many of which are expired or are no longer in force, pursuant to 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 3: OVR must:

- 3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 80.40(a), to ensure that it will monitor all grant-supported activities to assure compliance with applicable federal requirements and that performance goals are achieved;
- 3.2 develop and implement policies and procedures to monitor the activities and services of all CRPs that provide services to OVR consumers, services provided through HGAC, or costs associated with CareerLinks to ensure that: 1) the services provided are allowable under the VR program and provided only to eligible VR consumers; and 2) performance goals are achieved; and
- 3.3 review the LOUs used to procure services and take necessary actions to ensure that all LOUs are revised and current.

4. Assigning Personnel Costs – VR Program

Legal Requirements:

- VR Program Regulations - 34 CFR 361.3
- VR Program Regulations - 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a)
- OMB Circulars - 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5

Finding:

OVR is not in compliance with federal regulations at 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a) that require VR funds to be used solely for the provision of VR services or for the administration of the VR program, that State agencies are responsible for financial accountability, and that procedures must be in place to ensure expenditures are traceable and compliant with Federal statutes. Additionally, OVR has not complied with 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5 that require employees working on multiple cost objectives to maintain personnel activity reports or equivalent documentation that reflect an after-the-fact distribution of the actual activity of each employee.

To constitute an administrative cost under the VR program, expenditures must be incurred in the performance of administrative functions of the VR program (34 CFR 361.5(b)(2)). Administrative salaries, including those for clerical and other support staff who work under the VR program, constitute a VR-related administrative cost (34 CFR 361.5(b)(2)(xi)). IL-related personnel costs do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, IL-related expenditures are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds.

OVR executive management staff that spend time on multiple programs, including the executive director's position, deputy executive director, supervisor of Budget Grants, and Administrative Services, and other staff do not track their time in accordance with time spent on the VR, IL Part B, OIB and/or other non-Federal programs, but charge their time 100 percent to the VR program. These salaries are not included in a cost allocation plan or indirect cost rate to account for the time spent on the programs the agency administers.

Staff working in BBVS work on multiple cost objectives including the VR, IL Part B, OIB, and other Social Services for the Visually Impaired Programs. Staff input their time through the use of daily activity reports (DARs); however, these reports do not suffice as personnel activity reports as required in 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5, but rather serve as a mechanism for supervisors to locate staff in emergency situations. Their personnel costs do not reflect an after-the-fact distribution of the actual activity of each employee. Additionally, the BBVS bureau director and employees charge time based upon pre-determined allocations before the employee spends time working on these programs. The practice of assigning personnel costs to programs OVR administers based upon pre-determined levels and not an after-the-fact distribution of the actual activity of each employee, or charging personnel costs to the VR program due to insufficient funds in other programs, is not in accordance with the cost principles outlined in 2 CFR part 225, 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a).

Corrective Action 4: OVR must:

- 4.1 cease using Title I funds for personnel costs that are incurred in the administration of other programs, such as the IL Part B, OIB, and non-Federal programs;
- 4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR part

- 225, Appendix B, paragraphs 8.h.4 and 8.h.5; and
- 4.3 submit a plan, including timelines, describing the corrective actions that will be taken, as required by 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5, to ensure:
- a) personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and
 - b) personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by ICBVI pursuant to Federal program requirements.

5. Maintenance of Effort

Legal Requirement:

- VR Program Regulations – 34 CFR 361.62

Finding:

OVR is not in compliance with federal regulations at 34 CFR 361.62(a)(1) that require a state's total expenditures for a fiscal year to equal the total expenditures for the fiscal year two years prior. To illustrate this concept, OVR's non-federal expenditures under the VR program for FY 2009 must equal or exceed the agency's non-federal expenditures for the VR program in FY 2007. After reviewing OVR's final SF-269 reports for FY 2009 (12/31/10) and FY 2007 (12/31/08), OVR failed to satisfy its MOE requirement under the VR program in 2009 because its non-federal expenditures that year (\$33,627,936) were \$211,404 less than its non-federal expenditures in FY 2007 (\$33,839,340).

In accordance with 34 CFR 361.62(a)(1), RSA assessed a MOE penalty of \$191,641 against OVR's FY 2010 4th quarter VR award in June, 2010. At that time, this was the known MOE deficit based on RSA's review of OVR's final FY 2007 SF-269 report and OVR's FY 2009 6th quarter report (3/31/10) -- the latest report available at that time. Since that time, OVR has submitted a final SF-269 report for FY 2009, which shows that some of the unobligated non-federal obligations OVR had counted towards its MOE obligation in prior reports were never liquidated. As a result, OVR's MOE deficit for FY 2009, as compared to FY 2007, was actually \$211,404 -- not \$191,641, as assessed in June, 2010. Therefore, OVR has an additional MOE penalty of \$19,763 and RSA is required to recover those funds through an audit disallowance process (34 CFR 361.62(a)(2)).

