

**FISCAL YEAR 2013  
MONITORING REPORT**

**ON THE**

**VERMONT DIVISION OF  
VOCATIONAL REHABILITATION**

**VOCATIONAL REHABILITATION  
PROGRAM**



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

**MAY 23, 2013**

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# SECTION 1: EXECUTIVE SUMMARY

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## 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 Vermont Division of Vocational Rehabilitation (DVR) in federal fiscal year (FY) 2013, RSA:

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

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from November 5, 2012, through November 7, 2012, is described in detail in the FY 2013 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program located at: <http://www.ed.gov/rschstat/eval/rehab/107-reports/2013/monitoring-and-technical-assistance-guide.doc> or <http://www.ed.gov/rschstat/eval/rehab/107-reports/2013/monitoring-and-technical-assistance-guide.pdf>

## Emerging Practices

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

### **The Improvement of Employment Outcomes, Including Supported Employment and Self-Employment**

- **Progressive Employment:** DVR increases employment outcomes by using the Progressive Employment model to obtain opportunities for community-based employment experiences for transition-age youth.

### **Transition**

- **Jump on Board for Success:** DVR has increased the employment outcomes of transition-age youth with significant emotional and behavioral disabilities while lowering the high school dropout rate through the JOBS program.

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

## Summary of Observations

RSA's review of DVR did not result in the identification of observations and recommendations.

## Summary of Compliance Findings

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

- The expenditure of VR program funds by DVR to support contracts with the Vermont Association of Business and Industrial Rehabilitation (VABIR) is not allocable to the VR program in that such expenditures are not sufficiently traceable, through appropriate supporting documentation, to the provision of VR services to applicants, individuals determined eligible for VR services, or an authorized group.
- DVR's guidance to transition vocational rehabilitation counselors (TVRCs) does not meet the requirements of Section 103(a) of the Rehabilitation Act because it allows for the provision of vocational rehabilitation services to transition-age youth who are not applicants or eligible individuals.
- DVR expends VR program funds allotted for the administration of the program and the provision of services under DVR's State Plan on costs that must be charged to that part of the VR program administered by Vermont Division for the Blind and Visually Impaired (DBVI) under that agency's State Plan.

- DVR does not maintain periodic certifications for employees working solely on one grant and improperly charges salary expenses (vacation and sick leave) for staff working across programs solely to the VR award.
- DVR submitted inaccurate SF-269 and SF-425 reports for FYs 2007 through 2011 related to the reporting of indirect costs and program income.
- DVR is not meeting its established 90-day time standard for the development of the individualized plan for employment (IPE).
- The current interagency agreement on transition services, titled “Interagency Agreement with Vermont Department of Education and Vermont Agency of Human Services” does not apply to all students with disabilities needing transition services as required.

## **Development of the Technical Assistance Plan**

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

## **Review Team Participants**

Members of the RSA review team included David Wachter, Melissa Diehl and Larry Vrooman (Vocational Rehabilitation Unit); Tanielle Chandler (Fiscal Unit); Janette Shell and Suzanne Mitchell (Technical Assistance Unit); and Yann-Yann Shieh (Data Collection and Analysis 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 DVR for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the SRC, 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 DVR. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during federal fiscal years 2007 through 2011. Consequently, the table and accompanying analysis do not provide information derived from DVR open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. DVR may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

### Performance Analysis

#### VR Program Analysis

**Table 2.1  
DVR Program Performance Data for FY 2007 through 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	3,259	3,369	3,814	3,737	3,883	624	301,985
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	19.1%	100.0%
Exited as an applicant	Number	190	181	213	223	226	36	45,137
	Percent	5.8%	5.4%	5.6%	6.0%	5.8%	18.9%	14.9%
Exited after trial work /extended eval	Number	0	0	5	3	2	2	2,889
	Percent	0.0%	0.0%	0.1%	0.1%	0.1%		1.0%
Total closed prior to eligibility	Number	190	181	218	226	228	38	48,026
	Percent	5.8%	5.4%	5.7%	6.0%	5.9%	20.0%	15.9%
Exited after IPE, before services	Number	0	0	0	0	0	0	4,702
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		1.6%
Exited from OOS waiting list	Number	9	10	12	3	1	-8	1,534
	Percent	0.3%	0.3%	0.3%	0.1%	0.0%	-88.9%	0.5%
Exited after eligibility, before IPE	Number	808	897	1,151	945	941	133	79,337
	Percent	24.8%	26.6%	30.2%	25.3%	24.2%	16.5%	26.3%
Total exited after eligibility, but prior to receiving services	Number	817	907	1,163	948	942	125	85,573
	Percent	25.1%	26.9%	30.5%	25.4%	24.3%	15.3%	28.3%
Exited with employment	Number	1,456	1,523	1,480	1,528	1,622	166	91,339
	Percent	44.7%	45.2%	38.8%	40.9%	41.8%	11.4%	30.2%

