

**FISCAL YEAR 2012
MONITORING REPORT
ON THE
SOUTH DAKOTA SERVICE TO THE BLIND
AND VISUALLY IMPAIRED
VOCATIONAL REHABILITATION
PROGRAM**



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

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SECTION 1: EXECUTIVE SUMMARY

Background

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

Through its monitoring of the VR and SE programs administered by the South Dakota Service to the Blind and Visually Impaired (SBVI) in federal fiscal year (FY) 2012, RSA:

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

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from June 26 through June 28, 2012, is described in detail in the FY 2012 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program or in PDF format.

Emerging Practices

Through the course of its review, RSA collaborated with SBVI, the State Rehabilitation Council (SRC), the Region 8 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.

Outreach to Unserved and Underserved Individuals

- **Marketing Initiative:** SBVI educates the public about the services available from the agency and the capabilities of citizens with vision loss through its “See What You Can Do” marketing campaign.

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

Summary of Observations

RSA’s review of SBVI did not result in observations related to the three monitoring focus areas.

Summary of Compliance Findings

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

- SBVI has entered into 59 Project Skills third-party cooperative arrangements (TPCAs) using the same agreement as DRS. DRS’s TPCAs with three private non-profit community rehabilitation programs called Project Skills are not properly structured with a public agency. The TPCAs do not identify SBVI as the VR agency participating in the agreement. In addition, DRS does not apply sufficient internal control procedures for public agencies in these arrangements to ensure the proper expenditure of funds.
- The SD School for the Blind and Visually Impaired (SDSBVI) TPCA funds activities that do not constitute the provision of VR services to applicants for, or recipients of, the VR program, and SBVI does not conduct monitoring of the SDSBVI TPCA to ensure that grant-supported activities comply with applicable federal requirements.
- SBVI has unallowably disbursed VR program income to providers that expend these funds for the provision of SE extended services, and SBVI does not disburse program income prior to requesting additional cash drawdowns from its federal VR award.
- SBVI has not applied the same policies and procedures the state utilizes for procurements from its non-federal funds to the purchase of client services.
- SBVI has submitted inaccurate SF-269 and SF-425 reports related to its indirect costs generated from a cost allocation plan, and unreported program income funds earned at the SD Rehabilitation Center.
- SBVI’s institution of higher education (IHE) agreement is designed as a TPCA. However, the structure of the agreement does not meet all TPCA requirements and certified expenditures received from public colleges would not be allowable as match for the VR program.
- SBVI’s current agreement with the State Educational Agency (SEA) does not describe procedures for the identification of and outreach to students with disabilities needing transition services who are not receiving special education services.

Development of the Technical Assistance Plan

RSA will collaborate closely with SBVI and the Region 8 TACE to develop a plan to address the TA needs identified by SBVI in Appendix A of this report. RSA, SBVI and Region 8 TACE will conduct a teleconference within 60 calendar days following the publication of this report to discuss the details of the TA needs, identify and assign specific responsibilities for implementing TA and establish initial timeframes for the provision of the assistance. RSA, SBVI and Region 8 TACE will participate in teleconferences at least semi-annually to gauge progress and revise the plan as necessary.

Review Team Participants

Members of the RSA review team included Charles Sadler (Technical Assistance Unit), Craig McManus (Fiscal Unit), Christyne Cavataio and David Jones (Vocational Rehabilitation Unit), Julya Doyle (Data Collection and Analysis Unit), and Timothy Beatty (Independent Living Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

Acknowledgements

RSA wishes to express appreciation to the representatives of SBVI for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the Secretary of the Department of Human Services (DHS), the SRC (called the Board of Service to the Blind and Visually Impaired), the Client Assistance Program and advocates, the Region 8 TACE, 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 SBVI. 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 federal FYs 2007 through 2011. Consequently, the table and accompanying analysis do not provide information derived from SBVI open service records including current applicants, individuals who have been determined eligible and those who are receiving services. SBVI 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
SBVI Program Performance Data for Federal FY 2007 through Federal FY 2011

All Individual Cases Closed	Number, Percent or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
TOTAL CASES CLOSED	Number	190	176	224	217	244	54	13,838
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	28.4%	100.0%
Exited as an applicant	Number	28	26	36	38	44	16	2,895
	Percent	14.7%	14.8%	16.1%	17.5%	18.0%	57.1%	20.9%
Exited during or after trial work experience or extended employment	Number	2	1	4	6	2	0	132
	Percent	1.1%	0.6%	1.8%	2.8%	0.8%	0.0%	1.0%
TOTAL NOT DETERMINED ELIGIBLE	Number	30	27	40	44	46	16	3,027
	Percent	15.8%	15.3%	17.9%	20.3%	18.9%	53.3%	21.9%
Exited without employment outcome after signed IPE, but before receiving services	Number	2	1	6	3	2	0	125
	Percent	1.1%	0.6%	2.7%	1.4%	0.8%	0.0%	0.9%
Exited from order of selection waiting list	Number	0	0	0	0	0	0	26
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%
Exited without employment after eligibility, but before a signed IPE	Number	22	24	28	22	37	15	1,315
	Percent	11.6%	13.6%	12.5%	10.1%	15.2%	68.2%	9.5%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	24	25	34	25	39	15	1,466
	Percent	12.6%	14.2%	15.2%	11.5%	16.0%	62.5%	10.6%

All Individual Cases Closed	Number, Percent or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
Exited with employment	Number	100	102	112	116	115	15	6,240
	Percent	52.6%	58.0%	50.0%	53.5%	47.1%	15.0%	45.1%
Exited without employment	Number	36	22	38	32	44	8	3,105
	Percent	18.9%	12.5%	17.0%	14.7%	18.0%	22.2%	22.4%
TOTAL RECEIVED SERVICES	Number	136	124	150	148	159	23	9,345
	Percent	71.6%	70.5%	67.0%	68.2%	65.2%	16.9%	67.5%
EMPLOYMENT RATE		73.53%	82.26%	74.67%	78.38%	72.33%	-1.2%	66.77%
Transition aged youth	Number	28	22	29	27	29	1	1,869
	Percent	14.7%	12.5%	12.9%	12.4%	11.9%	3.6%	13.5%
Transition aged youth employment outcomes	Number	16	10	8	11	11	-5	603
	Percent	16.0%	9.8%	7.1%	9.5%	9.6%	-31.3%	9.7%
Competitive employment outcomes	Number	98	100	103	111	112	14	5,452
	Percent	98.0%	98.0%	92.0%	95.7%	97.4%	14.3%	87.4%
Supported employment outcomes	Number	8	6	9	5	11	3	196
	Percent	8.0%	5.9%	8.0%	4.3%	9.6%	37.5%	3.1%
Average hourly wage for competitive employment outcomes	Average	\$9.66	\$11.18	\$10.87	\$11.59	\$11.96	\$2.30	\$14.33
Average hours worked for competitive employment outcomes	Average	33.4	34.5	34.5	32.1	32.0	-1.5	30.9
Competitive employment outcomes at 35 or more hours per week	Number	57	66	69	60	63	6	2,829
	Percent	57.0%	64.7%	61.6%	51.7%	54.8%	10.5%	45.3%
Employment outcomes meeting SGA	Number	39	46	43	40	54	15	2,198
	Percent	39.0%	45.1%	38.4%	34.5%	47.0%	38.5%	35.2%
Employment outcomes with employer-provided medical insurance	Number	30	20	20	22	20	-10	1,325
	Percent	30.0%	19.6%	17.9%	19.0%	17.4%	-33.3%	21.2%

Positive Trends

As shown in Table 2.1, SBVI demonstrated several positive trends during the five-year period between FYs 2006 and 2010, particularly with regard to individuals exiting the program with employment outcomes. The largest percentage of individuals exiting the VR program in FY 2010 included individuals who exited with employment outcomes, which accounted for 47.1 percent of the total cases closed. This was slightly higher than the national average of agencies serving individuals who are blind or visually impaired at 45.1 percent. Similarly, the employment rate for individuals served by SBVI has been consistently high over the last five years, ranging from 72.3 percent in FY 2011 to 82.3 percent in FY 2008. In FY 2011, SBVI's

employment rate at 77.3 percent was higher than the 66.8 percent national average for agencies serving individuals who are blind or visually impaired.

The quality of employment outcomes for SBVI consumers has been consistently high over the last five years. In FY 2011, the percentage of individuals who were closed with competitive employment outcomes was 97.4 percent, higher than the national average of 87.4 percent for agencies serving individuals who are blind or visually impaired. Similarly, 9.6 percent of employment outcomes were closed in Supported Employment, and this compares favorably to the 3.1 percent national average for agencies serving individuals who are blind or visually impaired.

Additionally, the percent of individuals at SBVI who had competitive employment outcomes and worked 35 hours or more per week was higher in FY 2011 at 54.8 percent compared to the national average of 45.3 percent for agencies serving individuals who are blind or visually impaired. This percentage has been consistently high over the last five years, ranging from 51.7 percent in FY 2010 to 64.7 in FY 2008.

Trends Indicating Potential Risk to the Performance of the VR Program

The percentage of individuals who exited the VR process as applicants has increased every year over the last five years, up 3.3 percent from 14.7 percent in FY 2007 to 18 percent in FY 2011. This trend may indicate an increase in the number of individuals who do not require VR services, or inappropriate referrals. SBVI staff are aware of this trend and have implemented measures to better educate referral sources regarding SBVI's purpose and scope of services.

The number of individuals who exited the VR process after eligibility determination, but before an Individualized Plan for Employment (IPE) was signed, was higher in FY 2011 at 15.2 percent compared to 9.5 percent for other agencies serving individuals who are blind or visually impaired.

Of the total number of SBVI cases closed in FY 2011, 11.9 percent were transition-age youth. This was lower than the national average of 13.5 percent for agencies serving individuals who are blind or visually impaired. Discussions onsite indicated many transition-age youth in the state have coexisting primary disabilities that require more intensive services than the VR program provides.

In FY 2011, the average hourly wage for individuals who achieved competitive employment outcomes was lower at \$11.96, compared to the national average of \$14.33 for agencies serving individuals who are blind or visually impaired. While this number has increased over the last five years by \$2.30, it is still lower than the national average. On-site discussions with SBVI indicated that wages in the state are lower than those available in the rest of the country. Studies conducted by the Department of Labor place SD amongst the states with the lowest average wages in the country, primarily due to the lack of urban density in the state.