Corrective Action 5: OVR must:

- 5.1 cease expending non-federal funds for a fiscal year at a level not equal to the non-federal expenditures from the fiscal year two years prior to that fiscal year;
- 5.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.62; and
- 5.3 review its SF-269 reports for FY 2009 to ensure the accuracy of the reports and submit revised reports if necessary.

6. Proposal Costs – Not Allowable as a Direct Cost

Legal Requirements:

- VR Program Regulations - 34 CFR 361.12
- Cost Principles - 2 CFR part 225, Appendix A, paragraph F; Appendix B, paragraph 33

Finding:

The HGAC is an OVR-administered CRP that provides VR and other services to OVR consumers. OVR is charged with responsibility for administering the HGAC, pursuant to the state Vocational Rehabilitation Act of 1988 (43 P.S. §682.7). In addition to the provision of VR services, the HGAC also runs other programs, such as the AT section and the print shop.

HGAC employs a full-time VR Specialist whose position description and activities indicate that he/she spends 20 percent of his/her time writing grant proposals to obtain financial support to benefit the HGAC and its various programs. According to the acting director of HGAC, the remainder of the employee's time is spent providing disability services with the AT section, supervising the print shop, and coordinating the transition fair and new VR Counselor training at HGAC. The HGAC acting director confirmed to RSA that the grant proposal-writing performed by this employee benefits the HGAC and its various programs. However, the information RSA reviewed onsite indicates that HGAC uses VR funds to pay for 100 percent of this employee's salary and benefits.

As a recipient of VR funds, OVR is required to administer the program properly and efficiently (34 CFR 361.12 and 34 CFR 80.20(a)). It must ensure that VR funds are properly accounted for and that accurate data are collected and reported (*Id.*). In ensuring the proper administration of the VR program and accountability of VR funds, OVR must be able to document that expenditures charged directly to the VR grant are for allowable VR expenditures that benefit only the VR program. In this case, the HGAC employee at issue spends 20 percent of his/her time writing grant proposals that benefit all of the programs at HGAC, not just the provision of VR services. Given that 20 percent of this employee's time is spent writing grant proposals that benefit all of the HGAC programs, it is not permissible to fund 100 percent of that portion of his/her salary with VR funds. The portion of the employee's salary related to writing grant proposals should be included in the indirect cost rate proposal submitted by OVR so that the salary costs are distributed among all benefitting cost objectives of the HGAC, as required by OMB Circular A-87, Attachment A, paragraph F. More specifically, OMB Circular A-87, Attachment B, paragraph 33 requires that a grantee's proposal costs are typically included in the grantee's indirect costs and are generally not allowable as a direct charge to the grant. As stated earlier, OVR charges 100 percent of the HGAC grant writer's salary to the VR program, rather than treating that portion of the salary dedicated to writing grant proposals as an indirect cost as it is required to do. For this reason, OVR has not administered the VR program in accordance with 34 CFR 361.12 and the federal cost principles set forth at OMB Circular A-87.

Furthermore, it appears from the facts presented, that the time the individual spends providing

services in the AT section and supervising the print shop at the HGAC also are not allowable costs under the VR program. OVR is permitted to charge, as a direct cost under the VR program, only that portion of the employee's salary that is related specifically to the provision of allowable VR services or administration of the VR program. All other service related and administrative responsibilities must be charged to the benefitting program, such as the AT program and the print shop. RSA will need further information regarding the percentage of time the employee spent providing VR-specific services or administrative functions to determine the level of compliance with the remaining 80 percent of this employee's salary and benefits.

Corrective Action 6: OVR must:

- 6.1 cease charging grant proposal activities as a direct charge to the VR program given that more than the VR program benefits from those efforts;
- 6.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12 and the federal cost principles set forth at 2 CFR Part 225 regarding treating proposal costs as an indirect cost; OVR also must ensure that VR funds will be spent only on allowable VR costs;
- 6.3 submit a revised indirect cost rate proposal to its federal cognizant agency's Indirect Cost Rate Group that includes the portion of the salary and benefits related to the time the employee spends writing grant proposals, in accordance with cost principles in 2 CFR Part 225; and
- 6.4 provide information regarding the percentage of time, as well as the associated salary and benefits costs that the employee at issue in this finding spent performing grant proposal writing duties, VR-specific duties, and duties related to other programs offered at HGAC. The information should cover the period of FY 2006 through FY 2010.

