

**FISCAL YEAR 2012
MONITORING REPORT
ON THE
NEW YORK
COMMISSION FOR THE BLIND AND
VISUALLY HANDICAPPED
VOCATIONAL REHABILITATION
PROGRAM**



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

MAY 30, 2012

TABLE OF CONTENTS

	Page
Section 1: Executive Summary	1
Section 2: Performance Analysis	4
Section 3: Emerging Practices	10
Section 4: Results of Prior Monitoring Activities.....	12
Section 5: Focus Areas.....	17
A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU).....	17
B. Transition Services and Employment Outcomes for Youth with Disabilities	19
C. Fiscal Integrity of the Vocational Rehabilitation Program	21
Section 6: Compliance Findings and Corrective Actions	23
Appendix A: Agency Response	38
Appendix B: Legal Requirements.....	46

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 New York Commission for the Blind and Visually Handicapped (CBVH) in fiscal year (FY) 2012, RSA:

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

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from February 6 through 10, 2012, is described in detail in the [FY 2012 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program](#).

Emerging Practices

Through the course of its review, RSA collaborated with CBVH, the State Rehabilitation Council (SRC), the Northeast Region 2 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

- **Summer Employment Experience Program:** In collaboration with a community rehabilitation provider in western New York, CBVH conducts a summer employment program for individuals between the ages of 16 and 19. Through this residential program, youth receive in-class training, participate in paid work experiences and develop their independent living skills.

Improvement of Employment Outcomes, Including Supported Employment and Self-Employment

- **Business Kits:** CBVH has developed portable kits to demonstrate assistive technology available to potential employers with the intent of removing environmental work-place barriers. Through use of these kits, CBVH staff and community rehabilitation providers provide tangible demonstrations of work place accommodations.

Outreach to Unserved and Underserved Individuals

- **Outreach Initiative:** CBVH has implemented an outreach project with a community provider in New York City to target individual neighborhoods and unique populations, institutions and organizations in order to reach linguistically and culturally diverse groups, especially immigrant populations. Through this activity, CBVH provides information related to reasonable accommodations and the services available under the VR program.

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

Summary of Observations

RSA's review of CBVH did not result in the identification of observations and recommendations related to the focus areas.

Summary of Compliance Findings

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

- CBVH improperly uses extended evaluations to obtain information that is more properly obtained through the typical assessment of an individual's eligibility. In addition, if it should be necessary to determine through clear and convincing evidence that an individual may be too significantly disabled to benefit from VR services in terms of the achievement of an employment outcome, CBVH does not provide multiple trial work experiences prior to utilizing extended evaluations.
- CBVH does not determine the eligibility of transition-age youth within 60 days from the date of application.

- CBVH provides individualized services to youth with disabilities prior to the approval of an Individualized Plan for Employment (IPE) through the use of an additional plan, the IPE Development Plan.
- CBVH has entered into an agreement with the state educational agency (SEA) that is not in compliance with the minimum federal requirements.
- CBVH has not developed memoranda of understanding (MOU) with the local workforce investment boards (LWIB) throughout the State of New York and is not represented on the LWIB as a mandatory partner.
- CBVH is not in compliance with federal requirements regarding the allocation of personnel costs because it does not maintain personnel activity reports for employees working on more than one grant program, does not maintain periodic certifications for employees working solely on one grant and improperly charges salary expenses for staff working on VR and other programs solely to the VR award.
- CBVH does not have a current cost allocation plan approved by its federal cognizant agency through which it can charge indirect costs.

Development of the Technical Assistance Plan

RSA will collaborate closely with CBVH and the Northeast Region 2 TACE to develop a plan to address the technical assistance needs identified by CBVH in Appendix A of this report. RSA, CBVH and the TACE will conduct a teleconference within 30 days following the publication of this report to discuss the details of the technical assistance needs, identify and assign specific responsibilities for implementing technical assistance and establish initial timeframes for the provision of the assistance. RSA, CBVH and the 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 Jim Doyle, Tonya Stellar and Christopher Pope (Vocational Rehabilitation Program Unit); Adrienne Grierson (Fiscal Unit); Joe Pepin (Data Collection and Analysis Unit); and Terry Martin (Technical Assistance Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, and the development of this report.

Acknowledgement

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

SECTION 2: PERFORMANCE ANALYSIS

This analysis is based on a review of the programmatic and fiscal data contained in Tables 2.1 and 2.2 below and is intended to serve as a broad overview of the VR program administered by CBVH. 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 or fiscal 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 CBVH open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. CBVH may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

Performance Analysis

VR Program Analysis

**Table 2.1
CBVH Program Performance Data for FY 2006 through FY 2010**

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010
TOTAL CASES CLOSED	Number	1,424	1,396	1,212	709	849	-575	14,089
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	-40.4%	100.0%
Exited as an applicant	Number	128	160	117	55	73	-55	2,980
	Percent	9.0%	11.5%	9.7%	7.8%	8.6%	-43.0%	21.2%
Exited during or after trial work experience/extended evaluation	Number	29	28	26	14	28	-1	124
	Percent	2.0%	2.0%	2.1%	2.0%	3.3%	-3.4%	0.9%
TOTAL NOT DETERMINED ELIGIBLE	Number	157	188	143	69	101	-56	3,104
	Percent	11.0%	13.5%	11.8%	9.7%	11.9%	-35.7%	22.0%
Exited without employment after IPE, before services	Number	0	0	0	0	0	0	141
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		1.0%
Exited from order of selection waiting list	Number	0	0	0	0	0	0	43
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		0.3%
Exited without employment after eligibility, before IPE	Number	260	228	188	87	195	-65	1,286
	Percent	18.3%	16.3%	15.5%	12.3%	23.0%	-25.0%	9.1%

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010
TOTAL EXITED AFTER ELIBIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	260	228	188	87	195	-65	1,470
	Percent	18.3%	16.3%	15.5%	12.3%	23.0%	-25.0%	10.4%
Exited with employment	Number	705	665	643	358	428	-277	6,065
	Percent	49.5%	47.6%	53.1%	50.5%	50.4%	-39.3%	43.0%
Exited without employment	Number	302	315	238	195	125	-177	3,450
	Percent	21.2%	22.6%	19.6%	27.5%	14.7%	-58.6%	24.5%
TOTAL RECEIVED SERVICES	Number	1,007	980	881	553	553	-454	9,515
	Percent	70.7%	70.2%	72.7%	78.0%	65.1%	-45.1%	67.5%
EMPLOYMENT RATE	Percent	70.01%	67.86%	72.99%	64.74%	77.40%	10.55%	63.74%
Transition age youth	Number	209	225	151	88	135	-74	2,023
	Percent	14.7%	16.1%	12.5%	12.4%	15.9%	-35.4%	14.4%
Transition aged youth employment outcomes	Number	50	65	61	36	48	-2	551
	Percent	7.1%	9.8%	9.5%	10.1%	11.2%	-4.0%	9.1%
Competitive employment outcomes	Number	378	383	399	335	363	-15	5,222
	Percent	53.6%	57.6%	62.1%	93.6%	84.8%	-4.0%	86.1%
Supported employment outcomes	Number	42	46	40	27	30	-12	153
	Percent	6.0%	6.9%	6.2%	7.5%	7.0%	-28.6%	2.5%
Average hourly wage for competitive employment outcomes	Average	\$15.22	\$15.26	\$15.60	\$17.31	\$18.76	\$3.54	\$14.26
Average hours worked for competitive employment outcomes	Average	31.9	31.1	31.0	29.9	30.7	-1.2	31.1
Competitive employment outcomes at 35 or more hours per week	Number	227	210	227	173	211	-16	2,829
	Percent	32.2%	31.6%	35.3%	48.3%	49.3%	-7.0%	46.6%
Employment outcomes meeting SGA	Number	215	205	203	172	200	-15	2,198
	Percent	30.5%	30.8%	31.6%	48.0%	46.7%	-7.0%	36.2%
Employment outcomes with employer-provided medical insurance	Number	106	89	102	97	147	41	1,260
	Percent	15.0%	13.4%	15.9%	27.1%	34.3%	38.7%	20.8%

Positive Trends

During the review period, fewer individuals exited the VR program in the initial stages of the process. Specifically, the percentage of individuals who exited the VR program as an applicant prior to eligibility determination declined from 11.5 percent in FY 2007, to 8.6 percent in FY 2010. This percentage was below that for all blind agencies of 21.2 percent in FY 2010.

During this time, the number and percentage of individuals whose cases were closed without obtaining employment after receiving services also declined by 58.6 percent, from 302 individuals (21.2 percent) in FY 2006, to 125 individuals (14.7 percent) in FY 2010, below the performance of all blind agencies at 24.5 percent in that year. As a result, the employment rate for CBVH increased during the past five years, from 70.01 percent in FY 2006, to 77.4 percent in FY 2010, above the rate for all blind agencies of 63.74 percent in FY 2010.

From FY 2006 to FY 2010, the performance of CBVH on measures related to the quality of employment outcomes increased and exceeded the performance for all blind agencies. For example, the average hourly wage earned by individuals who achieved employment increased by \$3.54, from \$15.22 in FY 2006, to \$18.76 in FY 2010. In comparison, individuals served by all blind agencies achieved an average hourly wage of \$14.26 in FY 2010. Additionally, the percentage of individuals who achieved competitive employment with 35 or more hours worked per week increased from 32.2 percent in FY 2006, to 49.3 percent in FY 2010, above the percentage for all blind agencies of 46.6 percent in FY 2010. Similarly, the percentage of individuals who achieved employment outcomes, and whose earnings met the level of substantial gainful activity (SGA), increased significantly, from 30.5 percent in FY 2006, to 46.7 percent in FY 2010. In comparison, the percentage for all blind agencies in FY 2010 was 36.2 percent.

Finally, the percentage of individuals who achieved employment outcomes with employer-provided medical insurance more than doubled from FY 2006 to FY 2010, from 15 percent to 34.3 percent. Again this percentage was significantly above that for all blind agencies that year of 20.8 percent.

In FY 2010, of all individuals served by CBVH whose cases were closed, 15.9 percent were transition-age youth. This percentage is comparable to the performance achieved by all other blind agencies of 14.4 percent in FY 2010. In addition, the percentage of youth who achieved employment, compared to all individuals who achieved employment, increased from 7.1 percent in FY 2006, to 11.2 percent in FY2010, above the percentage of 9.1 for individuals whose cases were closed by all other blind agencies.

Similarly, the overall percentage of individuals who achieved supported employment, compared to all individuals who achieved employment, increased from six percent in FY 2006, to seven percent in FY 2010, remaining above the performance of all other blind agencies at 2.5 percent during this same period.

Trends Indicating Potential Risk to the Performance of the VR Program

From FY 2006 through FY 2010, the total number of individuals who exited the VR program at any stage of the process decreased by 575 individuals, or 40.4 percent. As a result of the decrease in the number served by CBVH's VR program, fewer individuals exited the VR program. Consequently, a smaller number of individuals with visual impairments in New York were able to receive VR services. For example, from FY 2006 to FY 2010, the number of individuals who achieved employment outcomes decreased by 277, from 705 individuals to 428.

During this period, the percentage of individuals who exited the VR program after achieving employment, when compared to all individuals who exited the VR program, remained consistent

and ranged from 49.5 percent in FY 2006, to 50.4 percent in FY 2010. This was due to the decreased number of individuals served and who exited the VR program over time.

The percentage of individuals who exited the system after being determined eligible for services, but prior to receiving services, increased from 18.3 percent in FY 2006, to 23 percent in FY 2010. This percentage was above that for all blind agencies of 9.1 percent.

Finally, the average hours worked per week for individuals who exited with employment decreased from 31.9 hours in FY 2006, to 30.7 hours in FY 2010. This figure was less than the national average of 31.1 hours for all blind agencies for FY 2010.

CBVH attributed the decline in the number of individuals served and those who achieved employment to a change in its policies regarding homemaker outcomes. After modifying its policies in 2004, CBVH reported a significant decline in referrals and individuals interested in receiving services. However, the agency reported a recent increase in the overall caseload size for its counselors, which it attributes, in part, to its outreach efforts and the provision of transition services to children as young as ten years of age. Furthermore, the agency indicated that the implementation of a new case management system in FY 2009 could have affected the reporting of data for that year.