Fiscal Analysis

Table 2.2
Fiscal Performance Data for Federal FY 2007 through Federal FY 2011

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Grant amount per MIS	4th	1,903,281	1,895,983	1,984,015	2,031,498	2,031,498
	Latest/ Final*	1,903,281	1,895,983	1,984,015	2,031,498	2,031,498
Total outlays	4th	1,739,953	2,158,303	2,196,828	2,152,533	2,114,640
	Latest/ Final*	2,418,570	2,409,317	2,578,451	2,581,519	2,581,469
Total unliquidated obligations	4th	663,024	53,371	33,755	599,387	48,124
	Latest/ Final*	0	0	0	0	0
Federal Share of Total Outlays	4th	1,224,834	1,644,969	1,605,522	1,584,444	1,564,669
	Latest/ Final*	1,903,281	1,895,983	1,984,015	2,031,498	2,031,498
Federal share of unliquidated obligations	4th	500,141	53,371	29,524	447,054	48,124
	Latest/ Final*	0	0	0	0	0
Total federal share	4th	1,724,975	1,698,340	1,635,046	2,031,498	1,612,793
	Latest/ Final*	1,903,281	1,895,983	1,984,015	2,031,498	2,031,498
Recipient funds	4th	515,119	513,334	591,306	568,089	549,971
	Latest/ Final*	515,289	513,334	594,436	550,021	549,971
Recipient share of unliquidated obligations	4th	162,883	0	4,231	152,333	0
	Latest/ Final*	0	0	0	0	0
Agency actual match (total recipient share)	4th	678,002	513,334	595,537	568,089	549,971
	Latest/ Final*	515,289	513,334	594,436	550,021	549,971
Agency required match	4th	331,499	445,208	434,531	428,827	423,475
	Latest/ Final*	515,119	513,144	536,970	549,821	549,821
Over/under match	4th	-346,503	-68,126	-161,006	-139,262	-126,496
	Latest/ Final*	-170	-190	-57,466	-200	-150
MOE **	4th					
	Latest/ Final*			594,436	550,021	549,971
Unobligated funds qualifying for carryover	4th	178,306	197,643	348,969	0	418,705
	Latest/ Final*	0	0	0	0	0
Total program income realized	4th	101,702	37	153,559	101,839	89,320
	Latest/ Final*	101,702	37	153,559	101,839	89,320
Total indirect costs	4th	76,845	88,777	72,563	61,719	85,619

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
	Latest/ Final*	85,145	96,367	93,199	85,524	91,649

*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 FYs 2007 through 2011. State appropriated funds comprised between 92.4 in FY 2009 to 94.5 percent in FY 2008 of the agency's non-federal share over the five-year span. For FYs 2007 and 2009, the recipient share of unliquidated obligations at the fourth quarter was \$162,883 (24.0 percent of non-federal share) in FY 2007 and \$152,333 (26.8 percent of non-federal share) in FY 2009. SBVI met its match and MOE requirements in all five years, except for MOE in FY 2011, demonstrated by a \$44,465 shortfall. This amount was reduced further due to the SD general agency's non-federal share, resulting in a SD state MOE shortfall of \$20,124. The federal share of unliquidated obligations was highest in FY 2007 at \$500,141 (28.7 percent of the federal award) and FY 2009 at \$447,054 (22.0 percent of the federal award). The carryover balance in FY 2010 was \$0. However, it was higher in the remaining four years of the five-year performance period, ranging from \$178,306 (9.4 percent of the federal award) in FY 2007 to \$418,705 (20.6 percent of the federal award) in FY 2011. Program income fluctuated across the five-year span, from a low of \$37 in FY 2008 to a high of \$153,559 in FY 2009. However, these figures do not reflect all program income earned by the agency, since program income from the SD Rehabilitation Center was not reported on the SF-269 or SF-425 reports.

SECTION 3: EMERGING PRACTICES

While conducting the monitoring of the VR program, the review team collaborated with SBVI, SRC, TACE 8, and agency stakeholders to identify emerging practices in the following areas:

- strategic planning;
- program evaluation and quality assurance practices;
- financial management;
- 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 practice below.

Outreach to Unserved and Underserved Individuals

Marketing Initiative: In FY 2011, with the assistance of a contractor, SBVI initiated a market research and analysis, including focus groups with consumers, employers and eye care professionals who provided their views regarding the impact of vision loss and SBVI services. The SRC, with extensive involvement from its public relations committee, provided input and guidance throughout the campaign.

Through this marketing initiative known as, "See What You Can Do," SBVI educates the public about the services available from the agency and the capabilities of citizens with vision loss. The theme of "See What You Can Do" is to promote SBVI services, motivate individuals with vision loss to become employed, and encourage employers and others to refer individuals with vision loss for services.

Products developed during the marketing campaign include the following:

- SBVI brochure;
- poster designs promoting SBVI;
- 30-second television advertisement;
- newspaper and radio advertisements;

- banner stands and table top display; and
- web banner.

The final rollout included press conferences and airing the television, radio and newspaper advertisements statewide. The television advertisement and some of the other products that were created can be found at the SBVI website. Since January 2012, SBVI has received 17 referrals for VR services attributable to the outreach campaign. In addition, SBVI staff reported that many other applicants learned about SBVI services through the outreach campaign.

A complete description of the practice 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 SBVI agreed to address during the prior monitoring cycle in FY 2007. These goals will no longer be followed-up in RSA monitoring, but will be folded into SBVI's state and strategic planning activities.

Recommendations

In response to RSA's monitoring report dated September 7, 2007, SBVI agreed to implement the recommendations below. A summary of the agency's progress toward implementation of each recommendation is included.

Goal 1: SBVI will increase the rehabilitation rate for transition-age youth by one percent per year over the next three years. SBVI defines transition-age youth as individuals age 14-21.¹

Goal Status: In FY 2006, four transition-age youth achieved an employment outcome out of a total of 11 individuals who received services, resulting in a rehabilitation rate of 36.4 percent. Overall, the rehabilitation rate over the subsequent five years can be seen in the data below:

Table 4.1
SBVI Rehabilitation Rate for Transition-Age Youth for FY 2007 through FY 2011

Transition-Youth	2007	2008	2009	2010	2011
Individuals employed	16	10	8	11	11
Individuals served	23	11	19	15	17
Rehabilitation rate	69.6%	90.9%	42.1%	73.3%	64.7%

SBVI's performance on this goal has substantially increased from the FY 2006 rate of 36.4 percent, and this can be attributed, in part, to the strategies that were established as a result of the 2007 RSA on-site monitoring review.

Strategy 1: Identify students with disabilities in SD that can benefit from VR services provided by SBVI.

Status: The Transition Specialist at the SD School for the Blind and Visually Impaired (SDSBVI) tracks data for all students in SD schools who are blind or visually impaired, while SBVI tracks current transition-age youth receiving VR services. The Transition Specialist refers individuals to SBVI when appropriate. In 2007, the Transition Specialist identified 76 SD transition-age youth with visual impairments, and SBVI reported 63 open cases. These numbers decreased in FY 2011, when 58 transition-age youth were identified as potential candidates, and SBVI reported 69 open cases. All students served by SDSBVI may not be interested in or appropriate for SBVI VR services. Coordination between SDSBVI and SBVI ensures that

¹ Transition-age Youth: SBVI defines transition-age youth as individuals between the ages of 14 to 21 at application, while RSA defines this population as 14 to 24 years of age at application.

students with vision loss are identified and that referrals are made for individuals who can benefit from VR services.

Strategy 2: Track the impact on outcomes based on the participation in Project Skills, Youth Leadership Forum, Transition Week, and other transition programs, and revise program activities, as needed, to improve successful outcomes.

Status: The SBVI Transition Week pre- and post-evaluation assessments are conducted on all participants and are used to further refine Transition Week activities. Results of the most recent assessments indicate that the students’ views on employment options and accommodations are significantly and positively affected as a result of Transition Week activities. Youth Leadership Forum (YLF) assessments are conducted in a similar fashion. The results of the most recent YLF assessments show that participants benefit in many areas from the program, particularly in understanding the process for developing an Individualized Education Plan (IEP), and in assuming responsibility for determining the direction of their own IEP and IPE.

Strategy 3: Track and analyze transition-age youth served who did not achieve employment outcomes.

Status: An analysis conducted following the FY 2007 monitoring review found that a relatively high number of transition-age youth who did not achieve employment outcomes returned to non-integrated employment settings. This led to follow-up training with VR counselors on eligibility criteria and the use of the trial work period in limited instances, when the severity of an applicant’s disabilities may impact the applicant’s ability to benefit from VR services. RSA-113 data shows an increase in FYs 2008 and 2009 in the number of trial work experiences and extended evaluations that were conducted by SBVI counselors.

Further analysis shows that the reasons for transition-age youth being closed unsuccessfully after services are similar in proportion to the reasons for all individuals receiving services from SBVI who are closed unsuccessfully. The following table contains the top four reasons for closure for all individuals and transition-age youth closed unsuccessfully after receiving services.

**Table 4.2
SBVI Top Reasons for Closure for FY 2007 through FY 2011**

Closure Reasons	2007	2008	2009	2010	2011
All individuals					
Failure to cooperate	22.2%	22.7%	18.4%	37.5%	27.3%
Refused further services	36.1%	22.7%	18.4%	25 %	27.3%
Unable to contact	22.2%	27.3%	39.5%	12.5%	20.5%
Other	8.3%	18.2%	18.4%	6.3%	15.9%
Transition-youth					
Failure to cooperate	42.9%	0.0%	9.1%	50 %	12.4%
Refused further services	28.6%	100.0%	9.1%	25 %	25.9%
Unable to contact	0 %	0 %	63.6%	25 %	32.3%
Other	28.6%	0 %	18.2%	0 %	15.3%

Strategy 4: Maximize access to post-secondary training for transition-age youth.

Status: The value of post-secondary training has been emphasized with staff, along with a focus on using the comprehensive assessment to determine the appropriateness of the service, and using the financial needs to determine the level of financial participation.