All Individual Cases Closed	Number, Percent, or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
Exited without employment	Number	796	758	953	1,035	1,091	295	77,047
	Percent	24.4%	22.5%	25.0%	27.7%	28.1%	37.1%	25.5%
Total received services	Number	2,252	2,281	2,433	2,563	2,713	461	168,386
	Percent	69.1%	67.7%	63.8%	68.6%	69.9%	20.5%	55.8%
Employment rate	Percent	64.65%	66.77%	60.83%	59.62%	59.79%	-7.53%	54.24%
Transition age youth	Number	890	1,017	1,113	1,092	1,151	261	103,112
	Percent	27.3%	30.2%	29.2%	29.2%	29.6%	29.3%	34.1%
Transition aged youth employment outcomes	Number	393	459	452	453	479	86	29,468
	Percent	27.0%	30.1%	30.5%	29.6%	29.5%	21.9%	32.3%
Competitive employment outcomes	Number	1,431	1,491	1,429	1,478	1,538	107	89,811
	Percent	98.3%	97.9%	96.6%	96.7%	94.8%	7.5%	98.3%
Supported employment outcomes	Number	82	379	306	323	442	360	11,621
	Percent	5.6%	24.9%	20.7%	21.1%	27.3%	439.0%	12.7%
Average hourly wage for competitive employment outcomes	Average	\$10.35	\$10.60	\$10.90	\$11.25	\$11.13	\$0.78	\$11.21
Average hours worked for competitive employment outcomes	Average	28.0	28.2	26.8	27.4	27.8	-0.2	31.0
Competitive employment outcomes at 35 or more hours per week	Number	621	656	560	582	592	-29	45,423
	Percent	42.7%	43.1%	37.8%	38.1%	36.5%	-4.7%	49.7%
Employment outcomes meeting SGA	Number	870	895	782	850	905	35	56,039
	Percent	59.8%	58.8%	52.8%	55.6%	55.8%	-4.0%	61.4%
Employment outcomes with employer-provided medical insurance	Number	313	306	285	232	227	-86	19,815
	Percent	21.5%	20.1%	19.3%	15.2%	14.0%	-27.5%	21.7%

## VR Performance Trends

### Positive Trends

As shown in Table 2.1, DVR demonstrated positive trends in several areas of program performance. The percentage of individuals determined eligible who exited the VR program prior to receiving services decreased from 30.5 percent in FY 2009, to 24.3 percent in FY 2011, lower than the national general agency average of 28.3 percent in FY 2011. The percentage of individuals who received VR services from DVR under an individualized plan for employment (IPE) increased from 63.8 percent in FY 2009, to 69.9 percent in FY 2011, substantially higher than the national average for general VR agencies of 55.8 percent. The employment rate varied between 59.62 percent and 66.77 percent over the review period, well above the national average

of 54.24 percent in FY 2011. The percentage of individuals who achieved Supported Employment outcomes increased from 20.7 percent in FY 2009 to 27.3 percent in FY 2011, significantly higher than the national general agency average of 12.7 percent in FY 2011, demonstrating a strong Supported Employment program. In addition, employment outcomes achieved by transition-age youth increased from about 27 percent in FY 2007 to around 30 percent for the rest of the period approaching the national general agency average of 32.3 percent in FY 2011.

### **Trends Indicating Potential Risk to the Performance of the VR Program**

During the five-year period between FY 2007 and FY 2011, DVR also experienced trends that indicate potential risk to VR program performance. The percentage of individuals whose earnings were above the threshold of substantial gainful activity as defined by the Social Security Administration remained relatively stable from FY 2007 to FY 2011 around 55 percent and below the national average of 61.4 percent. The percentage of individuals with competitive employment outcomes working 35 hours or more decreased from 43.1 in FY 2008 to 36.5 percent in FY 2011, below the national average of general agencies of 49.7 percent. Similarly, a decrease occurred in the percentage of individuals who received employer-provided medical benefits from 20.1 percent in FY 2008, to 14.0 percent in FY 2011, below the national general agency average of 21.7 percent.