Fiscal Analysis

Table 2.2
New York CBVH Fiscal Performance Data for Federal FY 2007 through Federal FY 2011

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Grant amount per MIS	4 th	24,381,444	24,499,995	24,398,054	24,521,111	24,405,404
	Latest/ Final*	24,381,444	24,499,995	24,398,054	24,521,111	
Total outlays	4 th	19,866,137	21,620,856	20,184,877	15,493,466	15,551,711
	Latest/ Final*	30,980,234	31,130,870	31,001,339	31,157,701	
Total unliquidated obligations	4 th	1,601,250	5,178,375	1,430,593	-2,964,264	-2,403,423
	Latest/ Final*	0	0	0	5,151,774	
Federal Share of Total Outlays	4 th	11,666,097	9,811,606	12,150,999	7,108,434	6,505,206
	Latest/ Final*	24,381,444	24,499,995	24,398,054	17,460,127	
Federal share of unliquidated obligations	4 th	1,601,250	5,178,375	1,430,593	1,748,442	2,441,230
	Latest/ Final*	0	0	0	7,060,984	
Total federal share	4 th	13,267,347	14,989,981	13,581,592	8,856,876	8,946,436
	Latest/ Final*	24,381,444	24,499,995	24,398,054	24,521,111	
Recipient funds	4 th	6,598,790	6,630,875	6,603,285	6,636,590	6,605,275
	Latest/ Final*	6,598,790	6,630,875	6,603,285	6,636,590	

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Recipient share of unliquidated obligations	4th	0	0	0	-4,712,706	-4,844,653
	Latest/ Final*	0	0	0	-1,909,210	
Agency actual match (total recipient share)	4th	6,598,790	6,630,875	6,603,285	6,636,590	6,605,275
	Latest/ Final*	6,598,790	6,630,875	6,603,285	6,636,590	
Agency required match	4th	3,157,406	2,655,492	3,288,644	1,923,884	1,760,621
	Latest/ Final*	6,598,790	6,630,875	6,603,285	4,727,380	
Over/under match	4th	-3,441,384	-3,975,383	-3,314,641	-4,712,706	-4,844,654
	Latest/ Final*	0	0	0	-1,909,210	
MOE **	4th					
	Latest/ Final*			6,603,285	6,636,590	
Unobligated funds qualifying for carryover	4th	11,114,097	9,510,014	10,816,462	15,664,235	15,458,968
	Latest/ Final*	0	0	0	0	
Total program income realized	4th	1,134,394	937,136	1,081,681	1,101,471	76,247
	Latest/ Final*	1,134,394	937,136	1,081,681	1,101,471	
Total indirect costs	4th	2,064,165	1,770,380	1,300,810	1,171,439	731,747
	Latest/ Final*	1,999,652	1,309,080	1,300,810	1,171,439	

*Denotes Final or Latest SF-269 or SF-425 Submitted

**Based upon Final or Latest SF-269 or SF-425 Submitted

RSA reviewed fiscal performance data from federal FY2007 through federal FY2011. Based on the data in the table above, the agency exceeded the required level of match in each fiscal year reviewed. The entire recipient non-federal share was provided through state appropriations. The agency was able to carry-over unexpended federal funds in those years for an additional federal fiscal year. The data also indicate that the agency carried over a decreasing amount of VR program funds from FY2007 to FY2008 of \$1.6 million, or 14 percent. However, from FY 2008 through FY 2011, the agency's carry-over increased from \$9.5 million to \$15.5 million, a three-year increase of 62.5 percent. Carry-over in FY 2011, of \$15.5 million, represented 63 percent of the annual VR program award and was due primarily to the awarding of VR funds under the American Reinvestment and Recovery Act funds of 2009. The agency met its maintenance of effort requirements, both as an agency and on a state-wide basis for each fiscal year reviewed.

The U. S. Department of Health and Human Services is the cognizant agency for CBVH and is responsible for approving its cost allocation plans. No indirect costs were reported as charged against the award in FY 2010 or FY 2011. However, awards for FY 2010 and FY 2011 are still open. See Section 6, Finding 7 regarding the agency's lack of an approved indirect cost rate.

Data in Table 2.2 were obtained from fiscal reports submitted by CBVH. The agency may be required to amend fiscal reports based on findings contained in Section 6 of this report. If fiscal reports are amended, RSA will recalculate data pertaining to the agency's match and maintenance of effort requirements.

SECTION 3: EMERGING PRACTICES

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

Transition

- **Summer Employment Experience Program:** To assist transition-age youth in career preparation, CBVH conducts a summer employment program for individuals between the ages of 16 and 19. A community provider in Western New York partners with a local college to provide this residential program for participants from across the state. The transition-age youth participating in the program live in a college dorm during the approximately six-week program that includes four days of work in supervised job settings with pay based on hours worked, as well as group discussions that focus on career exploration, work behaviors, resume building and interview skill development. The dorm-based living arrangement enables participants to develop strong and productive relationships with peers and mentors and to increase their confidence in their independent living skills. Through the residential setting and participation in paid work experience, the program is designed to enable youth to develop work ethics, self-sufficiency and a sense of accomplishment. The program provides ongoing opportunities for youth to share social and work experiences, and to receive individual and group guidance regarding their potential career paths. Presentations are made on topics ranging from career development to personal growth and wellness. Programs are also conducted on technology skills, budgeting, independence, self-esteem development, and the refinement of career goals. Participants gain hands-on employment skills training and a documented experience that makes them

attractive to potential employers, as well as experiences that assist them in determining their own future college and/or career goals.

Improvement of Employment Outcomes

- **Business Kits:** In 2011, with input from CBVH staff and community rehabilitation providers, CBVH developed transportable business kits to be used by CBVH and contract agency staff to demonstrate assistive technology available for work place accommodations. Seventeen kits, costing approximately \$8,000 each, were assembled and provided to all CBVH district offices. The kits contain written materials, along with a variety of low vision devices, software and hardware. The kits are available to CBVH staff and to community rehabilitation providers to provide tangible demonstrations of assistive technology and simple, low cost items that can be used to accommodate employees who are blind.

Outreach to Unserved and Underserved Individuals

- **Outreach Initiative:** In 2009, CBVH began outreach initiatives in New York City targeting individual neighborhoods and unique populations, institutions and organizations, to reach linguistically and culturally diverse groups with a special emphasis on immigrant populations. These initiatives began in Harlem and extended to the South Bronx, Washington Heights, and the Boroughs of Queens and Brooklyn in subsequent years. Currently, the outreach activities are managed by a dedicated outreach specialist who identifies and attends community events to provide health care organizations and community leaders with information about CBVH services.

A complete description of the practices described above can be found on the [RSA website](#).

SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES

During its review of the VR and SE programs in FY 2012, RSA assessed progress toward the implementation of goals and strategies that CBVH agreed to address during the prior monitoring cycle in FY 2007, and the resolution of findings from that review. The additional technical assistance requested by the agency to enable it to implement these prior goals and strategies 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 November 16, 2007, CBVH agreed to implement the goals and strategies below. A summary of the agency’s progress toward implementation appears below.

Goal 1: Examine existing QA processes to identify gaps and determine improvements needed to expand and enhance quality assurance activities.

Strategy 1: Through a grant provided by RSA, work with the Region II, RRCEP to examine current quality assurance processes and develop approaches to expand and improve quality assurance activities.

Status: CBVH utilized RRCEP National Consortium resources to benchmark CBVH quality assurance processes against existing systems, to explore existing and promising practices nationwide and to develop a provider performance index or report card that could be shared internally and externally as a public document. National Consortium member, California Department of Vocational Rehabilitation, conducted an external review of the CBVH quality assurance system as a precursor to the development of the report card. The external review resulted in minor recommendations to improve the existing process.

Beginning in FY 2009, report cards were developed with input from both community rehabilitation partners and CBVH administration and staff. The report card is an executive summary of the quality assurance review report that was created as an accessible public document to be used by consumers in making informed choices about services, as well as a management tool to enhance partnerships and decision making among provider agencies, CBVH local offices and CBVH administration. Report cards for eight community rehabilitation providers are now available on CBVH’s website visionloss.ny.gov.

In 2009, changes were made to the CBVH comprehensive service contracts for a new five year period. The new contracts required modification of quality assurance instruments to align with changes to the contract structure and requirements. Revised instruments and processes are now in place and being used during this review cycle of 17 providers over the course of the remaining three years of the present five year contract.

Strategy 2: Work with CBVH district offices to increase counselor involvement with consumers during the provision of contracted services.

Status: CBVH initiated a number of actions to enable counselors to be more involved with consumers. Organizational changes included the division of the New York City district into two offices with the addition of an office in Harlem to serve areas of Manhattan, Queens and the entire borough of the Bronx. A satellite office was added in Queens, providing easier access to a CBVH location for borough residents. CBVH added counseling staff in New York City, on Long Island and in Buffalo. An additional Spanish speaking counselor position was added for New York City to expand counseling services available to consumers in that catchment area. Counselors who speak French, Creole and Portuguese are on staff in some field offices and the Office of Children and Family Services provides access to phone translation services to facilitate communication with speakers of other languages.

Specialized transition counselors were added in each office, expanding the number of transition counselors from four to nine. The addition of counselors has enabled CBVH to maintain services at an appropriate level and in some cases to decrease active caseload sizes, affording counselors more time with consumers.

CBVH provided training in counseling skills to increase involvement in all phases of the vocational rehabilitation process including job development and placement. CBVH made changes to technology through the introduction of a new case management system and the provision of laptop computers with wireless technology that enables counselors to complete work while in the field meeting with consumers. Contracts with provider agencies mandate interaction between consumers, counselors and providers at specific junctures during the provision of services, thereby increasing interaction with and on behalf of consumers.

Strategy 3: Expand evaluation of consumer satisfaction with contract services. Communicate the nature and scope of the quality assurance plan to contract agencies.

Status: CBVH has revised the consumer satisfaction survey forms that were part of the quality review process at the time of the FY 2007 review and continues to include surveys of consumer satisfaction as part of the quality review process. A sample of consumers served by the provider is identified, and individual consumers are contacted by phone to respond to the customer satisfaction survey instrument items. Consumer surveys are completed for each vocational service received by consumers in the VR program and adaptive living services received for those served by the Independent Living for Older Blind Individuals program, as well as overall consumer satisfaction. The results of the surveys are compiled and included in the report to the contract agency and in the report card posted on the CBVH website.

The contractual standards identified in the manual for the comprehensive services contracts, are provided to the contract agencies at the time of contract award. In addition, details of the quality assurance process are reviewed with contractors when reviews are scheduled. The quality assurance protocol has recently been revised to incorporate greater communication between district offices and the reviewers prior to the review.

Goal 2: Increase the number of competitive employment outcomes using FY2007 data on the number of competitive employment outcomes as a baseline.

Strategy 1: Using information from the Needs Assessment and other sources, identify the reasons for the decrease in employment outcomes.

Strategy 2: continue expanding relationships with employers and business associations to encourage hiring CBVH consumers.

Strategy 3: strengthen partnership with provider networks providing services to individuals with disabilities other than blindness; strengthen partnership with provider networks providing services to individuals with disabilities other than blindness.

Strategy 4: continue to establish linkages with state, local, and community non-profit organizations that provide free services to individuals interested in setting up their own business.

Status: CBVH has been an active partner in the Council of State Administrators of Vocational Rehabilitation National Employment Team. Through this partnership, CBVH has been able to develop relationships with national private and public employers establishing employment opportunities in New York. CBVH worked closely with community partners to increase sharing of job leads and develop relationships with local employers. CBVH worked closely with partners to develop self-employment opportunities; increase employer awareness; and access benefits advisement and counseling services for consumers. CBVH also established a separate contract for the provision of job placement services with 36 new providers.

Goal 3: Increase the number of individuals from ethnic and racial minority populations who receive services, beginning with a baseline of data for FY 2007.

Strategy 1: Using data from the Needs Assessment, determine which specific populations are unserved/underserved.