During the period from FYs 2007 through 2011, SBVI’s provision of post-secondary training has been fairly consistent and is comparable to other state VR agencies serving individuals who are blind or visually impaired. The number of transition-age youth participating in post-secondary training compared to the total number of transition-age youth who received services is described below.

Table 4.3
SBVI Transition-Age Youth who Received Post-Secondary Training for FY 2007 through FY 2011

Transition-Age Youth	2007	2008	2009	2010	2011
Total received services	6	5	4	4	4
Total served	23	11	19	15	17
Percent of total served	26.1 %	45.5%	21.1%	26.7%	23.5%

Goal 2: Narrow the gap between average hourly earnings of individuals exiting the VR program with a paid employment outcome and the state average hourly earnings, as addressed in Performance Indicator 1.5.²

Goal Status: The table below shows that SBVI’s performance on Indicator 1.5 has increased slightly over the past five years, rising from 0.667 in FY 2007 to 0.707 in FY 2011.

Table 4.4
SBVI Performance on Indicator 1.5 for FY 2007 through FY 2011

Indicators in Indicator 1.5	2007	2008	2009	2010	2011
Average hourly wage of competitively employed	\$9.82	\$10.43	\$11.02	\$11.24	\$11.77
State average hourly wage	\$15.07	\$15.68	\$15.88	\$16.34	\$16.96
Performance level	.667	.680	.699	.698	.707
Pass or fail	Pass	Pass	Pass	Pass	Pass

Strategy 1: Increase incentives to job placement providers to place participants in employment above Substantial Gainful Activity (SGA).

Status: The Division of Rehabilitation Services (DRS)/SBVI Program Guide 2008-06 was revised with the assistance of a workgroup of field counselors, and disseminated on June 16, 2009. New provider rates were established to include incentives for job placement providers.

² Performance Indicator 1.5: “Measure the average hourly earnings of all individuals who exit the VR program in competitive, self-employment, or BEP employment with earning levels equivalent to at least the minimum wage as a ratio to the State’s average hourly earnings for all individuals in the State who are employed.” RSAs minimum performance level for Indicator 1.5 for Agencies serving the blind or visually impaired is 0.59.

Wage ranges were established to incentivize successful employment outcomes at 40 percent and 60 percent above the SD minimum hourly wage rate. Two additional wage incentives were established for job placement providers who placed individuals who were Title II Social Security Disability Insurance beneficiaries, or Title XVI Supplemental Security Income recipients, in occupations where earnings exceeded Trial Work Period (TWP) and SGA.

Strategy 2: Maximize access to post-secondary training.

Status: See 1.4 above.

Strategy 3: Track hourly wages to determine the impact of the minimum wage increase on overall wages.

Status: Table 4.5 demonstrates that the state minimum wage increase appears to have resulted in a slight overall wage increase for SBVI consumers.

Table 4.5
SBVI Average Wage Compared to State Minimum Wage for FY 2007 through FY 2011

Agency Average wage and State Minimum wage	2007	2008	2009	2010	2011
Average hourly wage of competitively employed	\$9.82	\$10.43	\$11.02	\$11.24	\$11.77
State minimum wage	\$5.15	\$5.85	\$6.55	\$7.25	\$7.25

Strategy 4: Increase awareness of and access to the Medical Assistance for Workers with Disabilities Program (MAWD) for individuals who are blind or visually impaired.

Status: Training has been provided to counselors, and as of September 2010, six individuals were referred to and found eligible for MAWD because of their vision loss, and another 12 were found eligible because of diabetes. At that time, a total of 282 individuals had been determined eligible for the MAWD program.

Goal 3: Develop and implement a quality improvement system to support SBVI in making consistent and measurable program improvements.

Goal Status: As a result of RSA’s FY 2007 on-site review, SBVI defined and outlined VR quality assurance (QA) measures in the SBVI QA Manual that was first developed in October, 2009. The SBVI Assistant Director has participated in the national VR Program Evaluation and QA Summits to gain knowledge related to QA activities.

Strategy 1: Formalize processes and timelines for QA activities.

Status: The SBVI QA manual outlines the QA process and a timeline for conducting activities.

Strategy 2: Develop a SBVI QA manual that outlines methods, procedures and results.

Status: The SBVI QA manual describes the QA process and how the results improve program performance.

Strategy 3: Partner with other agencies serving individuals who are blind or visually impaired to identify best practices for quality improvement activities.

Status: SBVI's relationship with other VR agencies in Region 8 has benefited the agency in identifying effective service delivery practices. Partnerships are ongoing with directors of agencies serving individuals who are blind or visually impaired in neighboring states and through the National Council of State Agencies for the Blind.

Strategy 4: Partner with DRS on QA activities to benefit consumers of both DSUs to ensure efficient use of resources.

Status: SBVI continues to collaborate with DRS when conducting QA activities in order to maximize resources. While SBVI and DRS have two separate QA Manuals, ongoing cooperation on QA activities has been beneficial to both agencies. For example, service record reviews are conducted separately, but use the same process and the same case management system.

Compliance Findings and Corrective Actions

There were no compliance findings from the monitoring review conducted in FY 2007.

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 SBVI with the federal requirements related to its organization within SD DHS and the ability of SBVI to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

- compliance with statutory and regulatory provisions governing the organization of DHS and SBVI under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which SBVI 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 SBVI 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:

- DHS and SBVI directors and senior managers;
- DHS and SBVI staff members responsible for the fiscal management of the VR program;
- SRC Chairpersons and members;
- Client Assistance Program Director; and
- TACE 8 center representatives.

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

- diagrams and supporting documentation 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;
- diagrams and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- the number of FTEs in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:
 - individuals who spend 100 percent of their time working on the rehabilitation work of SBVI;
 - individuals who work on rehabilitation work of the SBVI and one or more additional programs/cost objectives (e.g., One-Stop Career Centers); and

- individuals under SBVI that do not work on VR or other rehabilitation within the DSU.
- sample memoranda of understanding (MOUs) and/or cost allocation plans with One-Stop Career Centers; and
- documents describing SD procurement requirements and processes.

Overview

SBVI is located within DHS, which serves as the DSA. DHS is led by a Secretary, appointed by the Governor. SBVI is led by a director, which is an exempt position within state government. DHS contains the following four divisions, in addition to SBVI, all led by a director: DRS, Budget and Finance, Developmental Disabilities, and the SD Developmental Center. SBVI shares an organizational level and status comparable to the other DHS divisions.

At the time of the review, SBVI employed a total of 28 staff members, consisting of the Division Director and Assistant Director; Program Specialist supervising five Rehabilitation Teachers; Program Specialist responsible for the Business Enterprise Program vendors; and the SDRC Manager responsible for 11 employees. The Assistant Director is responsible for supervising the seven VR counselors, located in six offices around the state, four of which are co-located with DRS. Two SBVI offices are also co-located with One-Stop partners and one with SD Department of Social Services. All staff members employed by SBVI are engaged full time in the VR program or vocational and other rehabilitation work of the DSU. Financial and human resource development functions for all DHS divisions are centralized in DHS.

RSA's review of the organizational structure of the SBVI did not result in the identification of observations and recommendations. In addition, the implementation of this focus area did not result in the identification of compliance findings.

B. Transition Services and Employment Outcomes for Youth with Disabilities

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

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

and when appropriate, acquisition of daily living skills and functional vocational evaluation.

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

To implement this focus area, RSA reviewed:

- the progress toward the implementation of recommendations accepted by SBVI and the resolution of findings related to the provision of transition services identified in the prior monitoring report from FY 2007 (see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities; and
- third-party cooperative arrangements (TPCAs) and other cooperative agreements.

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

- the agreement between the VR agency and the SEA;
- samples of signed and implemented TPCAs;
- samples of other cooperative agreements; and
- VR policies and procedures for the provision of transition services.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed SBVI relevant data from FY 2007 through 2011, describing:

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

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

To provide context for the agency’s performance in the area of transition, RSA also compared the performance of SBVI with the national average of all agencies serving individuals who are blind or visually impaired.

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

- the SBVI administrator/director;
- SBVI VR Counselors and transition staff;
- the SBVI staff member serving as liaison with the SEA and other agencies; and
- state and local school personnel.

RSA’s review of transition services of the VR program administered by SBVI did not result in the identification of observations and recommendations. The compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

RSA provided TA to SBVI related to transition services and employment outcomes for transition-age youth with disabilities in the topical areas described below while onsite in SD:

- **SBVI SEA Agreement:** RSA provided TA regarding the need to further outline, in the SEA agreement, the financial responsibilities of the SD Office of Special Education (OSE) beyond students enrolled in Project Skills.
- **Third-Party Cooperative Arrangements:** SBVI has several TPCAs and will need to revise them in order to comply with the federal requirements. RSA provided TA regarding the federal requirements pertaining to TPCAs.
- **Strategic Planning:** RSA was informed by the DHS Secretary that the department would be conducting a strategic planning session in order to ensure that the DHS divisions were being held accountable for achieving results, including improved services to transition-age youth. RSA provided the DHS Secretary and the SBVI and DRS directors with a PowerPoint presentation used by RSA in training state VR agency staff members to develop an effective strategic plan.
- **Using Performance Data to Educate and Inform VR Program Stakeholders:** SBVI shared with RSA marketing materials that have proven effective in reaching out to unserved and underserved populations. In turn, RSA provided SBVI with tables and charts containing state VR agency performance information that is useful in educating legislators and other VR programs about the purpose and performance of the agency, particularly related to the employment outcomes achieved by transition-age youth. In

addition, RSA provided SBVI with an example of such a presentation used by a state director in another Region 8 state VR agency.

C. Fiscal Integrity of the Vocational Rehabilitation Program

For purposes of the VR program, fiscal integrity is broadly defined as the proper and legal management of VR program funds to ensure that VR agencies effectively and efficiently manage funds to maximize employment outcomes for individuals with disabilities. Through the implementation of this focus area, RSA assessed the fiscal performance of the VR and SE programs and compliance with pertinent federal statutory and regulatory requirements, including federal cost principles, governing four components of review: financial resources, match and maintenance of effort (MOE), internal controls, and fiscal planning.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from FYs 2007 through 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 federal fiscal reports;
- grant award, match, MOE, and program income documentation;
- agency policies, procedures, and forms (e.g., monitoring, personnel certifications, procurement and personnel activity reports), as needed; and
- documentation of expenditures including contracts, purchase orders and invoices.