Throughout the course of the review, RSA discussed with DVR both the positive performance trends and those that posed a potential risk to the VR program. DVR showed significant interest in the performance analysis and indicated its intent to conduct further analyses to determine the factors contributing to its performance, particularly as it related to the quality of services and employment outcomes for transition-age youth. DVR cited several possible factors that might be contributing to the performance trends including: its focus on serving individuals with significant disabilities to achieve supported employment outcomes; its participation in a collaborative effort to serve students with significant emotional and behavioral disabilities; the deficit in the state of large scale employers and a significant manufacturing base that traditionally offer higher wages; and the fact that the review period represented a time when Vermont was most impacted by the economic recession. Additionally, DVR noted that the Department of Developmental Services (DS) system of care priority rule requires that students with intellectual disabilities (ID) be working prior to graduation to receive adult services funding. This drives DVR to maximize efforts to place students with ID in employment 60 days prior to graduation, which may contribute to employment outcomes for these individuals paying at or slightly above minimum wage, at fewer hours per week, and has the unintended consequence of compromising the specific employment outcome that is chosen by the eligible individual that is consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the eligible individual.

RSA and DVR were in agreement that continued analysis of data may assist in identifying variables and practices in the service delivery process that can lead to improved VR program performance and employment outcomes for transition-age youth.

## Fiscal Analysis

The Agency Fiscal Profile data are based on the SF-269 and SF-425 reports submitted by the agency.

### Fiscal Analysis

**Table 2.2**

**DVR Fiscal Performance Data for Federal FY 2007 through Federal FY 2011**

VR Fiscal Profile	Quarter	2007	2008	2009	2010	2011
Grant amount per MIS	4 <sup>th</sup>	8,328,656	8,338,745	9,119,664	11,938,591	13,438,591
	Latest/ Final*	8,328,656	-	-	11,938,591	13,438,591
Total outlays	4 <sup>th</sup>	11,686,993	12,437,774	12,814,121	15,711,934	14,389,431
	Latest/ Final*	11,686,993	-	-	16,005,894	17,133,047
Total unliquidated obligations	4 <sup>th</sup>	0	0	0	0	2,707,460
	Latest/ Final*	0	-	-	0	0
Federal share of total outlays	4 <sup>th</sup>	8,328,656	8,338,745	9,119,664	10,287,453	10,694,975
	Latest/ Final*	8,328,656	-	-	11,938,591	13,438,591
Federal share of unliquidated obligations	4 <sup>th</sup>	0	0	0	0	2,707,460
	Latest/ Final*	0	-	-	0	0
Total federal share	4 <sup>th</sup>	8,328,656	8,338,745	9,119,664	10,287,453	13,402,435
	Latest/ Final*	8,328,656	-	-	11,938,591	13,438,591
Recipient funds	4 <sup>th</sup>	3,358,337	4,099,029	3,694,457	4,067,303	3,694,456
	Latest/ Final*	3,358,337	-	-	4,067,303	3,694,456
Recipient share of unliquidated obligations	4 <sup>th</sup>	0	0	0	0	0
	Latest/ Final*	0	-	-	0	0
Agency actual match (total recipient share)	4 <sup>th</sup>	3,358,337	4,099,029	3,694,547	4,067,303	3,694,456
	Latest/ Final*	3,358,337	-	-	4,067,303	3,694,456
Agency required match	4 <sup>th</sup>	2,254,134	2,256,865	2,468,219	3,151,596	2,894,574
	Latest/ Final*	2,254,134	-	-	3,231,156	3,637,128
Over/under match	4 <sup>th</sup>	-1,104,203	-1,842,164	-1,226,238	-915,707	-799,882
	Latest/ Final*	-1,104,203	-	-	-836,147	-57,328
MOE**	4 <sup>th</sup>	-	-	-	-	-
	Latest/ Final*	-	-	-	4,067,303	3,694,456
Unobligated funds qualifying for carryover	4 <sup>th</sup>	0	0	0	1,651,138	36,156
	Latest/ Final*	0	-	-	0	0
Total program income realized	4 <sup>th</sup>	2,074,448	3,181,676	3,348,418	3,214,125	3,216,543
	Latest/ Final*	2,074,448	-	-	3,214,125	3,216,543
Total indirect costs	4 <sup>th</sup>	0	0	0	-	-
	Latest/ Final*	0	-	-	-	-