Status: CBVH initiated a project in 2009 to assess unserved and underserved populations in each of the agency's seven regions. The Northeast Region 2 TACE has been assisting CBVH in this initiative. The initiative will provide data and information to establish regional plans for outreach to unserved and underserved individuals, and improve service delivery to these individuals. Plans are expected to be finalized and implementation started in FY 2012.

Strategy 2: Determine what strategies are most likely to reach those populations.

Status: The regional planning activities will determine the specific strategies to address the needs of the identified unserved and underserved individuals within the regions.

Strategy 3: increase culturally sensitive marketing and outreach activities to those populations, using strategies identified as effective in other locations.

Status: This strategy also will be addressed through the planning noted in Strategy 1, the CBVH home office outreach coordinator attends local community events, including events focused on attracting individuals of ethnic minorities, to share information about CBVH, as well as assists in coordinating planned outreach and marketing activities.

Strategy 4: work with other OCFS divisions to collaborate on initiatives that will expand and increase CBVH's ability to work effectively with individuals from ethnic and racial minority populations.

Status: CBVH participates in the OCFS Racial Equity/Cultural Competency Committee. In 2010, all CBVH staff participated in extensive cultural competency training focused on identifying disproportionate minority representation and eliminating racial and ethnic inequities in service delivery, and improving service delivery to unserved and underserved individuals. Community rehabilitation program partners throughout the state also participated in this training initiative.

Strategy 5: work with ethnic minority communities to identify new referral sources as well as potential sources of translators.

Status: In 2009, CBVH initiated outreach initiatives in New York City targeting specific neighborhoods, populations and organizations to increase awareness of CBVH services. Dedicated outreach specialists participated in community events to inform health care providers and community leaders about CBVH services available to individuals who are at risk of vision loss. Outreach specialists also developed programs to increase employer awareness of CBVH services.

An outreach project was also developed in the Syracuse area in 2010, to provide information about CBVH to those populations who may be unserved or underserved. This effort also included activities to engage employers in order to increase their awareness of CBVH services.

Strategy 6: translate written materials and brochures into other languages in addition to the ones currently available in Spanish, Arabic, Chinese, and Russian.

Status: CBVH is assessing data from our case management system on consumer primary language to determine the number of individuals who have identified primary languages other than those named above. On October 6, 2011, Governor's Executive Order Number 26 was promulgated. The Executive Order mandates a statewide language access policy which requires OCFS to develop a language access policy that allows persons with limited English proficiency to have access to agency services, programs, and activities. The primary languages included in Executive Order Number 26 are Spanish, French Creole, Chinese, Russian, Italian, and Korean.

CBVH staff also has telephone access to a private real-time translation service to communicate with most languages.

Compliance Findings and Corrective Actions

As the result of the monitoring conducted during FY 2004, CBVH developed a corrective action plan (CAP) that included the steps CBVH must take to resolve the compliance findings identified in the monitoring report dated December 22, 2005, 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. The CAP, initiated on April 11, 2006, was successfully completed on January 19, 2011.

Through the implementation of the CAP, CBVH successfully resolved compliance findings in the following areas:

- development or revision of policies regarding the timely development of IPEs, homemaker outcomes, the waiver of limitations established in CBVH policies and the inclusion of timelines in IPEs for the provision of services;
- revisions to the agency's performance improvement plan;
- establishment of agreements with institutions of higher education; and
- presumption of eligibility.

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

- OCFS and CBVH directors and senior managers;
- OCFS and CBVH 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 full-time employees (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 CBVH;

- individuals who work on rehabilitation work of the CBVH and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals under CBVH that do not work on rehabilitation projects of the DSU; and
- documents describing New York procurement requirements and processes.

Overview

CBVH, the DSU for the administration of the VR and SE programs, is located within the Department of Family Assistance, Office of Children and Family Services (OCFS), which is the DSA. In addition to CBVH, OCFS is comprised of six divisions including: Child Welfare and Community Services; Child Care Services; Juvenile Justice and Opportunities for Youth; Legal Affairs; Administration; and Information Technology. The CBVH associate commissioner and the OCFS division directors report to the OCFS deputy commissioner. In addition to the six divisions, OCFS also includes the Office of the Commissioner, the Office of Communications, the New York City Executive Office, the Office of the Ombudsman, the Office of Strategic Planning and Policy development, and the Office of Special Investigations.

CBVH consists of four units, including Rehabilitation Services, Administration, the Business Enterprise program and the Training Program/VR Support. The Rehabilitation Services unit administers the VR program, as well as the independent living and the CBVH children's programs. VR services are provided through seven district offices. As of January 22, 2012, CBVH employed a total of 137 staff across all four units.

RSA's review of the organizational structure of CBVH did not result in the identification of observations and recommendations. In addition, the compliance finding identified by RSA through the implementation of this focus area is contained in Section 6 of this report.

Technical Assistance

RSA provided the technical assistance described below to CBVH related to this focus area during the course of its monitoring activities. Specifically, RSA provided explanation to CBVH concerning the requirement that a MOU governing operations of the One-Stop service delivery system in a local area be developed and executed with each local workforce investment board (LWIB) and CBVH as a mandatory partner in the system. In addition, RSA explained the requirement and benefits for CBVH to provide representation on the LWIBs across the state pursuant to section 117 of the Workforce Investment Act of 1998.

B. Transition Services and Employment Outcomes for Youth with Disabilities

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

Section 7(37) of the Rehabilitation Act defines "transition services" as a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

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

To implement this focus area, RSA reviewed:

- formal interagency agreements between the VR agency and the SEA;
- transition service policies and procedures; and
- VR agency resources and collaborative efforts with other federal, state and local entities.

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

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

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

RSA also compared the performance of CBVH with peer agencies during the same period, as well as with that for other blind 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:

- the CBVH administrator/director;
- CBVH regional coordinator and district office manager;
- VR counselors and transition staff;
- VR counselors-Children's Consultants; and
- the CBVH transition coordinators serving as liaisons with the State Education Department Office of P-12 and Office of Special Education.

RSA's review of transition services and employment outcomes achieved by youth with disabilities did not result in the identification of observations and recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

While on site in New York, the RSA review team provided technical assistance to CBVH in the area of transition services and employment outcomes for youth with disabilities. Specifically, RSA provided guidance on a wide variety of topics, including the federal requirements related to the use of trial work experiences and extended evaluations; the timely determination of eligibility within 60 days from the date of application; the provision of services through plans that contain all mandatory components of an IPE; and the information required to be included in the formal interagency agreement with the SEA. Section 6 of this report contains a detailed description of the statutory and regulatory requirements related to each of these topics. In addition, RSA provided guidance to CBVH on the provision of on-the-job training opportunities for youth with disabilities and the methods to be used when paying individuals for the work performed.

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 website 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 2007 thru FY 2011, 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 CBVH did not result in the identification of observations and recommendations. In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

While on site, RSA held discussions and provided technical assistance to fiscal staff from CBVH and OCFS related to the late liquidation of grant awards. Specifically, RSA described the process for requesting late liquidations, noting that CBVH's contracts contained a clause that allowed contractors to submit vouchers for final reconciliation and payment as late as six months after the annual contract period. RSA recommended that by shortening the period that

contractors have for submitting vouchers, CBVH might be able to liquidate contracts on a more timely basis and lessen the incidence of requesting late liquidations.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that CBVH is required to undertake. The technical assistance 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.

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

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

1. Individualized Plan for Employment (IPE)

Legal Requirements:

- Rehabilitation Act—Sections 7(2)(B)(iii); and 102(a)(1), (2) and (6)(A)
- VR Program Regulations—34 CFR 361.5(b)(6)(ii)(C); 34 CFR 361.41(b)(1)(i); 34 CFR 361.42(a)(1) and (2), (e) and (f)(1)

Finding:

CBVH is not in compliance with statutory requirements at Section 102(a)(1) and (2) of the Rehabilitation Act or regulations at 34 CFR 361.42(a) (1) and (2) because the agency is requiring transition-age youth to participate in extended evaluations to obtain information that is more properly obtained through the typical assessment of an individual’s eligibility. In addition, if it should be necessary to determine through clear and convincing evidence that an individual may be too significantly disabled to benefit from VR services in terms of the achievement of an employment outcome, CBVH does not provide multiple trial work experiences prior to utilizing extended evaluations, as required under Section 102(a)(2)(B) of the Rehabilitation Act and 34 CFR 361.42(e)(2)(iii); and 34 CFR 361.42 (f)(1).

Section 102(a)(1) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.42(a)(1) require the DSU to use qualified personnel to determine that an applicant is eligible for VR services based only on the criteria that the applicant: i) has a physical or mental impairment; (ii) has a physical or mental impairment that constitutes or results in a substantial impediment to employment for the applicant; and (iii) requires VR services to prepare for, secure, retain, or regain employment consistent with the applicant's unique strengths, resources,

priorities, concerns, abilities, capabilities, interests, and informed choice. The individual is presumed to benefit from VR services, unless the DSU can demonstrate through clear and convincing evidence that the applicant is incapable of benefiting from VR services in terms of an employment outcome (Section 102(a)(2); 34 CFR 361.42(a)(1) and (2)). In accordance with federal requirements, a DSU is to use trial work experiences and, in limited circumstances, extended evaluations to obtain the necessary evidence that an individual may be too significantly disabled to benefit from participation in the VR program (Section 102(a)(2)(B); 34 CFR 361.42(e)(1) and (f)(1)).

As part of the review, RSA reviewed CBVH's policies, including section 2.02, Status 06 – Extended Evaluation. This policy states "An individual enters status 06 when the counselor determines that an extended evaluation is necessary to determine eligibility." In addition, section 4.03, Extended Evaluation, indicates that when an individual is placed in an extended evaluation plan, the goal for the plan will be "to determine whether or not the individual is eligible for VR services" and can include "any and all VR services" except for occupational tools, occupational licenses, on-the-job training, vocational training and job placement. These policies refer to the determination of eligibility in general and do not specify the limited purpose for, and circumstances under which, such evaluations are to be used. Therefore, the language of the policies is not consistent with federal requirements.

CBVH staff also reported individuals placed under an extended evaluation plan, referred to as an Individualized Plan for Employment-Extended Evaluation (IPE-EE), were exclusively applicants provided with the single goal of "determine eligibility." Typically, individuals placed under an IPE-EE received work capacity assessments, medical evaluations and low vision assessments to assist the VR counselor to determine an individual's eligibility. These services, although not inclusive of all assessment services, are allowable services for determining eligibility of an applicant, as defined under Section 7(2)(B)(iii) of the Rehabilitation Act and 34 CFR 361.5(b)(6)(ii)(C), and do not require the use of trial work experiences or extended evaluations.

Thus, it appears that in some cases CBVH may use extended evaluations when it is necessary to extend the period of eligibility determination beyond 60 days in order to obtain necessary information and documentation, rather than requesting a written agreement for the extension of this period from the individual as permitted by Section 102(a)(6)(A) of the Rehabilitation Act and 34 CFR 361.41(b)(1)(i)). However, RSA notes that such extensions can only be obtained if "exceptional and unforeseen circumstances beyond the control of the designated State unit" prevent the determination of eligibility within the required 60-day period (id.).

Furthermore, the agency does not use trial work experiences prior to implementing extended evaluation plans. VR regulations at 34 CFR 361.42 (f)(1) make it clear that extended evaluations shall be implemented, under limited circumstances, only if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the DSU is able to make the determination that the individual is too significantly disabled to benefit from participation in the VR program. CBVH staff confirmed that the agency makes very little, if any, use of trial work experiences. Finally, staff indicated the provision of trial work experiences is not a requirement prior to the development of an extended evaluation plan.

Finally, based on data from the RSA-911, during FY 2010, CBVH closed the cases of four transition-age youth after or at the time they were participating in extended evaluations. However, the reason provided for these four case closures included the refusal of further services on the part of the individual, the transfer of the case to another agency, the inability of CBVH to locate the individual and the lack of extended services. None of these four cases were closed because CBVH found that the individuals were too significantly disabled to benefit from VR services in terms of the achievement of an employment outcome. On the other hand, the data for that year also indicated that the cases of seven transition-age youth were closed because the individuals were too significantly disabled to benefit from participation in the VR program. Of these, two individuals exited the VR program without an employment after receiving services and five individuals exited after the determination of eligibility but prior to receiving services. These data demonstrate a lack of connection between the participation of transition-age youth in extended evaluations and the purpose for which such evaluations are to be used. RSA also notes that the FY 2010 data covering all cases closed by CBVH demonstrates similar patterns of case closure for a much larger number of individuals.