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

- TPCAs;
- internal agency fiscal reports and other fiscal supporting documentation; and
- VR agency cost-benefit analysis reports.

RSA's review of the fiscal integrity of the VR Program administered by SBVI did not result in the identification of observations and recommendations. The compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

RSA provided TA to SBVI related to the fiscal integrity of the VR program in the following topical areas while onsite in SD:

- **Fiscal Requirements:** RSA provided TA regarding fiscal requirements and reviewed its assessment of SBVI's compliance with specific financial requirements, including match, MOE, carryover, reallocation, and program income.
- **Internal Controls of Purchased Services:** SBVI procures services through vendor authorizations. RSA provided TA regarding the importance of vendor authorization service descriptions sufficiently detailed to ensure services identified on the authorization support the approved vocational goal and VR services on the IPE. This will strengthen the internal controls of purchased services, facilitate the review of authorizations, invoices, and supporting documentation, as well as the preparation of vouchers.
- **Cost Allocation Responsibilities:** SBVI Assurance of Match forms associated with the Project Skills TPCAs are routed to the Black Hills Special Services Cooperative (BHSSC) agreement staff funded by DRS. The forms are then sent to DRS staff. Since SBVI must assume financial responsibility for activities from which it benefits, RSA provided TA that Assurance of Match forms are to be routed directly to SBVI staff. Additionally, BHSSC staff occasionally speak at forums, conferences, or events conducted by SBVI. RSA recommended that SBVI develop and establish fees for these services, thereby resolving the cost allocation concerns.
- **Contract Documentation:** RSA conducted a review of an eye clinic contract and janitorial contract for the SD Rehabilitation Center (SDRC). The review included comparing the contract with the invoices and supporting documentation provided.

The eye clinic contract provides for a doctor to conduct up to 25 low vision evaluation clinics (at \$200 per day) to visually-impaired individuals in SD. The invoices simply provide a date and \$200 charge. RSA provided TA for this contract to include the number and names of individuals identified on the invoice to better facilitate contract monitoring to ensure performance goals or expectations are achieved (e.g. six consumers seen per clinic), and that only applicants for, or recipients of, the VR program receive these services.

The janitorial contract provides a detailed description of the cleaning duties to be performed as well as when they are to be performed (e.g. daily, weekly, monthly, and annually). A sample of approved and processed invoices simply state "Office Cleaning," with no further description of the activities performed. Additionally, the invoice from June, 2011 is blank. RSA provided TA to SBVI that requiring the contractors to provide additional descriptions on the invoice that relate directly to the scope of work of the contracts will allow the agency to better monitor the services provided under the contracts.

- **DHS Cost Allocation Plan:** The DHS cost allocation plan breaks out the Secretariat's costs into two components: Budget and Finance, and Administrative costs. The budget and finance costs are allocated across all four benefitting DHS divisions using about 40 detailed data elements that determine the proportion of benefit received. On the other

hand, the Secretariat's administrative costs are simply divided evenly across the four DHS divisions without an allocation methodology (e.g., based upon FTEs). Based upon the large size variance among divisions, this does not appear to be an effective allocation strategy. RSA provided TA to the SBVI regarding the cost allocation plan, including input to the US Department of Health and Human Services' Division of Cost Allocation.

- **Written Policies Governing Rates of Payment:** SBVI has written procedures that govern the rates of payment for the purchase of all VR services. RSA learned that the Governor recommends, and the State legislature approves, an annual inflation percentage that impacts the rates for these services. RSA provided TA to include the inflation percentage into SBVI's written policies and procedures that govern fees.
- **Program Income Transfers:** RSA provided TA regarding the procedures for reporting transferred program income on the SF-425 reports, as well as the eligible programs to which VR program income from Social Security reimbursements can be transferred.
- **Indirect Cost Reporting:** RSA provided TA on the procedure for reporting indirect costs on the SF-425 reports, when the indirect costs are a result of a cost allocation plan instead of an indirect cost rate.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

RSA identified the following compliance findings and corrective actions that SBVI is required to undertake. Appendix A of this report indicates whether or not the agency requests TA to enable it to carry out the corrective actions. The full text of the legal requirements pertaining to each finding is contained in Appendix B.

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

1. Third-Party Cooperative Arrangements

Legal Requirements:

- VR Program Regulations – 34 CFR 361.28 and 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a)

A. Project Skills Third-Party Cooperative Arrangements:

Finding: SBVI is not in compliance with regulations at 34 CFR 361.28 governing third-party cooperative arrangements (TPCAs) with regard to three Project Skills agreements because those agreements are not properly structured with a public agency.

SBVI must satisfy the requirements at 34 CFR 361.28 when entering into TPCAs for the provision of VR services. In particular, a TPCA is an agreement that is established between SBVI and another public agency that would provide VR services as well as contribute non-federal funds toward SBVI's match requirement under the VR program. The services must not be the typical services generally provided by that cooperating agency (34 CFR 361.28(a)(1)). The services must be provided solely to SBVI consumers and applicants (34 CFR 361.28(a)(2)). SBVI must retain supervisory control over the staff providing the services and the expenditures under the agreement (34 CFR 361.28(a)(3)). The cooperating agency must adhere to all VR requirements, including order of selection, if applicable (34 CFR 361.28(a)(4)). Finally, the cooperating agency must provide the services in all areas of the State; if not, SBVI must seek a waiver of statewide from RSA (34 CFR 361.28(b)).

Since FY 1996, SBVI has collaborated with the South Dakota Office of Special Education (OSE) and local school districts on a transition program called Project Skills, a paid work experience program for high school students eligible for VR services. The programming is administered, in all but three instances, pursuant to TPCAs between SBVI and local schools or school districts. Under these arrangements, SBVI uses federal VR funds to provide funding for wages, FICA, worker's compensation, and other costs associated with the student's work experience. The local schools use non-federal funds, which SBVI in turn uses to meet its match requirement under the VR program, to provide job development, job coaching, and monitoring services.

At the time of the review, SBVI indicated that it has entered into 59 Project Skills TPCAs, using the same agreement as DRS, with:

- 26 schools;
- 21 school districts with corresponding schools;
- nine educational cooperatives; and
- three private non-profit community rehabilitation programs (CRPs).

As part of its monitoring of the agency, RSA reviewed a sample TPCA agreement that SBVI had entered into with each of the various types of cooperating agencies identified above. Each of the TPCAs was consistent in both format and content. The VR regulations at 34 CFR 361.28(a) require that SBVI enter into a TPCA with a local public agency. The document review revealed that generic language is used in identifying individuals with disabilities as eligible individuals for the Project Skills program, as well as the SD State VR Counselor. As a result, there is no specific language in the body of the agreement identifying whether the VR agency is DRS or SBVI, or if eligible individuals are receiving services from VR Counselors employed by DRS or SBVI. Further review identified a signatory line for the DHS Division Director on the signature page. However, this line is signed by the DRS Division Director, not the DHS Division Director or a representative from SBVI, such as the SBVI Division Director. Additionally, the document lists the DHS Program Contact Person, and the individual identified is a DRS executive staff member. No SBVI contact person is listed. Since SBVI has indicated that it has entered into a TPCA with the schools, SBVI must identify itself as the VR agency on the agreement. Additionally, since state procedures and current precedent have established that the DRS director will sign the TPCAs, a signatory line must be provided for the appropriate SBVI representative, in order to meet the TPCA requirements at 34 CFR 361.28 and equivalent DSU organizational structure requirements at 34 CFR 361.13(b)(1)(iv).

Even if SBVI had met the TPCA requirements identifying itself as the VR agency entering into the agreement with the cooperating agency, regulations at 34 CFR 361.28(a) state that, "The designated State unit may enter into a third-party cooperative arrangement for providing or administering [VR] services with another State agency or a local public agency that is furnishing part or all of the non-Federal share..." Accordingly, the cooperating agency, e.g., that provides the services, must contribute part or all of the non-federal expenditures associated with the cost of the arrangements and must be a state or a local public entity.

RSA's review of the Project Skills agreements revealed that three of the TPCAs between SBVI and the three private non-profit CRPs did not satisfy 34 CFR 361.28(a) because they were made

with private entities, not public agencies as required by federal regulations. In its review of those three TPCAs with private non-profit CRPs, RSA read the entire contracts and found them to be deficient as drafted. The top of the contract identifies the private non-profit CRP as the cooperating agency and a representative of that CRP is a signatory to the contract. These facts, on their face, do not satisfy the requirement at 34 CFR 361.28(a), which requires that the cooperating agency be a State agency or local public agency. The three CRPs at issue – Career Connections, Cornerstones, and Employment Connections – are not State or local public agencies and, therefore, are not eligible to be a cooperating agency for purposes of 34 CFR 361.28. Interestingly, the Mitchell Public School DHS-RS-348 attachment of the Career Connections TPCA, for example, clearly and correctly states that VR may only enter into a TPCA with a public agency and that the school is that public cooperating agency. While this boilerplate language is an accurate statement of the federal regulatory requirements at 34 CFR 361.28, the boilerplate language is not consistent with the text of the TPCA itself, which clearly names, for example, Career Connections as the cooperating agency and not Mitchell Public School. Furthermore, in this same example, Career Connections is the signatory to the TPCA, whereas in accordance with 34 CFR 361.28, the school should be the signatory since it is the entity eligible to be a cooperating agency. RSA acknowledges that attached to the TPCA between SBVI and the private CRP, there is a separate document – the DHS-RS-348 titled “Agreement to Project Skills Requirements” – signed by an authorized representative of the school district to be served by the CRP. This particular document merely confirms the existence of the TPCA between SBVI and the private CRP. The DHS-RS-348 is an attachment to the TPCA but does not change the fact that the TPCA itself, on its face, is between SBVI and the private CRP, not the school or school district.