\*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. Based on the data in Table 2.2 above, the agency matched its grant award through state appropriations in each fiscal year reviewed. The agency receives 100 percent of the required non-federal share (match) from state appropriations. DVR was efficient in liquidating both non-federal and federal funds,

with \$0 in unliquidated obligations in either category from FY 2006 through FY 2010. The U.S. Department of Health and Human Services is the cognizant agency for the DVR approved cost allocation plan. The agency did not report indirect costs during the five-year span.

## SECTION 3: EMERGING PRACTICES

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While conducting the monitoring of the VR program, the review team collaborated with the DVR, the SRC, the TACE, 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 practices below.

### **Improvement of Employment Outcomes: Progressive Employment**

- The DVR Progressive Employment Program provides individualized community work experiences for transition-age youth in a low-risk environment for both the consumer and for employers. The progressive employment approach seeks to combine rapid placement in competitive employment settings with some very time-limited intermediate steps before a formal competitive hire. The goal is to allow both the individual with a disability and the employer to “try before you buy.” This approach can be valuable in a rural setting where there are limited employment opportunities. In this model, the DVR counselor, the student and the employment coordinator together identify which experiences the student needs based on the IPE, including informational interviews, day-long job shadowing activities, on-site work experiences, Temp-to-Hire work assignments or an on-the-job training (OJT) placement. When an unpaid choice is made, the agency provides a stipend for the consumer’s expenses, such as travel or lunch and, though not common, the employer may be reimbursed for time spent training or making accommodations. The agency provides workers compensation and liability insurance for all student placements.

In FY 2010, the Progressive Employment program served 485 adult and transition-age youth with 75 percent (438) of the individuals engaging in work experience, 16 percent (92) receiving OJT, seven percent (38) taking a tour of a business or job shadowing an employee for the day and two percent (14) participating in Temp-to-Hire placements. As of August 29, 2010, 153 cases were closed, with a total of 110 employment outcomes after an alternative placement for a rehabilitation rate of 72 percent. The average length of involvement in the Progressive Employment program was six weeks, the average cost was \$678 and 66 percent (73) were hired by the alternative placement employer.

**Transition: Jump on Board for Success (JOBS)**

- The JOBS program provides Supported Employment (SE) and intensive case management services for youth with significant emotional and/or behavioral disabilities with particular attention to those who dropped out of high school or are at risk of dropping out. The program uses work as a means to reach these individuals with significant challenges. DVR works in partnership with the Department of Justice, Department of Health/Division of Mental Health, and the Department of Children and Families in eleven sites around the state. In FY 2006, the JOBS program served 243 youth, 176 of whom became employed. In addition, of the JOBS participants without a high school diploma or general education development (informally referred to as general education diploma or GED), 35 percent were helped by the program to achieve one of these educational goals.

For calendar year 2011, JOBS served 533 transition-age youth. From this total, 24 percent (130) had dropped out of high school without a degree, 41 percent (227) were still in school but at serious risk of dropping out, and 176 had obtained a high school diploma or GED but lacked basic search, obtain, and maintain employment skills. For those without a high school diploma at intake, the JOBS program helped 56 percent (190) stay in school, 18 percent (60) transition-age youth return to school, 39 percent (132) obtain a GED, and 50 percent (257) receive post-secondary education or training. Of the 91 percent (485) of transition-age students who were not working when they entered the program, 98 percent (475) received career preparation services and by means of the Progressive Employment Program, 76 percent (369) had paid employment experiences, 64 percent (310) engaged in employment paid by an employer, and 36 percent (175) achieved an employment outcome during 2011.

## **SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES**

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During its review of the VR and SE programs in federal FY 2013, RSA assessed progress toward the implementation of recommendations accepted by DVR resulting from the prior monitoring review in FY 2007 and the resolution of compliance findings from that review. Appendix A of this report indicates whether or not the agency has requested additional technical assistance to enable it to implement any outstanding prior accepted recommendations and to resolve outstanding compliance findings.