Based on the foregoing, CBVH's policies and practices are not consistent with statutory requirements at sections 102(a)(1) and (2) of the Rehabilitation Act, as well as corresponding regulations at 34 CFR 361.42(a)(1) and (2), 34 CFR 361.42(e)(1), and 34 CFR 361.42(f)(1), because the agency uses extended evaluations as part of the regular eligibility determination process, not limiting this practice to those rare circumstances when staff believe that an individual may be too significantly disabled to benefit from VR services in terms of an employment outcome and only after the use of trial work experiences have been exhausted or are not available.

Corrective Action 1: CBVH must:

- 1.1 amend its policy on the definition and provision of extended evaluation and trial work experiences to be consistent with Section 102(a)(1) and (2) of the Rehabilitation Act and regulations at 34 CFR 361.42(a)(1) and (2), 34 CFR 361.42(e) and 34 CFR 361.42(f);
- 1.2 develop and implement procedures pertaining to the implementation of trial work experiences and extended evaluations, including trial work experience and extended evaluation plans, consistent with these federal requirements; and
- 1.3 provide agency-wide training on the effective use and requirements for trial work experiences and extended evaluations.

2. Untimely Eligibility Determination

Legal Requirements:

- Rehabilitation Act—Section 102(a)(6)(A)
- VR Program Regulations—34 CFR 361.41(b)(1)

Finding:

CBVH is not in compliance with Section 102(a)(6) and VR program regulations at 34 CFR 361.41(b)(1) requiring an eligibility determination be made within 60 days. Pursuant to these

federal requirements, CBVH must determine whether an individual is eligible for VR services within 60 days from the date on which the application is submitted to the agency, unless exceptional and unforeseen circumstances beyond the control of CBVH prevent the completion of this process, and CBVH and the individual agree to a specific extension of time or identify the need for a Trial Work Evaluation or an Extended Evaluation.

As part of the monitoring process, RSA analyzed data provided through the RSA-911 indicating the length of time it took CBVH to make eligibility determinations for transition-age youth whose cases were closed after they had applied for services. FY 2010 data submitted by CBVH demonstrates that:

- only 67.71 percent of the transition-age youth whose cases were closed were determined eligible within the required 60-day period, compared to the national average of 81.90 percent for all blind agencies; in other words, 32.29 percent of this population was not determined eligible within 60 days, compared to the national average of 18.1 percent for all blind agencies;
- 9.86 percent of transition-age youth whose cases were closed were determined eligible between 61 and 90 days from application, compared to the national average of 8.54 percent for all blind agencies;
- 14.08 percent of transition-age youth whose cases were closed were determined eligible between 91 and 365 days from the date of application, compared to the national average of 7.6 percent for all blind agencies; and
- 8.45 percent of transition-age youth whose cases were closed were determined eligible over one year from application, compared to the national average of 1.96 percent for all blind agencies.

As the data demonstrate, in FY 2010, CBVH did not determine eligibility within the required 60-day period in approximately one-third of the cases closed for transition age youth. In addition, RSA interviewed CBVH staff and determined that eligibility determination extensions were not being used for this population. Therefore, CBVH does not comply with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1).

Corrective Action 2: CBH must:

- 2.1 submit a written assurance within 10 days of the receipt of the final monitoring report that CBVH will comply with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1) by making eligibility determinations within the required 60-day period, unless exceptional and unforeseen circumstances require it and the applicants to agree to an extension of this period, or the individuals are participating in trial work experiences or extended evaluations; and
- 2.2 submit the steps, including timelines, that CBVH will take to ensure that the determination of eligibility for each individual is made in accordance with the requirements of Section 102(a)(6) and 34 CFR 361.41(b)(1).

3. Provision of Services Prior to an IPE

Legal Requirements:

- Rehabilitation Act—Sections 102(b)(3); and 103(a)
- VR Program Regulations—34 CFR 361.46(a) and 34 CFR 361.48

Finding:

CBVH is not in compliance with Sections 102(b)(3) or 103(a) of the Rehabilitation Act, and its implementing VR program regulations at 34 CFR 361.46(a) and 34 CFR 361.48, as CBVH provides individualized services to youth with disabilities prior to the approval of an IPE through the use of an additional plan, referred to as the IPE Development Plan.

Section 103(a) of the Rehabilitation Act and regulations at 34 CFR 361.48 state that VR services are those services that are necessary for an individual to prepare for, secure, regain or retain employment and that are specified on the IPE. Therefore, those VR services listed in Section 103(a) and 34 CFR 361.48 can only be provided to an individual if they are specified in an IPE meeting the requirements set forth in the Act and regulations. The IPE must contain, among other items as appropriate for the individual, the individual's specific employment goal; the services needed for the individual to achieve the goal; timelines for the provision of, and the providers of, the services; and the criteria for evaluating progress toward achievement of the goal (Section 102(b)(3) and 34 CFR 361.46(a)).

During the course of the review, RSA reviewed CBVH policies specific to the development of the IPE Development Plan. According to these policies, the IPE Development Plan includes a "tentative goal" and that it reflects an individual's plan to develop an IPE. Pursuant to CBVH policies, VR counselors are required to develop an IPE or an IPE Development Plan for each eligible individual as soon as possible, but no later than 90 days after the determination of eligibility for VR services. The policies further state that, "for individuals who have developed an IPEDP within 90 days of eligibility, an IPE must be developed as soon as possible, but no later than one year after they have been determined eligible for services" (see Section 2.04 Individualized Plan for Employment (IPE) Development, *Time Frame for Developing an IPEDP and IPE*). The IPE Development Plan is also developed for students who have been determined eligible for VR services "to outline a plan to gather information necessary to formulate a vocational goal and implement an IPE" (see Section 7.00 Transition Planning and Services Overview, *Individualized Plan for Employment Development Plan*).

The IPE Development Plan includes, "completion of medical, vocational, situational and other assessments; the selection of a suitable vocational rehabilitation goal and determination of the nature and scope of rehabilitation services that will be needed to reach the goal" (id.). As indicated by this statement and the policies described above, the IPE Development Plan functions as a tool through which CBVH conducts assessments and assists the individual to identify the desired employment goal for inclusion on the IPE. It does not include the essential component of an IPE - the specific employment goal as required under Section 102(b)(3) of the Rehabilitation Act and 34 CFR 361.46(a). Consequently, those services listed in Section 103(a) and 34 CFR 361.48 cannot be provided under an IPE Development Plan.

Nonetheless, CBVH provides individualized services to eligible individuals through an IPE Development Plan, prior to the development and approval of an IPE containing the mandatory components. Based on a review of a sample IPE Development Plan and information provided by CBVH staff, the individualized services provided through the IPE Development plan include, but are not limited to: vocational guidance and counseling; rehabilitation teaching; orientation and mobility training; low vision services; adaptive equipment (not to exceed \$500 per student per year); social casework; prevocational skills training; summer recreation programs; work experiences; summer youth employment with agency reimbursement to the employer for wages; job coaching (not to exceed 150 hours); maintenance; and transportation.

Although CBVH has developed the IPE Development Plan, after eligibility determination, there is no authority under the VR program for CBVH to develop and implement additional plans through which it provides individualized VR services, such as work experience; job coaching and job related services; equipment, tools and supplies; other goods and services; and rehabilitation technology, all of which are listed in Section 103(a) of the Rehabilitation Act and 34 CFR 361.48. These services can only be provided through an approved IPE in compliance with Section 102(b) of the Rehabilitation Act and regulations at 34 CFR 361.46(a).

In summary, CBVH is not in compliance with Sections 102(b)(3) and 103(a) of the Rehabilitation Act, as well as its implementing regulations at 34 CFR 361.46(a) and 34 CFR 361.48, because it provides VR services to individuals through IPE Development Plans that do not contain the required components of a valid IPE.

Corrective Action 3: CBVH must:

- 3.1 cease providing VR services to eligible transition-age youth through IPE Development Plans and prior to the approval of IPEs that contain all mandatory components;
- 3.2 submit a written assurance to RSA within 10 days of the issuance of the final monitoring report that CBVH will cease the practice of providing VR services to eligible transition-age youth through plans that do not contain the mandatory components of an IPE, in accordance with Section 102(b)(3) and 103(a) of the Rehabilitation Act, and regulations at 34 CFR 361.46(a) and 34 CFR 361.48; and
- 3.3 revise its policies to be in compliance with federal requirements by discontinuing use of IPE Development Plans for the provision of VR services to eligible transition-age youth and submit the revised draft policies to RSA for review.

4. State Educational Agency (SEA) Agreement

Legal Requirements:

- Rehabilitation Act—Section 101(a)(11)(D)(i)–(iv)
- VR Program Regulations—34 CFR 361.22(b)(1)–(4)

Finding:

CBVH and the Adult, Career and Continuing Education Services (ACCES) entered into an agreement with the Office of P-12 Education in FY 1993 that is not in compliance with the minimum requirements of a formal interagency agreement with the SEA pursuant to Section

101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b). At a minimum, the SEA agreement must include:

- (1) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (2) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;
- (3) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
- (4) procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

CBVH entered into a formal interagency agreement with ACCES and the Office of P-12 Education on September 14, 1993, when ACCES was organized as the Office of Vocational and Educational Services for Individuals with Disabilities (VESID) and the Office of P-12 Education was the Office of Elementary, Middle and Secondary Education (EMSE). For the purpose of this finding and analysis of the formal interagency agreement, RSA will reference ACCES and the Office of P-12 Education as the entities named in the SEA agreement.

First, the current agreement does not delineate the responsibilities of CBVH to provide consultation and technical assistance to assist educational agencies in planning for the transition of youth from school to post-school activities, including VR as required by Section 101(a)(11)(D)(i) and its implementing regulation at 34 CFR 361.22(b)(1). Although the agreement highlights the commitment of the Office of P-12 Education, CBVH and ACCES to develop a consultative role for VR and discusses legislative proposals for VR to enter into agreements with local educational agencies, legislation was never passed and it is unclear if a consultative role was developed for VR in the current SEA agreement.

In addition, the SEA agreement between CBVH, ACCES and the Office of P-12 Education does not provide for the responsibilities of each party or entity with respect to the provision of transition planning in order to facilitate the development of the Individualized Education Program (IEP) in accordance with Section 101(a)(11)(D)(ii) and 34 CFR 361.22(b)(2). The agreement states that rehabilitation counseling was added to the statute of IDEA as a related service; a consulting role for rehabilitation and independent living personnel will be developed; IL personnel and rehabilitation professionals may be consulted for vocational evaluation interpretation, job placement analysis and decisions made in conjunction with the Committees on Special Education (CSE); and that a designee will be established by the school to work with CBVH and ACCES. The intention to develop and establish the roles of each party with respect to transition planning as set forth in the current SEA agreement are insufficient to address this required component.

Furthermore, the SEA agreement does not include the financial responsibilities of each agency related to the provision of services, including provisions for determining State lead agencies and qualified personnel responsible for transition services, as required by Section 101(a)(11)(D)(iii) and 34 CFR 361.22(b)(3). Currently, a summary of responsibilities, including fiscal responsibilities, is contained in the cover to the SEA agreement related to the provision of transition services. The cover page states that each entity is financially responsible for the services it is mandated to provide under law. However, the inclusion of fiscal responsibilities in the cover to the agreement is not sufficient to address the required component at 34 CFR 361.22(b)(3).

Finally, the SEA agreement does not include procedures for outreach to, and identification of, students with disabilities in need of transition services pursuant to Section 101(a)(11)(D)(iv) and 34 CFR 361.22(b)(4). It also does not include a description of the purpose of the VR program, application procedures, eligibility requirements, or the scope of services that can be provided to eligible individuals.