Finally, with regard to the TPCAs between SBVI and the three private non-profit CRPs, the agreement makes it clear that the school or school district, at issue, will provide non-federal expenditures that SBVI will, in turn, use toward satisfying its non-federal share requirement under the VR program. If the school or school district were indeed the cooperating agency under these particular TPCAs, the school would be required to provide the non-federal share as it is doing (34 CFR 361.28(a)). However, as described throughout this finding, the school or school district is not the cooperating agency according to the text of the TPCA, but rather the private CRP is the cooperating agency. At this point, until the deficiencies of these three TPCAs are corrected, there is no mechanism in place for SBVI to use non-federal expenditures by the school toward satisfying its non-federal share requirement under the VR program.

In order to bring the three TPCAs with private non-profit CRPs into compliance with federal requirements, SBVI must revise and re-execute these agreements so that they clearly name a State or local public agency as the cooperating agency and that agency is a signatory to the agreement. Furthermore, the public cooperating agency must, in turn, contract with the CRPs to provide the services on its behalf if the public cooperating agency is unable to provide those services directly. RSA could provide further technical assistance to assist SBVI, as needed, to correct these deficiencies.

B. Internal Controls of the Project Skills TPCAs

As a recipient of VR funds, federal regulations require SBVI to assure in its State Plan that it will implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). SBVI also must implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)).

In monitoring SBVI to ensure that the agency had implemented sufficient internal controls with regard to the 59 Project Skills TPCAs, RSA reviewed the process whereby invoices were submitted and SBVI made payments for this program. According to the TPCAs, the schools submit monthly service report forms (DHS-RS-340-5/02) to VR counselors detailing the services provided by the job coach to each student served under the TPCA. On-site discussions with VR counselors indicated that paper copies of the forms are maintained locally by the counselors themselves and there was no established procedure for this monthly information to be entered into the case management system (CMS). Separately, the schools submit signed assurance of match forms (DHS-RS-346-08/06) on a quarterly basis to the Black Hills Special Services Cooperative (BHSSC) Transition Services Liaison Project (TSLP) Coordinator, funded by DRS, summarizing the total hours of all providers that quarter spent working on job development, job coaching, and monitoring services for individuals who are served under the TPCAs. During on-site discussions, RSA learned that the TSLP Coordinator compiles the information into a database to develop quarterly reports for DRS management, not SBVI staff, outlining total wages and match information for each of the schools.

While the information contained in the monthly and quarterly reports just described contain all of the information necessary to ensure the proper expenditure of VR funds, RSA learned that there was no mechanism in place to ensure the monthly hours submitted each month equaled the total quarterly hours submitted. As stated above, the counselors maintain the monthly reports themselves and the data are not entered into the CMS, whereas the quarterly reports are submitted to DRS management instead of SBVI management, who has no way of accessing those monthly reports to ensure accuracy of the quarterly reports. As a result, SBVI is unable to ensure the proper expenditure of VR funds or the proper accounting of non-federal funds for match purposes under the VR program as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 1: SBVI must:

- 1.1 submit an assurance within 10 days of the final monitoring report that SBVI will comply with the requirements for a TPCA set forth at 34 CFR 361.28, especially with regard to ensuring that the cooperating agency is a State or local public agency, not a private entity; and that it will implement internal controls procedures to ensure that funds spent pursuant to the TPCAs are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a);
- 1.2 revise and execute new TPCAs, currently between SBVI and private CRPs, so that SBVI is identified as the VR agency entering into the agreement with an eligible State or local public agency, as required by 34 CFR 361.28(a), and is included as a signatory on the agreement; and

1.3 develop and implement internal controls procedures necessary to ensure the proper expenditure of funds pursuant to the Project Skills TPCAs, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

2. School for the Blind and Visually Impaired Third-Party Cooperative Arrangement

Legal Requirements:

- VR Program Regulations – 34 CFR 361.3, 34 CFR 361.12, 34 CFR 361.28 and 34 CFR 361.60(b)(1)
- EDGAR – 34 CFR 80.20(a), 34 CFR 80.24(a) and 34 CFR 80.40(a)

Finding: SBVI is not in compliance with regulations at 34 CFR 361.28 governing TPCAs because its TPCA with the SD School for the Blind and Visually Impaired (SDSBVI) funds some activities that do not constitute the provision of VR services to applicants for, or recipients of, services from the VR program. Additionally, SBVI is not in compliance with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a) because it does not conduct monitoring of the SDSBVI TPCA to ensure that grant-supported activities comply with applicable federal requirements.

A. Third Party Cooperative Arrangements – Non-Federal Share

SBVI indicated it has entered into a TPCA with SDSBVI for the provision of transition services to individuals who are blind and visually impaired consumers of the VR program. A review of the TPCA agreement reveals a budget that outlines the salary, benefits, and operating expenses of one SDSBVI staff member who is responsible for carrying out the TPCA activities. The total amount of the budget is \$62,165, and the non-federal share, through certified expenditures of SDSBVI staff, is 50 percent, resulting in a 50 percent federal share.

The TPCA activities are described in Attachment III of the agreement. However, many of the activities listed do not include the provision or administration of VR services to applicants for, or recipients of, VR services through SBVI, as required by 34 CFR 361.28(a). For example, serving on boards and committees and working with SDSBVI Regional Consultants, SBVI Counselors, Special Education and School Districts to ensure cooperation and planning are not services provided to applicants for, or recipients of, VR services through SBVI. Additionally, RSA reviewed the SDSBVI job description, which confirmed that some duties of the SDSBVI Transition Specialist do not meet the TPCA requirements to provide allowable VR services to VR consumers. Furthermore, discussions conducted with SDSBVI staff prior to the onsite, as well as on-site discussions with SBVI staff, further indicated that the TPCA did not conform to the requirement that SDSBVI, as the cooperating agency, provide only allowable VR services to SBVI applicants and consumers. As a result, SBVI is not in compliance with 34 CFR 361.28, which requires a cooperating agency to provide VR services to applicants for, or recipients of, the VR program.

Subsequently, 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)). Given the deficiency of the TPCA services under this arrangement with SDSBVI, SBVI may not use non-federal funds as match for the VR program for services provided by SDSBVI that do not include the provision or administration of VR services to SBVI applicants or consumers.

B. Contract Monitoring

EDGAR regulations at 34 CFR 80.40(a) state, “Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable federal requirements and that performance goals are achieved. Grantee monitoring must cover each program, function or activity.” Pursuant to this requirement, as the recipient of federal funds, SBVI is required to monitor the operations of all VR program grant-supported activities, including the SDSBVI TPCA. In addition, federal regulations require SBVI to assure in its State Plan that it will implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). SBVI, as well as its contractors, is required to implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)).

RSA reviewed the process by which SBVI monitors grant-supported activities of the SDSBVI TPCA. SDSBVI submits monthly invoices that list the payroll, benefits, and travel expenses of the TPCA Transition Specialist. The invoice requests 50 percent reimbursement to SDSBVI for the federal portion of TPCA expenses, and the remaining 50 percent is used as match for the VR program. On a quarterly basis, SDSBVI submits Transition Reports to SBVI, which includes brief statements of activities conducted under each job duty outlined in Attachment III of the TPCA agreement. The summary does not demonstrate personnel cost allocation tracking that would identify which SDSBVI Transition Specialist activities are allowable under the TPCA. Additionally, no further supporting documentation is provided that establishes any personnel cost allocation methodology. Since several of the job duties outlined in Attachment III do not constitute the provision of VR services to VR consumers, SDSBVI is required to demonstrate a process for tracking time to determine which activities are allowable, as well as activities that are unallowable, under the TPCA. As a result, SBVI is unable to effectively monitor the SDSBVI TPCA to ensure that all activities conducted by the TPCA staff are allowable under the TPCA, pursuant to 34 CFR 361.28.

The SDSBVI agreement constitutes a grant-supported activity and must be monitored by SBVI to ensure compliance with all applicable federal requirements. Discussions with staff from SBVI confirmed that it has not implemented monitoring procedures to ensure that funds are expended on allowable VR services under the SDSBVI TPCA. Therefore, SBVI is not in compliance with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.40(a), which requires the VR agency to ensure that grant-supported activities conducted by its contractors comply with applicable federal requirements.

Corrective Action 2: SBVI must:

- 2.1 cease reporting certified expenditures from the SDSBVI TPCA as match for the VR program until the agreement meets the requirements at 34 CFR 361.28;
- 2.2 submit a written assurance within 10 days of the final monitoring report that SBVI will comply with the requirements for a TPCA set forth at 34 CFR 361.28, including those concerning the cooperating agency providing allowable VR services to VR consumers, and that it will monitor all such arrangements as required by 34 CFR 80.40(a);
- 2.3 ensure that all TPCAs, including the agreement with SDSBVI, meet the requirements of 34 CFR 361.28, including the provision that SDSBVI, as cooperating agency, only provide allowable VR services to VR consumers; and
- 2.4 develop and implement procedures for the monitoring of any service provision contracts related to the SDSBVI TPCA as required by 34 CFR 80.40(a).

3. Program Income

A. Unallowable Use of Program Income

Legal Requirements:

- VR Regulations – 34 CFR 361.5, 34 CFR 361.12, 34 CFR 361.63
- EDGAR – 34 CFR 80.20(a), 34 CFR 80.21(f)(2)

Finding: SBVI is not in compliance with 34 CFR 361.5(b)(20), 34 CFR 36.12, 34 CFR 361.63, and 34 CFR 80.20(a) because it has unallowably disbursed program income earned in the VR program to providers, which in turn expend these funds for the provision of SE extended services. In addition, SBVI is not in compliance with 34 CFR 80.21(f)(2) because it does not disburse program income prior to requesting additional cash drawdowns from its federal VR award.