APPENDIX A: AGENCY RESPONSE

Section 4: Results of Prior Monitoring Activities

OVR requests additional TA described below to enable it to carry out the following recommendations and/or compliance findings identified in the FY 2007 monitoring report.

Recommendations

1. Transition Age Youths
2. Individuals who are Blind or Visually Impaired
3. Quality Improvement
4. Consumer Involvement

Additional Technical Assistance Requested:

OVR requests TA with regard to the recommendation concerning improving consumer involvement.

Corrective Actions

1. State Funded VR Program

Additional Technical Assistance Requested:

This finding was resolved and OVR does not request TA.

Section 5: Focus Areas

A. Organizational Structure Requirements of the Designated State Agency and Designated State Unit

Observation 5.A.1: SBVR Roles and Responsibilities

Recommendation: RSA recommends that OVR:

- 5.A.1.1 in collaboration with the secretary of DLI, take the necessary steps to fill the SBVR vacancies;
- 5.A.1.2 develop and implement training materials for new members of the SBVR on their roles and responsibilities and on OVR's policies and procedures; and
- 5.A.1.3 provide joint training to members of the SBVR and the SRC to improve their understanding of their respective roles and responsibilities and how they can work together to assist OVR to make improvements in the VR program.

Agency Response: OVR concurs with the finding and will seek TA from TACE on the provision of training recommendation.

Technical Assistance: OVR requests TA.

Observation 5.A.2: OVR Supervision at the CareerLinks

Recommendation: RSA recommends that OVR:

- 5.A.2.1 remove the statement from the MOU concerning functional supervision of OVR staff members working at the CareerLinks by the Pennsylvania CareerLink administrators; and
- 5.A.2.2 include discussions pertaining to MOU development and implementation in regularly scheduled meetings between and the district administrators in order to resolve issues pertaining to OVR participation in CareerLinks.

Agency Response:

- 5.A.2.1 The One Stop Service Plan is used for all partners at the local level within the One Stop System and is circulated for signatures on the same document. Therefore, OVR feels it is unrealistic to have this wording removed in its entirety since this is a shared document and necessary for the other partners. However, OVR will be committed to ensuring the OVR language addendum is added prior to signing this agreement.
- 5.A.2.2 OVR agrees with the finding and will establish a process to ensure compliance.

Technical Assistance: OVR does not request TA at this time.

Observation 5.A.3: Service Provision to Individuals Not Applying For or Receiving OVR Services

Recommendation: RSA recommends that OVR:

- 5.A.3.1 remove statements from the document entitled “OVR’s Role in the CareerLinks” that direct OVR staff members to provide services to individuals who are not applying for or receiving services from OVR; and
- 5.A.3.2 develop and implement training both for OVR staff and CareerLink partners on the VR program eligibility and service delivery requirements.

Agency Response:

- 5.A.3.1 OVR remains concerned by the inability of non-OVR customers to be able to participate alongside OVR customers in OVR run job clubs, job search trainings, etc. OVR understands that VR dollars shouldn’t be used to provide services to non-eligible individuals. However, we agree with the spirit of cooperation among the mandated partners in the WIA. Therefore, if OVR staff is running a class and has space available for other students, we agree that it is a good idea to allow non-eligible individuals to participate. Customers and non-customers may make connections and learn contacts or skills from each other that will allow them to be successful in their job search. This

further OVR's mission of disability awareness and locating jobs for our customers. OVR asks that RSA reconsider their position on this issue with the understanding that OVR would never conduct or offer these trainings solely to non-eligible individuals. However, OVR remains willing to allow non-eligible individuals to participate alongside customers when space is available and there are no VR customers available to fill the spots in an already scheduled class.

5.A.3.2 OVR recognizes the need to implement training for OVR staff and CareerLink partners on service delivery within the one stop system. We will also include information about the OVR program and eligibility requirements when we train the CareerLink staff. This training will be prepared in the next year.

RSA Response:

5.A.3.1 Title I funds are only to be expended on individuals applying or receiving services from the VR program. The inclusion of language to allow non-eligible individuals to participate in VR funded training may result in future compliance findings. OVR's document entitled "OVR's Role in the CareerLinks" presents contradictory information which could lead the reader to assume that OVR is providing services to individuals who have not been determined eligible for the VR program. This surpasses the expectation of cooperation amongst WIA partners and undercuts OVR's ability to effectively train CareerLink staff with respect to the requirements of the VR program.

Technical Assistance: OVR requests TA.