The current SEA agreement among CBVH, ACCES and the Office of P-12 Education focuses efforts around the development of vocational evaluation standards, provision of vocational evaluations, development of roles for VR and IL staff, as well as the roles and responsibilities of the committees on special education. During the on-site portion of the monitoring review, CBVH indicated that it has begun discussions with ACCES and the Office of P-12 Education to revise the current SEA agreement. Through these discussions, CBVH and ACCES have decided to develop separate SEA agreements with the Office of P-12 Education to include policies, procedures, previous memorandums and specialized services specific to each VR agency and the populations served by each entity. The SEA agreement between CBVH and the Office of P-12 Education will include guidance, procedures and information from CBVH's policies at Section 7.00 Transition Planning and Services-Overview and Memorandums from April 1995 and April 1998 specific to transition services for students who are legally blind and Braille instruction for students who are blind or visually impaired, respectively. CBVH, ACCES and the Office of P-12 Education are committed to strengthening and ensuring the coordinated facilitation and transition of students with disabilities from the receipt of educational services in schools to the receipt of vocational rehabilitation and adult services in the community.

Corrective Action 4: CBVH must:

- 4.1 submit a written assurance to RSA within ten days of the issuance of the final monitoring report that CBVH will ensure that the SEA agreement with the Office of P-12 Education is updated and revised to reflect the appropriate entities involved in the formal interagency agreement and to comply with the requirements at Section 101(a)(11)(D) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.22 (b); and
- 4.2 submit the revised SEA formal interagency agreement between CBVH and the Office of P-12 Education for RSA's review as part of CBVH's corrective actions associated with the FY 2012 Section 107 monitoring review.

5. DSU Participation on the Local Workforce Investment Boards

Legal Requirements:

- Rehabilitation Act—Section 101(a)(11)(B)
- VR Program Regulations—34 CFR 361.23(a)(1) - (5)
- Workforce Investment Act—Sections 117(b)(2)(A)(vi) and 121(c)
- WIA Regulations—20 CFR 662.230(c)

Finding:

CBVH is not in compliance with Section 101(a)(11)(B) of the Rehabilitation Act, 34 CFR 361.23(a)(3), Section 121(c) of the Workforce Investment Act of 1998 (WIA), and 20 CFR 662.230(c) of the WIA regulations, because it does not have a current MOU with the LWIB throughout the State of New York. In addition, CBVH is not in compliance with 34 CFR 361.23(a)(5) and Section 117(b)(2)(A)(vi) of WIA, since it does not provide representation on the LWIBs as a mandatory partner.

As a required Workforce partner, CBVH must carry out specific functions in a manner that is consistent with the requirements of the VR program and Title 1 of WIA, including the provision of its core services to all participants of the One-Stop system and using a portion of its program funds to maintain the service delivery system (34 CFR 361.23(a)(1) and (2)). In order to carry out these functions, CBVH must enter into a MOU with the LWIBs that describe its role, and clarify the proportion of VR program funds it will contribute (34 CFR 361.23(a)(3)). The MOU must describe the manner in which the cost of the services and operating costs will be funded, how referrals between the One-Stop operator and its partners will be processed, the duration of the MOU, and procedures by which the MOU can be amended when necessary (34 CFR 361.23(a)(4) and 20 CFR 662.230(c)). CBVH has not established a current MOU with each of the LWIBs throughout the state, and therefore, is not in compliance with Section 101(a)(11)(B) of the Rehabilitation Act, 34 CFR 361.23(a)(3); Section 121(c) of WIA, and 20 CFR 662.230(c).

In addition, CBVH must provide representation on the LWIBs throughout New York that serve the one-stop centers (34 CFR 361.23(a)(5) and Section 117(b)(2)(A)(vi) of WIA). As a required partner, CBVH assures that individuals with a visual impairment or who are blind will have an active voice within the local workforce investment system and receive appropriate access to services, employers and equipment available through the local One-Stop centers.

By providing representation on the LWIBs, CBVH can assure individuals who may be eligible for VR services are appropriately and seamlessly referred to the agency and have equal opportunities to receive services through other One-Stop partners. Furthermore, such representation would allow CBVH to develop relationships with employers directly connected with the One-Stops through disability-related awareness training, consultation and the provision of technical assistance.

Corrective Action 5: CBVH must:

- 5.1 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)(1) - (5); Sections 117(b)(2)(A)(vi) and 121(c) of WIA and WIA Regulations at 20 CFR 662.230(c), by entering into MOUs with, and providing representation on, each of the LWIBs in New York; and
- 5.2 submit a plan, including timelines, describing the corrective actions that will be taken, to ensure CBVH has developed MOUs with, and is represented on, each of the LWIBs throughout New York.

6. Personnel Costs

A. Documentation of Personnel Costs

Legal Requirements:

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

Finding:

CBVH 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 be in place to ensure expenditures are traceable and compliant with federal statutes. Specifically, CBVH has not complied with 2CFR 225 Appendix B, paragraphs 8.h.4 and 8.h.5 which 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.

Several programs fall under the purview of CBVH, including Vocational Rehabilitation, Independent Living, Independent Living—Older Individuals who are Blind, the Children’s Program, the Equipment Loan Program, the transition program, and the Business Enterprise Program. In total, CBVH employs approximately 133 staff (based on an August 17, 2011 payroll) who work in eight Area Offices, the Business Enterprise Office, and the Home Office.

During its onsite review, RSA requested personnel activity reports or other documentation supporting the allocation of CBVH salaries for staff whose time is spent working on multiple programs. Management stated that staff are neither required to prepare, nor to submit, documentation of time spent on CBVH programs. CBVH, therefore, could not provide the required documentation to RSA. Therefore, CBVH cannot ensure that VR program funds are used to support only those personnel costs incurred in the provision of services or the administration of the program, and that the expenditures for personnel costs are traceable and in compliance with all federal requirements.

Corrective Action 6.A: CBVH must:

- 6.A.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure that personnel activity reports are prepared and maintained to support the allocation of an equitable portion of personnel costs for individuals who work on more than one federal grant program or cost objective in accordance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5; and
- 6.A.2 develop and implement procedures for individuals who work on more than one federal award or cost objective to ensure that personnel activity reports or equivalent documentation (1) reflects an after-the-fact distribution of the actual activity of each employee; (2) accounts for the total activity for which each employee is compensated; (3) are prepared at least monthly and coincide with one or more pay periods; and, (4) are signed by the employee.

B. Periodic Personnel Certifications

Legal Requirements:

- VR Program Regulations—34 CFR 361.3 and 34 CFR 361.12
- EDGAR—34 CFR 80.20(a)
- OMB Circulars—2 CFR 225, Appendix B, paragraph 8.h.3

Finding:

CBVH does not prepare periodic certifications of those staff working on a single federal program and, thus, is not in compliance with 2 CFR 225, Appendix B, paragraph 8.h.3, which states the following: where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee. While on-site, RSA requested semi-annual certifications for staff who work solely on the VR award. CBVH management did not prepare the required semi-annual certifications and therefore could not provide RSA with the requested documentation. Lacking such periodic certifications, CBVH is not in compliance with VR implementing 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 be responsible for financial accountability; and, that procedures must be in place to ensure expenditures are traceable and compliant with federal statutes.

Corrective Action 6.B: CBVH must:

- 6.B.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure employees who work solely on a single cost objective prepare certifications at least semi-annually, in accordance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.3; and

6.B.2 develop and implement procedures to ensure that CBVH employees who work solely on a single cost objective or single federal award prepare semi-annual certifications that are signed by the employee or a supervisory official having first-hand knowledge of the work performed by the employee.

C. Unallowable VR Expenditures and Unallowable Sources of Match

Legal Requirements:

- Rehabilitation Act—Section 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.12, and 34 CFR 361.60(b)(1)
- EDGAR—34 CFR 80.20(a) and 34 CFR 80.24(a)(1)
- OMB Circulars—2 CFR 225, Appendix A, paragraphs C.1.b., C.3.a., and C.3.c.

Finding:

CBVH is not in compliance with Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3 and 34 CFR 361.12; 34 CFR 80.20(a), 2 CFR 225 Appendix A, Section C.3.a because it charged salary expenses for staff working on VR and other programs to the VR award. The expenditure of VR program funds to support other programs administered by CBVH is not allowable as the costs were not traceable to the provision of VR services to applicants or individuals determined eligible for VR services.

As a recipient of Title I VR funds, CBVH must maintain procedures to ensure that it administers the VR program in an efficient and effective manner and accounts for the proper expenditure of VR funds (34 CFR 361.12 and 34 CFR 80.20(a)). CBVH must ensure that VR funds are spent solely on the provision of VR services and the administration of the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3). The federal cost principles require that federal funds be spent solely on allowable and allocable costs. To be allowable, costs must be necessary and reasonable for carrying out the federal program (2 CFR 225, Appendix A, C.1.a). To be considered reasonable, the cost must be one that would be incurred by a prudent person (2 CFR 225, Appendix A, C.2). To be allocable to the VR program, the cost must be proportional to the benefit received by the federal program (2 CFR 225, Appendix A, C.3.a).

As stated in Finding 6.A, above, CBVH administers several programs, including Vocational Rehabilitation, Independent Living, Independent Living—Older Individuals who are Blind, the Children’s Program, the Equipment Loan Program, the transition program, and the Business Enterprise Program. CBVH’s payroll shows a total of 145 staff positions charged to the VR award. CBVH employs approximately 133 staff who work in eight Area Offices, the Business Enterprise Office, and the Home Office. The remaining 12 individuals are employed by the DSA, the New York Office of Children and Family Services. Personnel expenses for these 12 individuals are reconciled monthly, with adjustments to the VR award as required.

CBVH does not require staff to prepare personnel activity reports or similar documentation. Consequently, the allocation of personnel costs for 133 staff members across the programs CBVH administers is not documented. Further, CBVH charges personnel expenses for the 133 staff members to the Title I, VR, award and to state funds used as VR match.

Regulations at 2 CFR 225 Appendix A, paragraph C.3.a state that a cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. Non-VR personnel costs are not allocable to the VR award. Regulations at 2 CFR 225, Appendix A, paragraph C.1.b. state that to be allowable under Federal awards, costs must meet the following general criterion: be allocable to Federal awards under the provisions of 2 CFR part 225. As non-VR personnel costs are unallocable to the VR award, they are therefore unallowable VR costs.

As with any cost paid with VR funds, the cost must be allowable under the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3), and traceable to a level of expenditure to ensure that the cost was allowable under the program (34 CFR 361.12; 34 CFR 80.20(a)).

Because CBVH did not document personnel costs in a manner that enabled it to ensure that such costs were incurred in the provision of VR services, the use of VR funds in connection with these personnel costs was not allowable or allocable to the VR program to the degree that they were incurred for the benefit of other programs administered by CBVH.

Unallowable Source of Match

Non-federal expenditures used for satisfying VR match requirements must be for allowable expenditures under the VR program, which include expenditures for the cost of providing VR services and the cost for administering the VR program (34 CFR 361.3 and 361.60(b)(1); 34 CFR 80.24(a)). However, as described throughout this finding, personnel costs incurred by staff working on other programs administered by CBVH were not allowable under, or allocable to, the VR program, and consequently cannot be used as a source of non-federal match.

Corrective Action 6.C: CBVH must:

- 6.C.1 cease using VR funds to pay unallowable costs or costs that lack the supporting documentation necessary to ensure that such costs are allowable, specifically those personnel costs related to non-VR programs administered by CBVH, and cease using related non-federal expenditures to meet the agency's non-federal share, in accordance with Section 111(a)(1) of the Rehabilitation Act, 34 CFR 361.3, 34 CFR 361.12, 34 CFR 361.60(b)(1), 34 CFR 80.20(a), 34 CFR 80.24(a)(1), and OMB Circulars—2 CFR 225, Appendix A, paragraph C.1.b., C.3.a., and C.3.c; and
- 6.C.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that CBVH will ensure, beginning immediately, that all VR funds are expended only for allocable costs and that supporting documentation will be maintained for personnel expenditures.