A. Social Security Administration Milestone Payments

SBVI has entered into agreements of understanding with providers in which milestone payments from the Social Security Administration (SSA) Ticket to Work program are split between VR and the provider. VR pays for the cost of services while the case is open. VR is assigned the SSA ticket while the case is open and retains this assignment after the individual has been closed with a successful employment outcome. Under the Milestone Outcome Payment Method, there are three payment types that include four set milestone payments under Phase 1, up to 11-18 monthly milestone payments under Phase II, and up to 36-60 monthly Outcome payments. The monthly limits for the Phase II and Outcome payments are based upon whether the individual is a Title II Social Security Disability Insurance (SSDI) beneficiary, or a Title XVI Supplemental Security Income (SSI) recipient. Phase 1 milestones are based upon the beneficiary achieving a level of earnings that reflects initial efforts at self-supporting employment. Phase 2 milestones are contingent upon the beneficiary achieving a level of earnings that reflects substantial efforts at self-supporting employment, using substantial gainful activity as the benchmark. Outcome payments provide for a schedule of payments to an employment network (EN) (or a State VR

agency acting as an EN) for each month, during an individual's outcome payment period, for which SSDI and SSI benefits are not payable to the individual because of work or earnings.

On a quarterly basis, VR receives the SSA milestone payments, retains 50 percent of the payment, and provides 50 percent of the payment to the provider for Phase I – milestones 2, 3, and 4, as well as all monthly payments for Phase II and Outcome payments. Since the ticket cannot be assigned to more than one EN, or State VR agency, at the same time, all of the milestone reimbursement payments qualify as program income for the VR program. Determined to be VR program income, these funds are now subject to the provisions of the Rehabilitation Act and VR implementing regulations, and may be used only for the provision of VR services and the administration of the State Plan, or transferred to the Client Assistance Program, the SE program, or the State Independent Living Services (SILS) program, pursuant to 34 CFR 361.63(c)(1) and (2).

Discussions with SBVI staff onsite indicate that providers are using their share of the split to provide extended SE services to VR consumers. However, since 100 percent of these funds qualify as VR program income, these funds cannot be used for SE extended services, pursuant to 34 CFR 361.5(b)(20), which requires extended services to be provided with funds other than VR or SE funds.

As a recipient of federal funds, SBVI is required to account for VR funds, including program income, in a manner that ensures such funds have not been used in violation of the restrictions and prohibitions of applicable statutes, pursuant to 34 CFR 80.20(a). The disbursement of program income to providers, instead of using these funds to provide VR services, administer the VR State Plan, or transfer to the Client Assistance Program, SE program, or SILS program, is not compliant with VR implementing regulations at 34 CFR 361.5(b)(20) and 34 CFR 361.63. Furthermore, allowing providers to utilize VR program income to fund SE extended services is not compliant with 34 CFR 361.5(b)(20).

B. Failure to Expend Program Income before Drawing Down Federal Funds

SBVI's Social Security reimbursement VR program income is received through a state treasury account from which funds are accessed. DHS, as the DSA, executes the drawing down of federal funds and is also responsible for the payment of expenditures. As referenced in Finding Number 4, SBVI receives program income from fees paid by other agencies for their consumers to participate in an Employment Services Program (ESP) administered at the SD Rehabilitation Center (SDRC). As part of the SBVI monitoring activities, RSA reviewed the SF-269 and SF-425 reports from FYs 2007 through 2011. Discussions with SBVI and DHS staff members onsite, and a review of SF-269 and SF-425 data, revealed that during FYs 2007 through 2011, program income accumulated and was not disbursed prior to requesting additional cash draws from the federal VR award, as required by 34 CFR 80.21(f)(2).

As a recipient of federal VR funds, SBVI is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12), and 2) comply with the requirements set forth in 34 CFR Part 80. Regulations at 34 CFR 80.21(f)(2) require grantees to disburse program income prior to requesting additional cash payments. This means that SBVI must

disburse all program income prior to requesting a drawdown of additional VR funds from its federal award. Disbursement of program income may include the transfer of VR Social Security reimbursement program income to the Client Assistance, SE or IL programs, pursuant to 34 CFR 361.63(c)(2). Since program income has previously accumulated during the fiscal year, SBVI was unable to ensure that program income earned during FYs 2007 through 2011 was disbursed prior to requesting additional cash payments, pursuant to 34 CFR 80.21(f)(2).

Corrective Action 3: SBVI must:

- 3.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for SE extended services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 3.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 3.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

4. Procurement Practices for Purchase of Client Services

Legal Requirements:

- VR Regulations – 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a), 34 CFR 80.36(a)

Finding: SBVI is not in compliance with 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.36(a) because it has not applied the same policies and procedures the state utilizes for procurements from its non-federal funds to the purchase of client services.

During the on-site visit, discussions with SBVI and DHS staff indicated that the VR agency has been granted a procurement waiver for the purchase of client services. The waiver would allow the agency to procure equipment and client services without implementing competitive procurement procedures identified in the SD Procurement Procedures Manual. SBVI and DHS staff indicated that the inception of the procurement waiver occurred in 1965. Subsequently, SBVI and DHS provided a report of the Attorney General (AG) from 1965-1966 in which an official opinion of the AG was requested in regard to the legality under SD law for the “state director of vocational rehabilitation to make direct grants of state and federal funds to other state agencies and to the political subdivisions of the state and to make direct grants to private individuals, organizations and associations for vocational rehabilitation purposes.” After consideration of the facts, the AG’s response was that “the above statutes give the State Board [of Education] authority to expend state and federal moneys for the purpose of vocational rehabilitation and it is also my opinion that the expenditures of state monies for state purposes would only be limited by Article VI, Section 3 of the State constitution, which reads as follows:

‘...No money or property of the state shall be given or appropriated for the benefit of any sectarian or religious society or institution.’”

As of the writing of this report, SBVI and DHS were awaiting a determination from the AG’s office regarding the current validity of the original 1965 report. However, RSA’s review of the existing documentation revealed that the opinion predates the Rehabilitation Act and grants are not permitted under the amended statute and VR implementing regulations. Furthermore, this AG report provides authority to the SD State Board of Education to allow VR to expend state and federal VR dollars for VR purposes. However, since FY 1989, SBVI has been functioning under the purview of the SD Department of Human Services (DHS), and the AG report has not been updated to provide DHS the same authority for VR funds to be spent in the manner identified in the 1965-1966 AG report.

As a recipient of federal VR funds, SBVI is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12); and 2) comply with the requirements set forth in 34 CFR Part 80 (34 CFR 361.4(a)(5)). EDGAR regulations at 34 CFR 80.36(a) require states to follow the same policies and procedures it uses for procurements from its non-federal funds. The documentation that SBVI submitted regarding the procurement waiver does not substantiate the practice of purchasing client services without following the State’s policies and procedures for procurements from its non-federal funds, outlined in the SD Procurement Procedures Manual. Therefore, SBVI is not compliant with 34 CFR 80.36(a).

Corrective Action 4: SBVI must:

- 4.1 cease purchasing client services without following SD’s policies and procedures for procurements from its federal and non-federal funds;
- 4.2 submit a written assurance to RSA within 10 days of the final monitoring report that it will follow SD’s policies and procedures for procurements from federal and non-federal funds, as required by 34 CFR 80.36(a); and
- 4.3 develop and implement internal processes necessary to ensure that existing and future purchases and contracts comply with SD procurement policies and procedures.

5. Failure to Submit Accurate SF-269 and SF-425 Reports

Legal Requirements:

- VR Regulations – 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a)

Finding: SBVI is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a) because it has submitted inaccurate SF-269 and SF-425 reports for FYs 2007 through 2011. In particular, SBVI failed to report that its indirect costs are generated by a cost allocation plan instead of indirect cost rate for FYs 2010 and 2011 on the SF-425 report. Additionally, the agency did not report program income funds earned at SDRC on the SF-269 and SF-425 reports for FYs 2007 through 2011.

A. Indirect Costs

For the FY 2010 VR award, the SF-425 reports revealed that the Indirect Expense data element for the Rate (11b) and the Base (11d) were reported as zero on the fourth quarter report for FY 2010, and the Rate was reported as zero on the final report. For the FY 2011 VR award, the Rate (11b) was reported as zero on the fourth and eighth quarter SF-425 reports. The instructions in RSA-PD-11-02, implemented October 26, 2010 (revised as RSA-PD-12-06, implemented February 13, 2012) require grantees reporting indirect costs under a cost allocation plan to enter 100 percent in the Indirect Expense data element for the Rate (11b) and to report the total amount of the cost allocation plan costs for the Base (11d) data element. Due to automatic calculations in the SF-425 form, this resulted in a zero reported for the Amount Charged (11e) data element for all instances. Therefore, the SF-425 reports submitted by SBVI for those years did not accurately reflect the actual indirect costs incurred by the agency under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

B. Program Income

Discussions with SBVI and DHS staff, as well as a review of the SF-269 and SF-425 reports for FYs 2007 through 2011, confirmed that SBVI earned program income at SDRC, primarily through fees provided by DRS for its consumers to participate in SDRC's ESP. However, this program income was not reported on the SF-269 and SF-425 reports for this time span.

SDRC provides ESP services for SBVI consumers and also allows consumers from other SD state agencies, as well as consumers from agencies outside of SD, to participate in these services for a fee. Discussions with SBVI and DHS staff indicate that approximately \$100,000 is generated annually from these fees. SBVI staff indicate that these funds are typically expended in the VR program at SDRC. However, they have not been treated by SBVI and DHS as program income funds. Since gross income received by the State that is directly generated by an activity supported and paid for under the VR program constitutes VR program income, these funds must be reported on the SF-269 and SF-425 as program income, and must be disbursed according to 34 CFR 361.63 and 34 CFR 80.21(f)(2).

Federal regulations require that all recipients of federal funds must accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). SBVI, as a recipient of federal Title I VR funds, must comply with the requirements of 34 CFR Part 80 (34 CFR 361.4(a)(5)). SBVI's inaccurate reporting of indirect costs results in an inaccurate reporting of the expenditures that SBVI incurred in each of those years. The inaccurate reporting of program income will not allow SBVI to ensure compliance with the requirement to disburse program income prior to requesting additional cash draws from its federal award (34 CFR 80.21(f)(2)). Therefore, SBVI's submission of inaccurate reports is not compliant with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 5: SBVI must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report indirect costs, and all VR program income, completely and accurately on the SF-425 reports, as required by 34 CFR 361.12 and 34 CFR 80.20; and
- 5.2 develop and implement internal processes necessary to ensure the submission of accurate Federal Financial Reports to RSA.