B. Transition Services and Employment Outcomes for Youth with Disabilities

Observation 5.B.1: OVR Transition Resources

Recommendation: RSA recommends that OVR:

- 5.B.1.1 update the OVR Transition Program Policies and Guidelines in coordination with feedback from VR counselors and stakeholders to identify areas where both topics and procedural issues need to be updated and revised as an agency resource;
- 5.B.1.2 educate VR counselors about the SEA and LEA through trainings as a resource to support OVR's community of practice and the agreed upon roles and responsibilities among partners in transition service delivery;
- 5.B.1.3 establish statewide uniformity on how transition coordinators are used as an agency resource to communicate headquarter directives as well as a mechanism for VR counselors to provide feedback to the statewide transition coordinator;
- 5.B.1.4 develop additional internal resources to promote more opportunities for VR counselors to share transition practices statewide; and
- 5.B.1.5 integrate the use of data as an agency resource on general transition trends between the statewide transition coordinator in coordination with district transition coordinators to monitor service delivery trends and assess agency performance.

Agency Response: POVR agrees with these recommendations.

Technical Assistance: OVR does not request TA at this time.

C. Fiscal Integrity of the Vocational Rehabilitation Program

Observation 5.C.1: Fiscal Planning

Recommendation: RSA recommends that OVR:

- 5.C.1.1 develop and implement a multi-year fiscal planning process, updating it on a regular basis and integrating the input of fiscal and program staff, to use as a program management tool. The plan should, at a minimum, project:
 - a) anticipated financial resources (federal and non-federal);
 - b) plans for the utilization of available resources, documenting the need for additional resources, and identifying excess resources;
 - c) administrative (including indirect) expenses;
 - d) staff salaries, fringe benefits and overhead costs;
 - e) I&E activities;
 - f) State Plan goals and strategies;
 - g) costs related to goals and priorities arising as a result of the comprehensive statewide needs assessment (CSNA); and
 - h) costs related to providing VR services to program consumers and the impact upon OOS; and
- 5.C.1.2 determine an acceptable carryover level and develop a plan to reduce excessive carryover balances.

Agency Response: OVR concurs with the finding and will request TA from TACE.

Technical Assistance: OVR requests TA.

Section 6: Compliance Findings

1. DSU Participation on the Local Workforce Investment Boards

Corrective Action 1: OVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.23(a)(5) and Section 117(b)(2)(A)(vi) of the WIA;
- 1.2 submit a plan, including timelines, describing the corrective actions that will be taken, to ensure:
 - a) the document, “Guidelines for Local Workforce Investment Boards,” is revised to reflect the mandatory participation of OVR on the LWIBs; and
 - b) the development of OVR policies, procedures and guidance to inform OVR staff members of the requirements to participate on the LWIBs.

Agency Response: OVR agrees with the finding and will work with the Pennsylvania Workforce Development to revise the document.

Technical Assistance: OVR does not request TA at this time.

2. Program Income

Corrective Action 2: OVR must:

- 2.1 cease drawing down Federal VR funds prior to disbursing all available program income and 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); and
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report program income completely and accurately on the SF-269/FFR-425 reports as required by 34 CFR 361.12 and 34 CFR 80.20(a). OVR must correct the amount of program income reported on the SF-269 and SF-425 reports for years FY 2006 through FY 2010.

Agency Response: OVR accepts the finding and is communicating with other appropriate offices within the Commonwealth to address the issue

Technical Assistance: OVR does not request TA at this time.

3. Monitoring Grant Activities

Corrective Action 3: OVR must:

- 3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 80.40(a), to ensure that it will monitor all grant supported activities to assure compliance with applicable Federal requirements and that performance goals are achieved;
- 3.2 develop and implement policies and procedures to monitor the activities and services of all CRPs that provide services to OVR consumers, services provided through HGAC, or costs associated with CareerLinks to ensure that: 1) the services provided are allowable under the VR program and provided only to eligible VR consumers; and 2) performance goals are achieved; and
- 3.3 review the LOUs used to procure services and take necessary actions to ensure that all LOUs are revised and current.

Agency Response: OVR concurs with this finding and will develop a CAP to address the issues.

Technical Assistance: OVR does not request TA at this time.

4. Assigning Personnel Costs – VR Program

Corrective Action 4: OVR must:

- 4.1 cease using Title I funds for personnel costs that are incurred in the administration of other programs, such as the IL Part B, OIB, and non-Federal programs;
- 4.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5; and
- 4.3 submit a plan, including timelines, describing the corrective actions that will be taken, as required by 2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5, to ensure:
 - a) personnel activity reports are maintained to support the allocation of an equitable portion of personnel costs for individuals, not charged indirectly, who work on more than one federal grant program or cost objective; and
 - b) personnel and administrative costs are allocated equitably, either directly or indirectly, to each program administered by ICBVI pursuant to Federal program requirements.