7. Unapproved Cost Allocation Plan

Legal Requirements:

- VR Program Regulations—34 CFR 361.3 and 34 CFR 361.12
- EDGAR—34 CFR 76.560(b), 34 CFR 80.20(a), and 34 CFR 80.22(a)

- OMB Circulars—2 CFR 225, Appendix A, paragraph C.1 and 2 CFR 225, Appendix C, paragraph D.3

Finding:

CBVH is not in compliance with federal regulations at 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a) that require state agencies be responsible for financial accountability, and that procedures be in place to ensure expenditures are traceable and in compliance with federal statutes. In addition, CBVH is not in compliance with 34 CFR 76.560(b) which requires grantees to have a current indirect cost rate agreement, acquired by submitting a proposal to its cognizant agency, in order to charge indirect costs to a grant. Regulations at 34 CFR 80.22(a)(1) state that grant funds may only be used for allowable costs of the grantees. Cost principles at 2 CFR 225 Appendix C, paragraph D.3 also requires that agencies develop a cost allocation plan in accordance with the requirements described in Appendix C. Specifically, CBVH does not have a cost allocation plan¹, through which it can charge indirect costs, although it has made such charges to the VR award.

As stated in Finding 6 above, CBVH administers several programs: Vocational Rehabilitation, Independent Living, Independent Living for Older Individuals who are Blind, Children’s Services, the Summer Recreational Program, the Equipment Loan program, a transition program, and the Business Enterprise Program. The New York State Office of Children and Family Services has developed a cost allocation plan, approved by the US Department of Health and Human Services, its cognizant agency. Services used by CBVH, such as legal department costs, information technology (IT) costs, and payroll accounting services, are allocated to CBVH according to this approved cost allocation plan.

However, CBVH does not allocate these costs across the programs it administers, and applies allocated costs entirely to its Title I, VR award. These costs were reported in CBVH’s SF-269s on the indirect cost line.

As a recipient of federal funds, CBVH must administer the VR program in such a manner that ensures the proper expenditure and accounting of federal funds and the proper collection and reporting of all federal funds (34 CFR 361.12 and 34 CFR 80.20(a)). CBVH must ensure that federal funds are spent solely for allowable costs (34 CFR 80.22(a)) and in a manner consistent with the federal cost principles. Although indirect costs are generally allowable under the VR program, CBVH must have an approved indirect cost rate agreement in place before it can charge indirect costs (34 CFR 76.560(b) and 2 CFR 225, Appendix A, paragraph C.3.d).

Without such an agreement in place, CBVH is not permitted to charge indirect costs to the VR program. Because CBVH did not have an approved cost allocation plan or indirect cost rate, the

¹ 2 CFR 225 Appendix A, Section B.10 defines “Cost Allocation Plan” as a central service cost allocation plan, public assistance cost allocation plan, and indirect cost rate proposal.

indirect costs CBVH reported charging against the VR program in FY2007 through FY2009 are not allowable or allocable to the VR program.

The table below indicates the amounts of indirect costs charged to the federal award by federal fiscal year.

Table 6.1
CBVH Indirect Costs for FYs 2007 through 2009

Fiscal Year	<i>FY2007</i>	<i>FY2008</i>	<i>FY2009</i>	<i>FY2010</i>	<i>FY2011</i>
Indirect Costs as Reported	\$1,999,652	\$1,309,080	\$1,300,810	\$1,171,439	\$731,747

Corrective Action 7: CBVH must:

- 7.1 cease charging indirect costs to any federal grant, including the VR grant, without a cost allocation plan or indirect cost rate that has been approved by CBVH’s cognizant agency, the US Department of Health and Human Services;
- 7.2 submit a written assurance to RSA within 10 days after the final report is issued that CBVH will submit timely cost allocation plans for review and approval, and that only the approved cost allocation plan shall be used in charging indirect costs to federal grants, as required by the federal cost principles at 2 CFR 225. In addition, CBVH must assure that it will administer the program in a manner that ensures the proper expenditure and accounting of funds, as required by 34 CFR 361.12, 34 CFR 76.560(b), 34 CFR 80.20(a), 34 CFR 80.22(a), and the federal cost principles at 2 CFR 225; and
- 7.3 submit a proposal for a new indirect cost rate or cost allocation plan to the US Department of Health and Human Services for review and approval in accordance with the federal cost principles and requirements set forth at 2 CFR 225. Any new approved cost allocation plan would be applicable for the current fiscal year or future years, as appropriate. Any newly approved cost allocation plan would not be applied retroactively to prior years.

APPENDIX A: AGENCY RESPONSE

Section 4: Results of Prior Monitoring Activities

CBVH requests additional technical assistance described below to enable it to carry out the following goals identified in the FY 2007 monitoring report.

Goals

Goal 1: Examine existing QA processes to identify gaps and determine improvements needed to expand and enhance quality assurance activities.

Additional Technical Assistance: CBVH did not request additional technical assistance.

Goal 2: Increase the number of competitive employment outcomes using FY2007 data on the number of competitive employment outcomes as a baseline.

Additional Technical Assistance: CBVH did not request additional technical assistance.

Goal 3: Increase the number of individuals from ethnic and racial minority populations who receive services, beginning with a baseline of data for FY 2007.

Additional Technical Assistance: CBVH did not request additional technical assistance.

Section 6: Compliance Findings and Corrective Actions

1. Appropriate use of Trial Work Experience and Extended Evaluations

Corrective Action 1: CBVH must:

- 1.1 amend CBVH's policy on the definition and provision of extended evaluation and trial work experiences at Section 2.02 consistent with 34 CFR 361.42(e) and (f);
- 1.2 develop and implement policies and procedures pertaining to the implementation of trial work experiences and extended evaluation , as well as the development of written plans specific to trial work experiences periods and extended evaluation necessary to make a determination under 34 CFR 361.42(e)(2)(iii) and 34 CFR 361.42(f)(1); and
- 1.3 provide an agency wide training of the effective use and requirements of trial work experiences and extended evaluation.

Agency Response: CBVH will revise policy and the current plan for extended evaluation services accordingly. CBVH will also provide training on the revised policy to district office staff.

Technical Assistance: CBVH is requesting technical assistance to address this finding.

2. Untimely Eligibility Determination

Corrective Action 2: CBVH must:

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

Agency Response: CBVH will submit an assurance affirming compliance with the applicable VR regulations within 10 days of receipt of the final monitoring report. CBVH will also submit the steps that will be taken to ensure that the determination of eligibility is made in accordance with the applicable regulations. CBVH has begun to work with district office staff to examine any consumers who are nearing or have exceeded the 60-day limit without the required agreement.

Technical Assistance: CBVH is not requesting technical assistance at this time.

3. Provision of Services Prior to an IPE

Corrective Action 3: CBVH must:

- 3.1 cease using IPE Development Plans as written IPEs for individuals who have been determined eligible for VR services; and
- 3.2 submit a written assurance to RSA within 10 days of the issuance of the final monitoring report that CBVH will cease the practice of utilizing plans in addition to the IPE after eligibility determination and comply with the requirements of Section 102(b) of the Rehabilitation Act and VR program regulations at 34 CFR 361.45 and 34 CFR 361.46 related to the development and amendment of an IPE, as well as the provision of individualized services as defined at Sections (7)38 and 103(a) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.5(b)(58)(i) and 34 CFR 361.48;
- 3.3 remove policies related to the development of an IPE Development Plan and issue a program directive for staff stating that there is only one IPE to be developed for eligible individuals and ensure compliance with the requirements at 34 CFR 361.45 and 34 CFR 361.46; and
- 3.4 submit the program directive and revised policies and procedures to RSA to ensure completion of this corrective action.

Agency Response: CBVH will submit an assurance affirming compliance with the applicable VR regulations within 10 days of receipt of the final monitoring report. CBVH will revise policies and procedures to ensure compliance with the applicable regulations and will submit these documents to RSA when completed.

Technical Assistance: CBVH is not requesting technical assistance at this time.

4. State Educational Agency (SEA) Agreement

Corrective Action 4: CBVH must:

- 4.1 submit a written assurance to RSA within ten days of the issuance of the final monitoring report that CBVH will ensure that the SEA agreement with the Office of P-12 Education will be updated and revised to reflect the appropriate entities involved in the formal interagency agreement and to comply with the requirements at Section 101(a)(11)(D) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.22 (b); and
- 4.2 submit the revised SEA formal interagency agreement between CBVH and the Office of P-12 Education for RSA's review as part of CBVH's corrective actions associated with the FY 2012 Section 107 Monitoring Review.

Agency Response: CBVH will submit an assurance affirming compliance with the applicable VR regulations within 10 days of receipt of the final monitoring report. CBVH will work with the New York State Education Department to revise the existing SEA agreement.

Technical Assistance: RSA has provided sample agreements from other states which CBVH will review and reference when revising the SEA agreement.

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

Corrective Action 5: CBVH must:

- 5.1 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)(1)-(5), Section 117(b)(2)(A)(vi); Section 121(c) of the Workforce Investment Act and WIA Regulations at 20 CFR 662.230(c); and
- 5.2 submit a plan, including timelines, describing the corrective actions that will be taken, to ensure CBVH is represented on each of the Workforce Investment Board throughout New York.

Agency Response: CBVH believes that it has operated in compliance with the above-cited federal regulations. Recognizing that additional actions are needed at this time, CBVH will work with the New York State Department of Labor (NY DOL) to have the Statewide Workforce Investment Board (SWIB) and the Local WIBs meet the requirements.

RSA Response: RSA appreciates CBVH taking the necessary action to meet the requirements of Finding 5 by working with the NY DOL to ensure CBVH is appropriately represented on the SWIB and each LWIB throughout the State.

Technical Assistance: No technical assistance is requested at this time.

6. Internal Controls: Personnel Cost Allocation

A. Documentation of Personnel Costs

Corrective Action 6.A: CBVH must:

- 6.A.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure that personnel activity reports are prepared and maintained to support the allocation of an equitable portion of personnel costs for individuals who work on more than one federal grant program or cost objective in accordance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5; and
- 6.A.2 develop and implement procedures for individuals who work on more than one federal award or cost objective to ensure that personnel activity reports or equivalent documentation (1) reflects an after-the-fact distribution of the actual activity of each employee; (2) accounts for the total activity for which each employee is compensated; (3) are prepared at least monthly and coincide with one or more pay periods; and, (4) are signed by the employee.

Agency Response: CBVH believes that it has operated in compliance with the above-cited federal regulations and relevant state laws, and that personnel costs are appropriately charged, as described in the response to 6.C, below.

Technical Assistance: CBVH is requesting technical assistance to address any necessary refinements in the cost allocation procedure.

B. Periodic Personnel Certifications

Corrective Action 6.B: CBVH must:

- 6.B.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure employees who work solely on a single cost objective prepare certifications at least semi-annually, in accordance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.3; and
- 6.B.2 develop and implement procedures to ensure that CBVH employees who work solely on a single cost objective or single federal award prepare semi-annual certifications that are signed by the employee or a supervisory official having first-hand knowledge of the work performed by the employee.

Agency Response: CBVH believes that it has operated in compliance with the above-cited federal regulations and relevant state laws, and that personnel costs are appropriately charged, as described in the response to 6.C, below.

Technical Assistance: CBVH is requesting technical assistance to address any necessary refinements in the cost allocation procedure.

C. Unallowable VR Expenditures and Unallowable Source of Match

Corrective Action 6.C: CBVH must:

- 6.C.1 cease using VR funds to pay unallowable costs or costs that lack the supporting documentation necessary to ensure that such costs are allowable, specifically those personnel costs related to non-VR programs administered by CBVH, and cease using related non-federal expenditures to meet the agency's non-federal share, in accordance with Section 111(a)(1) of the Rehabilitation Act, 34 CFR 361.3, 34 CFR 361.12, 34 CFR 361.60(b)(1), 34 CFR 80.20(a), 34 CFR 80.24(a)(1), and OMB Circulars—2 CFR 225, Appendix A, Section C.1.b., C.3.a., and C.3.c; and
- 6.C.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that CBVH will ensure, beginning immediately, that all VR funds are expended only for allocable costs and that supporting documentation will be maintained for personnel expenditures.

Agency Response: CBVH believes that it has operated in compliance with the above-cited federal regulations and relevant state laws. As a division of the NYS Office for Children and Family Services (OCFS), CBVH uses a Payroll System that extracts data from the State of New York PAYSERV system. CBVH working in unison with OCFS' Bureaus of Budget Management and Financial Operations uses Cost Centers to facilitate the tracking and reporting of Federally Participating (FP) and Federally Non Participating (FNP) expenditures. The Payroll System arrays the data between FP and FNP pools.