6. Unallowable TPCA as IHE Agreement

Legal Requirements:

- VR Regulations – 34 CFR 361.12, 34 CFR 361.28 and 34 CFR 361.53
- EDGAR – 34 CFR 80.20(a)

Finding: SBVI is not in compliance with 34 CFR 361.12, 34 CFR 361.28, 34 CFR 361.53 and 34 CFR 80.20(a) because its institution of higher education (IHE) agreement is designed as a TPCA. However, since the structure of the TPCA does not meet all the requirements of 34 CFR 361.28, any certified expenditures received from public colleges are not allowable as match for the VR program.

VR implementing regulations at 34 CFR 361.53 require SBVI to assure through its State Plan that, prior to providing any non-exempt VR services to an eligible individual, or to members of the individual's family, SBVI must determine whether comparable services and benefits exist under any other program and whether those services and benefits are available to the individual. Furthermore, SBVI's State Plan must assure that the Governor, in consultation with the entity in the State responsible for the VR program and other appropriate agencies, will ensure that an interagency agreement takes effect between SBVI and any appropriate public entity, including public IHEs, to ensure the provision of non-exempt VR services that are included in the IPE. Additionally, if IHEs are obligated under federal or state law to provide or pay for any services considered to be VR services, other than those services exempted under 34 CFR 361.53(b), the public entity must fulfill that obligation or responsibility through the terms of the interagency agreement, providing or paying for the service directly or by contract, or other arrangement.

SBVI indicated onsite that it has implemented an IHE agreement with the SD Board of Regents describing the responsibilities of each entity when a VR consumer requiring reasonable accommodations is attending one of the six public universities. The document language states that the college will pay 21.3 percent of the cost of reasonable accommodations and VR will pay 78.7 percent. The IHE agreement is the same agreement used by DRS, and RSA's review of sample DRS invoices and discussions onsite indicated that the IHE pays for 100 percent of the cost and then submits an invoice to VR to reimburse the college at 78.7 percent. As a result, VR is paying the majority portion of the reasonable accommodations, and the match portion is not provided in cash, but rather certified expenditures for services provided. VR regulations at 34 CFR 361.53(e) require the IHE agreement to outline the fiscal responsibilities of costs related to services provided via comparable benefits from a public IHE. However, this agreement is structured as a TPCA in order for the IHE to provide match to SBVI through certified expenditures of the VR services provided. In order for SBVI to utilize the stipulations of this

IHE agreement for match purposes of the VR program, all of the requirements of 34 CFR 361.28 must be met.

Related to Findings Number 1 and 2 above, in order for SBVI to enter into TPCAs, it must satisfy the requirements at 34 CFR 361.28. In particular, a TPCA is one that is established between SBVI and another public agency that would provide VR services as well as provide non-federal funds toward SBVI's match requirement under the VR program. The services must not be the typical services generally provided by that cooperating agency (34 CFR 361.28(a)(1)), but must be new services with a VR focus or existing services modified to have a VR focus. The services must be provided solely to SBVI consumers and applicants (34 CFR 361.28(a)(2)). SBVI must retain supervisory control over the staff providing the services and the expenditures under the agreement (34 CFR 361.28(a)(3)). The cooperating agency must adhere to all VR requirements, including order of selection, if applicable (34 CFR 361.28(a)(4)). Finally, the cooperating agency must provide the services in all areas of the state. If not, SBVI must seek a waiver of statewideness from RSA (34 CFR 361.28(b)).

On-site discussions with SBVI staff regarding the description of services provided to VR consumers (e.g. readers) indicate that they are the same services that the IHE would provide to any student requiring a reasonable accommodation. As a result, SBVI's description of the service provision does not meet the TPCA requirement that services cannot be the customary or typical services provided by that agency, but must be new services that have a VR focus or existing services that have been modified, adapted, expanded, or reconfigured to have a VR focus, pursuant to 34 CFR 361.28(a)(1).

All of the TPCA requirements have been met with the cooperating agency except for the requirement that the services cannot be the usual or customary services generally provided by that cooperating agency, but must be new services with a VR focus or existing services modified to have a VR focus, pursuant to 34 CFR 361.28(a)(1).

As a recipient of federal VR funds, SBVI is required to: 1) have administrative procedures in place that ensure financial accountability (34 CFR 361.12); and 2) comply with the requirements set forth in 34 CFR Part 80 (34 CFR 361.4(a)(5)). EDGAR regulations at 34 CFR 80.20(a) require SBVI to account for VR funds in a manner that ensures such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Subsequently, 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)). The use of certified expenditures from this IHE agreement as currently structured, does not meet the TPCA requirements, is not an allowable source of match for the VR program, and is not in compliance with the VR and EDGAR regulations at 34 CFR 361.12, 34 CFR 361.28, 34 CFR 361.53, and 34 CFR 80.20(a).

Corrective Action 6: SBVI must:

6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will not accept certified expenditures as match for the VR program when the

expenditures are not part of an allowable TPCA, as required by 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a); and

6.2 review its IHE agreement and the methodology related to the allocation of each partner's respective costs to ensure that the allocation of each partner's costs and IHE agreement meet the requirements of 34 CFR 361.53.

7. Interagency Agreement with the State Education Agency Concerning Transition Services for Youth with Disabilities

Legal Requirements:

- Rehabilitation Act – Section 101(a)(11)(D)
- VR Program Regulation – 34 CFR 361.22(b)

Finding: SBVI is not in compliance with Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b) because the current interagency agreement concerning transition services between SBVI and the SEA, called the SD Department of Education, SD Department of Labor, and SD Department of Social Services does not describe outreach procedures by SBVI for students with disabilities needing transition services. VR regulations at 34 CFR 361.22(b) require that the State Plan for Titles I and VI-B contain information on a formal interagency agreement that, at a minimum, must provide 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 education personnel for students with disabilities that facilitates the development and completion of the IEP; (3) the roles and responsibilities, including financial responsibilities, of each agency; and (4) procedures for outreach to and identification of students with disabilities who need transition services.

The SBVI agreement, dated July 2010, outlines the services provided by each agency to students with disabilities in different age groups. The SBVI interagency agreement meets all of the provisions set forth in 34 CFR 361.22(b), except it does not specifically describe the SBVI outreach procedures for students with disabilities in need of transition services who do not receive services under an IEP with Project Skills, such as those receiving regular education services, education services under a 504 plan, or youth who are not in school.

Corrective Action 7: SBVI must:

- 7.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that SBVI will ensure that the SEA agreement SBVI and the SD Department of Education, SD Department of Labor, and SD Department of Social Services will be amended to describe the procedures to be used by SBVI and the other agencies for the identification of and outreach to all students with disabilities in need of transition services; and
- 7.2 amend its SEA agreement to describe the procedures to be used by SBVI and the other agencies for the identification of and outreach to all students with disabilities in need of transition services.

APPENDIX A: SBVI RESPONSE

Section 4: Results of Prior Monitoring Activities

SBVI does not request any TA from the goals identified in the FY 2007 monitoring report.

Section 6: Compliance Findings and Corrective Actions

1. Third-Party Cooperative Arrangements

Corrective Action: SBVI must:

- 1.1 submit an assurance within 10 days of the final monitoring report that SBVI will comply with the requirements for a TPCA set forth at 34 CFR 361.28, especially with regard to ensuring that the cooperating agency is a State or local public agency, not a private entity; and that it will implement internal controls procedures to ensure that funds spent pursuant to the TPCAs are accurate and allowable under the VR program, as required by 34 CFR 361.12 and 34 CFR 80.20(a);
- 1.2 revise and execute new TPCAs, currently between SBVI and private CRPs, so that SBVI is identified as the VR agency entering into the agreement with an eligible State or local public agency, as required by 34 CFR 361.28(a), and is included as a signatory on the agreement; and
- 1.3 develop and implement internal controls procedures necessary to ensure the proper expenditure of funds pursuant to the Project Skills TPCAs, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

Agency Response: SBVI will comply with Section 6, Finding 1: Third-Party Cooperative Arrangements.

Technical Assistance: SBVI does not request technical assistance.

2. School for the Blind and Visually Impaired Third-Party Cooperative Arrangement

Corrective Action: SBVI must:

- 2.1 cease reporting certified expenditures from the SDSBVI TPCA as match for the VR program until the agreement meets the requirements at 34 CFR 361.28;
- 2.2 submit a written assurance within 10 days of the final monitoring report that SBVI will comply with the requirements for a TPCA set forth at 34 CFR 361.28, including those concerning the cooperating agency providing allowable VR services to VR consumers, and that it will monitor all such arrangements as required by 34 CFR 80.40(a);
- 2.3 ensure that all TPCAs, including the agreement with SDSBVI, meet the requirements of 34 CFR 361.28, including the provision that SDSBVI, as cooperating agency, only provide allowable VR services to VR consumers; and

2.4 develop and implement procedures for the monitoring of any service provision contracts related to the SDSBVI TPCA as required by 34 CFR 80.40(a).

Agency Response: SBVI will comply with Section 6, Finding 2: School for the Blind and Visually Impaired Third-Party Cooperative Arrangement.

Technical Assistance: SBVI does not request technical assistance.

3. Program Income

Corrective Action: SBVI must:

- 3.1 cease disbursing VR program income funds in a manner that is inconsistent with the VR implementing regulations, and cease the expenditure of VR program income for SE extended services, pursuant to 34 CFR 361.5(b)(20) and 34 CFR 361.63, respectively;
- 3.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will comply with 34 CFR 361.12, 34 CFR 361.5(b)(20), 34 CFR 361.63, and 34 CFR 80.20(a), to ensure that VR program income is disbursed according to the implementing regulations on allowable VR services or the administration of the VR State Plan;
- 3.3 cease drawing down federal VR funds prior to disbursing available program income; and
- 3.4 submit a written assurance to RSA within 10 days of the final monitoring report that it will disburse all program income before requesting additional drawdowns from its federal VR award, as required by 34 CFR 80.21(f)(2).

Agency Response: SBVI will comply with Section 6, Finding 3: Program Income.

Technical Assistance: SBVI requests technical assistance.