Agency Response: OVR concurs with this finding and will work with internal Commonwealth systems to develop a CAP.

Technical Assistance: OVR does not request TA at this time.

5. Maintenance of Effort

Corrective Action 5: OVR must:

- 5.1 cease expending non-federal funds for a fiscal year at a level not equal to the non-federal expenditures from the fiscal year two years prior to that fiscal year;
- 5.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.62; and
- 5.3 review its SF-269 reports for FY 2009 to ensure the accuracy of the reports and submit revised reports if necessary.

Agency Response: OVR concurs with this finding and will develop a CAP.

Technical Assistance: OVR does not request TA at this time.

6. Proposal Costs – Not Allowable as a Direct Cost

Corrective Action 6: OVR must:

- 6.1 cease charging grant proposal activities as a direct charge to the VR program given that more than the VR program benefits from those efforts;
- 6.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12 and the federal cost principles set forth at 2 CFR Part 225 regarding treating proposal costs as an indirect cost; OVR also must ensure that VR funds will be spent only on allowable VR costs;

- 6.3 submit a revised indirect cost rate proposal to its federal cognizant agency's Indirect Cost Rate Group that includes the portion of the salary and benefits related to the time the employee spends writing grant proposals, in accordance with cost principles in 2 CFR Part 225; and
- 6.4 provide information regarding the percentage of time, as well as the associated salary and benefits costs that the employee at issue in this finding spent performing grant proposal writing duties, VR-specific duties, and duties related to other programs offered at HGAC. The information should cover the period of FY 2006 through FY 2010.

Agency Response: OVR concurs with this finding and will develop an appropriate CAP.

Technical Assistance: OVR does not request TA at this time.

APPENDIX B: LEGAL REQUIREMENTS

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

Workforce Investment Act

Section 117(b)(2)(A)(vi)

(a) Membership.--

(1) State criteria.--The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of member of the local board in such local areas in accordance with the requirements of paragraph (2).

(2) Composition. -- Such criteria shall require, at a minimum, that membership of each local board--

(A) shall include--

(vi) representatives of each of the one-stop partners.

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

34 CFR 361.23

(b) Responsibilities as a partner of the One-Stop System. As a required partner in the One-Stop service delivery system (which is part of the statewide workforce investment system under Title I of the Workforce Investment Act of 1998), the designated state unit must carry out the following functions consistent with the Act, this part, Title I of the Workforce Investment Act of 1998, and the regulations in 20 CFR part 662:

- (5) Provide representation on the Local Workforce Investment Board under section 117 of the Workforce Investment Act of 1998.

34 CFR 361.62

(a) General requirements.

- (1) The Secretary reduces the amount otherwise payable to a State for a fiscal year by the amount by which the total expenditures from non-Federal sources under the State plan for the previous fiscal year were less than the total of those expenditures for the fiscal year 2 years prior to the previous fiscal year.
- (2) If, at the time the Secretary makes a determination that a State has failed to meet its maintenance of effort requirements, it is too late for the Secretary to make a reduction in accordance with paragraph (a)(1) of this section, then the Secretary recovers the amount of the maintenance of effort deficit through audit disallowance.

34 CFR 361.63(a)

For purposes of this section, program income means gross income received by the State that is directly generated by an activity supported under this part.

34 CFR 361.63(b)

Sources of program income include, but are not limited to, payments from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes, payments received from workers' compensation funds, fees for services to defray part or all of the costs of services provided to particular individuals, and income generated by a State-operated community rehabilitation program.

Education Department General Administrative Regulations (EDGAR)

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)

- (f) Effect of program income, refunds, and audit recoveries on payment. shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (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 80.40(a)

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 achieved. Grantee monitoring must cover each program function and activity.

OMB circulars as cited in the CFR

2 CFR Part 225, Appendix A, C.3.b & F.1

C. Basic Guidelines

3. Allocable costs.

- b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.

F. Indirect Costs

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

2 CFR Part 225, Appendix B, paragraph 33

33. Proposal costs. Costs of preparing proposals for potential Federal awards are allowable. Proposal costs should normally be treated as indirect costs and should be allocated to all activities of the governmental utilizing the cost allocation plan and indirect cost rate proposal. However, proposal costs may be charged directly to Federal awards with the prior approval of the Federal awarding agency.

2 CFR part 225, Appendix B, paragraphs 8.h.4 and 8.h.5

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