Presently, the FP pool items are segregated among Administration, Management Services (BEP) and Counseling Placement and Supportive Services. The FNP pool historically contained the salary costs for the Children's Program, Equipment Loan Program and OCFS support staff. In June 2011 with RSA approval the FNP pool for the Children's Program was apportioned to reflect the provision of transition services for children. This new pool has its payroll costs split between FP (80%) and FNP (20%). The Children's Program payroll costs that cannot be classified as transition remain 100% FNP and like all FNP costs are charged to, and paid out, of the State Operations General Fund. These FNP payroll costs are charged to separate costs centers pointing to budgetary segregations that are excluded in the Non-federal State Match calculation.

The FP payroll pool expenditures are shared according to the Basic Support 110 Program shares Federal Participating (78.7%) and Non-Federal State (21.3%) relationship. Historically, the CBVH Payroll system presumed that the FP category related solely to the provision of Vocational Rehabilitation.

The present Payroll System has been reviewed and approved a number of times during the course of the periodic RSA Fiscal monitoring visits. Previous RSA monitoring found the practice of solely charging FP payroll costs to the Basic Support 110 Program to be acceptable and preferred.

During the time period under review, to arrive at the achievement of the required Non-Federal/State Match for Basic Support 110, only the amount of State Operations General Fund monies expended in support of the FP pool has been counted.

In an effort to accurately measure the Non-Federal State Match for Basic Support 110 Program, an adjustment is done to subtract out any remaining FNP costs that relate to Salaries, Fringe Benefits and Non-Personal Services from the gross amount of the calculated Non-Federal State Match.

In previous RSA monitoring visits, these calculations have been reviewed in detail and have been found to be acceptable.

RSA Response: Through documentation reviewed and interviews with staff onsite, RSA determined that staff working solely on one award is not preparing periodic certifications, nor is staff working on multiple awards documenting time, as required by Federal Cost Principles. The agency also provided an explanation of the allocation of VR expenditures between federal and non-federal share. Section 6.C. of this finding, however, does not pertain to the proper allocation of VR expenditures between the federal and the non-federal share. Rather, this finding states, that without a documented methodology for allocating personnel expenditures between VR and non-VR, as required by Federal Cost Principles, the agency cannot know the amount of expenditures which were allowable under the VR award. The finding further states that to the extent that any personnel expenses not related to the administration of the VR program or the provision of VR services under the VR award, and were charged to the award or used as non-federal share, these personnel expenses would not be allowable. Agency staff did not provide documentation of allowable personnel expenses to refute the finding. Therefore, all sections of this finding stand.

Technical Assistance: CBVH is requesting technical assistance to address any necessary refinements in the cost allocation procedure.

7. Approved Cost Allocation Plan

Corrective Action 7: CBVH must:

- 7.1 cease charging indirect costs to any federal grant, including the VR grant, without a cost allocation plan or indirect cost rate that has been approved by CBVH's cognizant agency, the US Department of Health and Human Services;
- 7.2 submit a written assurance to RSA within 10 days after the final report is issued that CBVH will submit timely cost allocation plans for review and approval, and that only the approved cost allocation plan shall be used in charging indirect costs to federal grants, as required by the federal cost principles at 2 CFR 225. In addition, CBVH must assure that it will administer the program in a manner that ensures the proper expenditure and accounting of funds, as required by 34 CFR 361.12, 34 CFR 76.560(b), 34 CFR 80.20(a), 34 CFR 80.22(a), and the federal cost principles at 2 CFR 225; and
- 7.3 submit a proposal for a new indirect cost rate or cost allocation plan to the US Department of Health and Human Services for review and approval in accordance with the federal cost principles and requirements set forth at 2 CFR 225. Any new approved cost allocation plan would be applicable for the current fiscal year or future years, as appropriate. Any newly approved cost allocation plan would not be applied retroactively to prior years.

Agency Response: CBVH believes that it has operated in compliance with the above-cited federal regulations, with relevant state laws, and in conformance with an approved cost allocation plan.

CBVH is the Designated State Unit (DSU) within the New York State Office of Children and Family Services (OCFS). OCFS is the Designated State Agency (DSA). It is our understanding that a DSA can have either an established indirect rate or an approved Cost Allocation Plan but not both simultaneously.

OCFS has an approved Central Office Cost Allocation Plan, approved by its cognizant federal agency the Department of Health and Human Services (DHHS) in a letter dated September 23, 2002. Paragraph 1, sub-paragraphs II.8, III.1 and III.2, describes the existence of a discrete CBVH federally approved Cost Allocation Plan within OCFS. The plan allocates OCFS Central Office indirect costs to CBVH and apportions these allocated costs between federally participating (FP) and federally non participating (FNP). Historically, the FP percentage has averaged to be 90 percent to 92 percent and the FNP percentage has averaged between 8 percent and 10 percent.

The FP indirect costs have been claimed against the Basic Support 110 Program. The FNP indirect costs attributable to non-transition Children Services and to the Equipment Loan Program are paid out of the State Operation General Fund.

During the recent RSA monitoring visit, representatives of the OCFS Bureau of Financial Operations (OCFS/BFO) provided RSA with copies of DHHS approved Central Office Cost Allocation Plan and resultant Quarterly claim files on an annual basis on the SF-269 and/ or SF-425 Reports for the Basic Support 110 Program and RSA- 2 Annual Reports for the time period 2007-2011.

As previously mentioned in the response to the Finding of Unallowable VR Expenditures, CBVH and OCFS have undergone numerous RSA Fiscal Monitoring visits which found the DHHS approved Central Office Cost Allocation Plan and resultant Quarterly claims as solely applied against the Vocational Rehabilitation Program to be acceptable and compliant.

In the draft monitoring findings, in Table 6.1 on page 38, RSA indicates that CBVH and OCFS failed to file any Indirect Cost claims for FFY 2010 and FFY 2011. This finding is in error.

OCFS/BFO did electronically file via RSA's Management Information System (MIS) complete and timely SF-425's, and annual RSA-2 reports for FFY 2010 and 2011. RSA has reviewed and accepted these electronic filings. The Indirect Costs reported for FFY 2010 were \$1,171,439. The Indirect Costs reported for 2011 were \$731,747.

RSA Response: The agency provided an explanation of the allocation of costs between the federal share and the non-federal share. However, this finding addresses two issues: (1) the existence of an approved cost allocation plan so that CBVH can charge indirect costs across the several programs it administers; and, (2) the proper allocation of those indirect costs across the programs administered by CBVH. The agency states that the FP indirect costs have been claimed against the Basic Support 110 award. However, these costs should have been distributed across the Basic 110 award, the State Independent Living Services (SILS) award, and the

Independent Living for Older Individuals who are Blind (OIB) award. Similarly, indirect costs charged to non-federal funds used to satisfy the match requirement must have also been distributed across these federal awards. The agency did not submit documentation to refute this finding; therefore, the finding stands.

The FY 2012 monitoring of the agency's fiscal integrity may have covered areas not previously reviewed. RSA will continue to work with CBVH to provide the necessary technical assistance to meet all compliance requirements addressed within this report.

Technical Assistance: CBVH is requesting technical assistance to address this finding.

APPENDIX B: LEGAL REQUIREMENTS

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

Rehabilitation Act of 1973, as amended

Section 7—For the purposes of this Act:

- (2) Assessment for determining eligibility and vocational rehabilitation needs the term "assessment for determining eligibility and vocational rehabilitation needs" means, as appropriate in each case—
 - (B) to the extent additional data is necessary to make a determination of the employment outcomes, and the nature and scope of vocational rehabilitation services, to be included in the IPE of an eligible individual, a comprehensive assessment to determine the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of the eligible individual, which comprehensive assessment—
 - (iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual;

Section 101—State Plans

(a) Plan Requirements

(11) Cooperation, collaboration, and coordination

(D) Coordination with education officials

The State plan shall contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities, that are designed to facilitate the transition of the students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title, including information on a formal interagency agreement with the State educational agency that, at a minimum, provides for--

- (i) consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
- (ii) transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs under section 614(d) of the Individuals with Disabilities Education Act;
- (iii) the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

- (iv) procedures for outreach to and identification of students with disabilities who need the transition services.

Section 102—Eligibility and Individualized Plan for Employment

(a) Eligibility

(1) Criterion for eligibility

An individual is eligible for assistance under this title if the individual--

- (B) requires vocational rehabilitation services to prepare for, secure, retain, or regain employment.

(2) Presumption of benefit

(B) Methods

In making the demonstration required under subparagraph (A), the designated State unit shall explore the individual's abilities, capabilities, and capacity to perform in work situations, through the use of trial work experiences, as described in section 7(2)(D), with appropriate supports provided through the designated State unit, except under limited circumstances when an individual cannot take advantage of such experiences. Such experiences shall be of sufficient variety and over a sufficient period of time to determine the eligibility of the individual or to determine the existence of clear and convincing evidence that the individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

(6) Timeframe for making an eligibility determination

The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days, after the individual has submitted an application for the services unless—

- (A) exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; or

(b) Development of an Individualized Plan for Employment

(3) Mandatory components of an individualized plan for employment

Regardless of the approach selected by an eligible individual to develop an individualized plan for employment, an individualized plan for employment shall, at a minimum, contain mandatory components consisting of--

- (A) a description of the specific employment outcome that is chosen by the eligible individual, consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual, and, to the maximum extent appropriate, results in employment in an integrated setting;

- (B)(i) a description of the specific vocational rehabilitation services that are--

- (I) needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices and assistive technology services, and personal assistance services, including training in the management of such services; and
- (II) provided in the most integrated setting that is appropriate for the service involved and is consistent with the informed choice of the eligible individual; and

- (ii) timelines for the achievement of the employment outcome and for the initiation of the services;

- (C) a description of the entity chosen by the eligible individual or, as appropriate, the individual's representative, that will provide the vocational rehabilitation services, and the methods used to procure such services;
- (D) a description of criteria to evaluate progress toward achievement of the employment outcome;
- (E) the terms and conditions of the individualized plan for employment, including, as appropriate, information describing--
 - (i) the responsibilities of the designated State unit;
 - (ii) the responsibilities of the eligible individual, including--
 - (I) the responsibilities the eligible individual will assume in relation to the employment outcome of the individual;
 - (II) if applicable, the participation of the eligible individual in paying for the costs of the plan; and
 - (III) the responsibility of the eligible individual with regard to applying for and securing comparable benefits as described in section 101(a)(8); and
 - (iii) the responsibilities of other entities as the result of arrangements made pursuant to comparable services or benefits requirements as described in section 101(a)(8);
- (F) for an eligible individual with the most significant disabilities for whom an employment outcome in a supported employment setting has been determined to be appropriate, information identifying--
 - (i) the extended services needed by the eligible individual; and
 - (ii) the source of extended services or, to the extent that the source of the extended services cannot be identified at the time of the development of the individualized plan for employment, a description of the basis for concluding that there is a reasonable expectation that such source will become available; and
- (G) as determined to be necessary, a statement of projected need for post-employment services.

Section 103—Vocational Rehabilitation Services

- (a) Vocational Rehabilitation Services for Individuals

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

 - (1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
 - (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);
 - (3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;
 - (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;

- (5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
- (6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including--
 - (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
 - (B) necessary hospitalization in connection with surgery or treatment;
 - (C) prosthetic and orthotic devices;
 - (D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;
 - (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
 - (F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
- (7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
- (8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;
- (9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;
- (10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
- (11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
- (12) occupational licenses, tools, equipment, and initial stocks and supplies;
- (13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;
- (14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
- (15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;
- (16) supported employment services;

- (17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
- (18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

Section 111

(a)(1) Except as provided in paragraph (2), from each State's allotment under this part for any fiscal year, the Commissioner shall pay to a State an amount equal to the Federal share of the cost of vocational rehabilitation services under the plan for that State approved under section 101, including expenditures for the administration of the State plan.