4. Procurement Practices for Purchase of Client Services

Corrective Action 4: SBVI must:

- 4.1 cease purchasing client services without following SD's policies and procedures for procurements from its federal and non-federal funds;
- 4.2 submit a written assurance to RSA within 10 days of the final monitoring report that it will follow SD's policies and procedures for procurements from federal and non-federal funds, as required by 34 CFR 80.36(a); and
- 4.3 develop and implement internal processes necessary to ensure that existing and future purchases and contracts comply with SD procurement policies and procedures.

Agency Response: SBVI will comply with Section 6, Finding 4: Procurement Practices for Purchase of Client Services.

Technical Assistance: SBVI does not request technical assistance.

5. Failure to Submit Accurate SF-269 and SF-425 Reports

Corrective Action 5: SBVI must:

- 5.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will report indirect costs, and all VR program income, completely and accurately on the SF-425 reports, as required by 34 CFR 361.12 and 34 CFR 80.20; and
- 5.2 develop and implement internal processes necessary to ensure the submission of accurate Federal Financial Reports to RSA.

Agency Response: SBVI will comply with Section 6, Finding 5: Failure to Submit Accurate SF-269 and SF-425 Reports.

Technical Assistance: SBVI does not request technical assistance.

6. Unallowable TPCA as IHE Agreement

Corrective Action 6: SBVI must:

- 6.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will not accept certified expenditures as match for the VR program when the expenditures are not part of an allowable TPCA, as required by 34 CFR 361.12, 34 CFR 361.28, and 34 CFR 80.20(a); and
- 6.2 review its IHE agreement and the methodology related to the allocation of each partner's respective costs to ensure that the allocation of each partner's costs and IHE agreement meet the requirements of 34 CFR 361.53.

Agency Response: SBVI will comply with Section 6, Finding 6: Unallowable TPCA as IHE Agreement.

Technical Assistance: SBVI does not request technical assistance.

7. Interagency Agreement with the State Education Agency Concerning Transition Services for Youth with Disabilities

Corrective Action 7: SBVI must:

- 7.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that SBVI will ensure that the SEA agreement SBVI and the SD Department of Education, SD Department of Labor, and SD Department of Social Services will be amended to describe the procedures to be used by SBVI and the other agencies for the identification of and outreach to all students with disabilities in need of transition services; and
- 7.2 amend its SEA agreement to describe the procedures to be used by SBVI and the other agencies for the identification of and outreach to all students with disabilities in need of transition services.

Agency Response: SBVI will comply with Section 6, Finding 7: Interagency Agreement with the State Education Agency Concerning Transition Services for Youth with Disabilities.

Technical Assistance: SBVI does not request technical assistance.

APPENDIX B: LEGAL REQUIREMENTS

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

Rehabilitation Act of 1973, as amended

Section 111(a)(11)(D)

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.

VR Program Regulations

34 CFR 361.3

The Secretary makes payments to a state to assist in-

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

34 CFR 361.5

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

- (20) *Extended services* means ongoing support services and other appropriate services that are needed to support and maintain an individual with a most significant disability in supported employment and that are provided by a State agency, a private nonprofit organization, employer, or any other appropriate resource, from funds other than funds received under this part and 34 CFR part 363 after an individual with a most significant disability has made the transition from support provided by the designated State unit.

34 CFR 361.12

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

34 CFR 361.13

(a) Designation of State unit.

- (1) If the designated State agency is not of the type specified in paragraph (a)(1)(i) of this section or if the designated State agency specified in paragraph (a)(3) of this section is not primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities, the State plan must assure that the agency (or each agency if two agencies are designated) includes a vocational rehabilitation bureau, division, or unit that--
 - (iv) Is located at an organizational level and has an organizational status within the State agency comparable to that of other major organizational units of the agency.
- (2) In the case of a State that has not designated a separate State agency for individuals who are blind, as provide for in paragraph (a)(3) of this section, the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided to individuals who are blind to one organizational unit of the designated state agency and may assign responsibility for the rest of the plan to another organizational unit of the designated state agency, with the provisions of paragraph (b)(1) of this section applying separately to each of these units.

34 CFR 361.22

- (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 361.28

The designated State unit may enter into a third-party cooperative arrangement for providing or administering vocational rehabilitation services with another state agency or a local public agency that is furnishing all of the non-Federal Share, if the designated State unit ensures that –

- (1) The services provided by the cooperating agency are not the customary or typical services provided by that agency but are new services that have a vocational rehabilitation focus or existing services that have been modified, adapted, expanded, or reconfigured to have a vocational rehabilitation focus;
- (2) The services provided by the cooperating agency are only available to applicants for, or recipients of, services from the designated State unit;
- (3) Program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the designated state unit; and
- (4) All state plan requirements, including a State's order of selection, will apply to all services provided under the cooperative program.

34 CFR 361.53

- (a) Determination of availability. The State plan must assure that prior to providing any vocational rehabilitation services, except those services listed in paragraph (b) of this section, to an eligible individual, or to members of the individual's family, the State unit must determine whether comparable services and benefits, as defined in Sec. 361.5(b)(10), exist under any other program and whether those services and benefits are available to the individual unless such a determination would interrupt or delay—
 - (1) The progress of the individual toward achieving the employment outcome identified in the individualized plan for employment;
 - (2) An immediate job placement; or
 - (3) The provision of vocational rehabilitation services to any individual who is determined to be at extreme medical risk, based on medical evidence provided by an appropriate qualified medical professional.
- (b) Exempt services. The following vocational rehabilitation services described in Sec. 361.48(a) are exempt from a determination of the availability of comparable services and benefits under paragraph (a) of this section:
 - (1) Assessment for determining eligibility and vocational rehabilitation needs.
 - (2) Counseling and guidance, including information and support services to assist an individual in exercising informed choice.
 - (3) Referral and other services to secure needed services from other agencies, including other components of the statewide workforce investment system, if those services are not available

under this part.

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

(5) Rehabilitation technology, including telecommunications, sensory, and other technological aids and devices.

(6) Post-employment services consisting of the services listed under paragraphs (b)(1) through (5) of this section.

(c) Provision of services.

(1) If comparable services or benefits exist under any other program and are available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's IPE, the designated State unit must use those comparable services or benefits to meet, in whole or part, the costs of the vocational rehabilitation services.

(2) If comparable services or benefits exist under any other program, but are not available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's IPE, the designated State unit must provide vocational rehabilitation services until those comparable services and benefits become available.

(d) Interagency coordination.

(1) The State plan must assure that the Governor, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between the designated State vocational rehabilitation unit and any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, to ensure the provision of vocational rehabilitation services (other than those services listed in paragraph (b) of this section) that are included in the IPE, including the provision of those vocational rehabilitation services during the pendency of any interagency dispute in accordance with the provisions of paragraph (d)(3)(iii) of this section.

(2) The Governor may meet the requirements of paragraph (d)(1) of this section through—

(i) A State statute or regulation;

(ii) A signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity for the provision of the services; or

(iii) Another appropriate mechanism as determined by the designated State vocational rehabilitation unit.

(3) The interagency agreement or other mechanism for interagency coordination must include the following:

(i) Agency financial responsibility. An identification of, or description of a method for defining, the financial responsibility of the public entity for providing the vocational rehabilitation services other than those listed in paragraph (b) of this section and a provision stating the financial responsibility of the public entity for providing those services.

(ii) Conditions, terms, and procedures of reimbursement. Information specifying the conditions, terms, and procedures under which the designated State unit must be reimbursed by the other public entities for providing vocational rehabilitation services

based on the terms of the interagency agreement or other mechanism for interagency coordination.

(iii) Interagency disputes. Information specifying procedures for resolving interagency disputes under the interagency agreement or other mechanism for interagency coordination, including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism.

(iv) Procedures for coordination of services. Information specifying policies and procedures for public entities to determine and identify interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services other than those listed in paragraph (b) of this section.

(e) Responsibilities under other law.

(1) If a public entity (other than the designated State unit) is obligated under Federal law (such as the Americans with Disabilities Act, section 504 of the Act, or section 188 of the Workforce Investment Act) or State law, or assigned responsibility under State policy or an interagency agreement established under this section, to provide or pay for any services considered to be vocational rehabilitation services (e.g., interpreter services under Sec. 361.48(j)), other than those services listed in paragraph (b) of this section, the public entity must fulfill that obligation or responsibility through—

- (i) The terms of the interagency agreement or other requirements of this section;
- (ii) Providing or paying for the service directly or by contract; or
- (iii) Other arrangement.

(2) If a public entity other than the designated State unit fails to provide or pay for vocational rehabilitation services for an eligible individual as established under this section, the designated State unit must provide or pay for those services to the individual and may claim reimbursement for the services from the public entity that failed to provide or pay for those services. The public entity must reimburse the designated State unit pursuant to the terms of the interagency agreement or other mechanism described in paragraph (d) of this section in accordance with the procedures established in the agreement or mechanism pursuant to paragraph (d)(3)(ii) of this section.

34 CFR 361.60

(a) Federal share.

(1) General. Except as provided in paragraph (a)(2) of this section, the Federal share for expenditures made by the State under the State plan, including expenditures for the provision of vocational rehabilitation services and the administration of the State plan, is 78.7 percent.

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

(b) Non-Federal share.

(1) General. Except as provided in 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.

34 CFR 361.63

- (a) *Definition.* For purposes of this section, *program income* means gross income received by the State that is directly generated by an activity supported under this part.
- (b) *Sources.* Sources of program income include, but are not limited to, payments from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes...
- (c) *Use of program income.*
 - (1) Except as provided in paragraph (c)(2) of this section, program income, whenever earned, must be used for the provision of vocational rehabilitation services and the administration of the State plan. Program income is considered earned when it is received.
 - (2) Payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes may also be used to carry out programs under part B of Title I of the Act (client assistance), part B of Title VI of the Act (supported employment), and Title VII of the Act (independent living).

Education Department General Administrative Regulations (EDGAR)

34 CFR 80.20

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

34 CFR 80.21

- (f) Effect of Program income, refunds, and audit recoveries on payment. (1) Grantees and subgrantees shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.
- (2) Except as provided in paragraph (f)(1) of this section, grantees and subgrantees shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments for the same activity.

34 CFR 80.24

- (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.

34 CFR 80.36

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

34 CFR 80.40

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