VR Program Regulations

34 CFR 361.3—Authorized activities.

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.

34 361.4—Applicable regulations.

The following regulations apply to this Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations), with respect to subgrants to entities that are not State or local governments or Indian tribal organizations.

(2) 34 CFR part 76 (State-Administered Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), except for §80.24(a)(2).

(6) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR part 82 (New Restrictions on Lobbying).

(8) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(b) The regulations in this part 361.

(c) 20 CFR part 662 (Description of One-Stop Service Delivery System under Title I of the Workforce Investment Act of 1998).

(d) 29 CFR part 37, to the extent programs and activities are being conducted as part of the One-Stop service delivery system under section 121(b) of the Workforce Investment Act of 1998.

34 CFR 361.5—Applicable definitions.

(b) Other definitions. The following definitions also apply to this part:

(6) Assessment for determining eligibility and vocational rehabilitation needs means, as appropriate in each case—

(C) May include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors that affect the employment and rehabilitation needs of the individual;

...

(58) Vocational rehabilitation services—

(i) If provided to an individual, means those services listed in §361.48

34 CFR 361.12—Methods of administration.

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 361.22—Coordination with education officials.

(b) Formal interagency agreement. The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—

(1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;

(2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;

(3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

(4) Procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

34 CFR 361.23—Requirements related to the statewide workforce investment system.

(a) Responsibilities as a partner of the One-Stop service delivery 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:

(1) Make available to participants through the One-Stop service delivery system the core services (as described in 20 CFR 662.240) that are applicable to the Program administered by the designated State unit under this part.

(2) Use a portion of funds made available to the Program administered by the designated State unit under this part, consistent with the Act and this part, to—

(i) Create and maintain the One-Stop service delivery system; and

(ii) Provide core services (as described in 20 CFR 662.240).

(3) Enter into a memorandum of understanding (MOU) with the Local Workforce Investment Board under section 117 of the Workforce Investment Act of 1998 relating to

the operation of the One-Stop service delivery system that meets the requirements of section 121(c) of the Workforce Investment Act and 20 CFR 662.300, including a description of services, how the cost of the identified services and operating costs of the system will be funded, and methods for referrals.

- (4) Participate in the operation of the One-Stop service delivery system consistent with the terms of the MOU and the requirements of the Act and this part.
- (5) Provide representation on the Local Workforce Investment Board under section 117 of the Workforce Investment Act of 1998.

34 CFR 361.41—Processing referrals and applications.

(a) Referrals. The designated State unit must establish and implement standards for the prompt and equitable handling of referrals of individuals for vocational rehabilitation services, including referrals of individuals made through the One-Stop service delivery systems established under section 121 of the Workforce Investment Act of 1998. The standards must include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services.

(b) Applications. (1) Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in One-Stop centers established under section 121 of the Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless—

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

34 CFR 361.42—Assessment for determining eligibility and priority for services.

(a) Eligibility requirements—(1) Basic requirements. The designated State unit's determination of an applicant's eligibility for vocational rehabilitation services must be based only on the following requirements:

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

(2) Presumption of benefit. The designated State unit must presume that an applicant who meets the eligibility requirements in paragraphs (a)(1)(i) and (ii) of this section can benefit in

terms of an employment outcome unless it demonstrates, based on clear and convincing evidence, that the applicant is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the applicant's disability.

...

(e) Trial work experiences for individuals with significant disabilities.

(1) Prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual's disability, the designated State unit must conduct an exploration of the individual's abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.

(2)

(i) The designated State unit must develop a written plan to assess periodically the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences, which must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

(ii) Trial work experiences include supported employment, on-the-job training, and other experiences using realistic work settings.

(iii) Trial work experiences must be of sufficient variety and over a sufficient period of time for the designated State unit to determine that—

(A) There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or

(B) There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.

...

(f) Extended evaluation for certain individuals with significant disabilities. (1) Under limited circumstances if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the State unit is able to make the determinations described in paragraph (e)(2)(iii) of this section, the designated State unit must conduct an extended evaluation to make these determinations.

....

(3) During the extended evaluation period, the designated State unit must develop a written plan for providing services necessary to make a determination under paragraph (e)(2)(iii) of this section.

34 CFR 361.45

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

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

...

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

(b) Purpose.

(2) The IPE must be designed to achieve a specific employment outcome, as defined in §361.5(b)(16), that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

...

(d) Mandatory procedures. The designated State unit must ensure that—

(6) The IPE is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the State unit or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services;

(7) Amendments to the IPE do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by a qualified vocational rehabilitation counselor employed by the designated State unit.

34 CFR 361.46—Content of the individualized plan for employment.

(a) Mandatory components. Regardless of the approach in §361.45(c)(1) that an eligible individual selects for purposes of developing the IPE, each IPE must include—

(1) A description of the specific employment outcome, as defined in §361.5(b)(16), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice.

34 CFR 361.48

As appropriate to the vocational rehabilitation needs of each individual and consistent with each individual's informed choice, the designated State unit must ensure that the following vocational rehabilitation services are available to assist the individual with a disability in preparing for, securing, retaining, or regaining an employment outcome that is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice:

(a) Assessment for determining eligibility and priority for services by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 361.42.

(b) Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 361.45.

(c) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice in accordance with 361.52.

(d) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system, in accordance with 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370.

(e) In accordance with the definition in 361.5(b)(40), physical and mental restoration services, to the extent that financial support is not readily available from a source other than

the designated State unit (such as through health insurance or a comparable service or benefit as defined in 34 CFR 361.5(b)(10).

(f) Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training.

(g) Maintenance, in accordance with the definition of that term in 361.5(b)(35).

(h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in 361.5(b)(57).

(i) Vocational rehabilitation services to family members, as defined in 361.5(b)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome.

(j) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind provided by qualified personnel.

(k) Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.

(l) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.

(m) Supported employment services in accordance with the definition of that term in 34 CFR 361.5(b)(54)

(n) Personal assistance services in accordance with the definition of that term in 361.5(b)(39).

(o) Post-employment services in accordance with the definition of that term in 361.5(b)(42).

(p) Occupational licenses, tools, equipment, initial stocks, and supplies.

(q) Rehabilitation technology in accordance with the definition of that term in 361.5(b)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices.

(r) Transition services in accordance with the definition of that term in 361.5(b)(55).

(s) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.

(t) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

34 CFR 361.60—Matching requirements

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

Education Department General Administrative Regulations (EDGAR)

34 CFR 76.560—General indirect cost rates; exceptions.

(a) The differences between direct and indirect costs and the principles for determining the general indirect cost rate that a grantee may use for grants under most programs are specified in the cost principles for—

- (1) Institutions of higher education, at 34 CFR 74.27;
- (2) Hospitals, at 34 CFR 74.27;
- (3) Other nonprofit organizations, at 34 CFR 74.27;
- (4) Commercial (for-profit) organizations, at 34 CFR 74.27; and
- (5) State and local governments and federally-recognized Indian tribal organizations, at 34 CFR 80.22.

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

34 CFR 80.20—Standards for financial management systems.

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its 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 80.22—Allowable costs.

(a) Limitation on use of funds. Grant funds may be used only for:

- (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
- (2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

34 CFR 80.24—Matching or cost sharing.

(a) Basic rule: Costs and contributions acceptable. With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:

- (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.

OMB Circulars as Cited in the CFR

2 CFR 225—Appendix A

C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
 - a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
 - b. Be allocable to Federal awards under the provisions of 2 CFR part 225.
 - c. Be authorized or not prohibited under State or local laws or regulations.
 - d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
 - e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
 - f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
 - g. Except as otherwise provided for in 2 CFR part 225, be determined in accordance with generally accepted accounting principles.
 - h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
 - i. Be the net of all applicable credits.
 - j. Be adequately documented.
- ...
3. Allocable costs.
 - a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
 - b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
 - c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in 2 CFR part 225 may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.

2 CFR 225—Appendix B

- h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.
 - (3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

(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 8.h.(5) of this appendix unless a statistical sampling system (see subsection 8.h.(6) of this appendix) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

- (a) More than one Federal award,
- (b) A Federal award and a non-Federal award,
- (c) An indirect cost activity and a direct cost activity,
- (d) Two or more indirect activities which are allocated using different allocation bases, or
- (e) An unallowable activity and a direct or indirect cost activity.

(5) Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- (b) They must account for the total activity for which each employee is compensated,
- (c) They must be prepared at least monthly and must coincide with one or more pay periods, and
- (d) They must be signed by the employee.
- (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:
 - (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
 - (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
 - (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.

d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Appendices C, D, and E to this part.

2 CFR 225—Appendix C

C. Allocation of Indirect Costs and Determination of Indirect Cost Rates.

1. General.

- a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in subsection 2 of this appendix.
- b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitted functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to

individual awards and other activities included in that function by means of an indirect cost rate(s).

c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in subsections 2, 3 and 4 of this appendix.

2. Simplified method.

a. Where a grantee agency's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by classifying the grantee agency's total costs for the base period as either direct or indirect, and dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a governmental unit's department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs shall exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), direct salaries and wages, or another base which results in an equitable distribution.

3. Multiple allocation base method.

a. Where a grantee agency's indirect costs benefit its major functions in varying degrees, such costs shall be accumulated into separate cost groupings. Each grouping shall then be allocated individually to benefitted functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitted functions. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation shall be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal Government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like), and it is common to the benefitted functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with subsection 4, the separate groupings of indirect costs allocated to each major function shall be aggregated and

treated as a common pool for that function. The costs in the common pool shall then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, major subcontracts, etc.), direct salaries and wages, or another base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. Special indirect cost rates.

a. In some instances, a single indirect cost rate for all activities of a grantee department or agency or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular award is carried out in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: the rate differs significantly from the rate which would have been developed under subsections 2. and 3. of this appendix, and the award to which the rate would apply is material in amount.

b. Although 2 CFR part 225 adopts the concept of the full allocation of indirect costs, there are some Federal statutes which restrict the reimbursement of certain indirect costs. Where such restrictions exist, it may be necessary to develop a special rate for the affected award. Where a "restricted rate" is required, the procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

Workforce Investment Act

Section 117—Local Workforce Investment Boards.

(a) Establishment.--There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this title as a "local workforce investment system").

(b) 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 members of the local boards in such local areas in accordance with the requirements of paragraph (2).

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

(A) shall include--

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

Section 121—Establishment of One-Stop Delivery Systems

(c) Memorandum of Understanding.--

(1) Development.--The local board, with the agreement of the chief elected official, shall develop and enter into a memorandum of understanding (between the local board and the one-stop partners), consistent with paragraph (2), concerning the operation of the one-stop delivery system in the local area.

(2) Contents.--Each memorandum of understanding shall contain—

(A) provisions describing--

(i) the services to be provided through the one-stop delivery system;

(ii) how the costs of such services and the operating costs of the system will be funded;

(iii) methods for referral of individuals between the one-stop operator and the one-stop partners, for the appropriate services and activities; and

(iv) the duration of the memorandum and the procedures for amending the memorandum during the term of the memorandum; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.

Workforce Investment Act Regulations

20 CFR 662.230—(What are the responsibilities of the required One-Stop partners

All required partners must:

(c) Enter into a memorandum of understanding (MOU) with the Local Board relating to the operation of the One-Stop system that meets the requirements of ? 662.300, including a description of services, how the cost of the identified services and operating costs of the system will be funded, and methods for referrals (WIA sec. 121(c))

US Treasury Department Regulations

205.33—How are funds transfers processed

- (a) A State must minimize the time between the drawdown of Federal funds from the Federal government and their disbursement for Federal program purposes. A Federal Program Agency must limit a funds transfer to a State to the minimum amounts needed by the State and must time the disbursement to be in accord with the actual, immediate cash requirements of the State in carrying out a Federal assistance program or project. The timing and amount of funds transfers must be as close as is administratively feasible to a State's actual cash outlay for direct program costs and the proportionate share of any allowable indirect costs. States should exercise sound cash management in funds transfers to subgrantees in accordance with OMB Circular A-102 (For availability, see 5 CFR 1310.3.).
- (b) Neither a State nor the Federal government will incur an interest liability under this part on the transfer of funds for a Federal assistance program subject to this subpart B.