### **Recommendations**

In response to RSA’s monitoring report dated September 7, 2007, DVR accepted the recommendations listed in the following section, which includes a brief summary of the agency’s progress toward implementation of each recommendation.

#### **1. Meet or exceed the required performance level for Indicator 1.6**

**Strategy 1:** DVR hired the former director of the Vermont Association for Business, Industry, and Rehabilitation (VABIR), as its new employment services manager. The primary responsibilities involved in this position are to network with the Vermont business community and to train DVR staff so they can improve their job development and placement skills.

**Status 1:** Below is a summary of DVR performance for indicator 1.6 that measures the difference in the percentage of individuals who at program entry reported their income as the largest single source of support, and the percentage that reported their personal income as the largest single source of support at program exit for the period FY 2007 to FY 2011.

**Table 4.1**  
**Vermont DVR Performance on Standard 1, Indicator 1.6**  
**FY 2007 to FY 2011**

<b>Fiscal Year</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
<b>Performance</b>					
Required Level	42.98	44.33	39.68	43.98	45.06
≥ 53.0 %					

DVR agreed to the following method of evaluation resulting from the prior monitoring review: DVR will be successful in FY 2008 if it maintains its performance on Indicator 1.6 compared to FY 2007; in FY 2009, if it improves compared with FY 2008; and in FY 2010, if it improves compared with FY 2009. According to DVR, performance was greatly affected by the recession during this period that resulted in the decline in DVR consumers achieving self-support to 40 percent in FY 2009. However, performance appears to have rebounded in fiscal years 2010 and 2011, increasing to 45.06 percent in FY 2011.

DVR indicated that it would be very difficult to meet this measure unless it reduced its long-term commitment to supported employment. Approximately 23 percent of DVR consumers achieving employment outcomes annually are in supported employment. DVR stated that

because of the significance of disability, supported employment consumers tend to be employed fewer hours than consumers achieving non-supported employment outcomes.

DVR hired an employment services coordinator. As a result, a number of major initiatives were implemented to expand DVR's links to employers and the business community including:

- FY 2008: DVR launched the "Dual Customer" initiative emphasizing the employer as a customer of the VR program as well as the job seeker with a disability. DVR significantly increased the number of job development and job placement staff to provide outreach to employers, introduced new processes for teaming between VR counselors and contracted placement staff, and hosted employer outreach events in each office.
- FY 2009: DVR re-branded employer outreach to include the Creative Workforce Solutions (CWS). The re-branding was developed in consultation with a marketing company and with considerable input from employers.
- FY 2010: DVR created Business Account Managers to build new employer contacts and facilitate coordination of employer outreach through local employer teams. DVR designed CWS to include all of its partners serving people with disabilities in local communities including supported employment programs for adults with mental illness and developmental disabilities, the JOBS programs for youth with severe emotional/behavioral disabilities, and the Reach Up/VR program for beneficiaries with severe disabilities.
- FY 2011: DVR deployed a web based account management system that tracks DVR and CWS employer outreach allowing employment staff and the Business Account Managers to share contacts and leads.

DVR conducted an employer survey in October, 2012, to assess the impact of these activities on employer perceptions of DVR and CWS.

## **2. Increase Performance Indicator 1.2**

### **Strategies:**

**2.1** The employment services manager will use his experience in job development and networking skills to increase the number of employers interested in hiring DVR consumers.

**2.2** VR counselors will increase their skills in job development and successful placement through targeted training from the employment services manager.

**Status 2:** The percentage of DVR consumers achieving an employment outcome declined from 65 percent in FY 2007 to 60 percent in FY 2011, indicating that DVR has not experienced improvement in its performance under Indicator 1.2 during the review period.

Although DVR achieved a significant increase in the total number of employment outcomes every year, from 1445 in FY 2007 to 1622 in FY 2011, the agency and the performance review sub-committee of the SRC have begun the process of reviewing data to better understand what is happening to the 40 percent of individuals who exit the program without achieving an employment outcome.

DVR does not expect its VR counselors to perform job development or employer outreach as a part of their responsibilities. DVR relies primarily on VABIR staff to perform this function; however, DVR has made significant efforts to improve coordination between VR counselors and VABIR employment staff as outlined in Status 1. Additionally, DVR has provided training for VR counselors and VABIR employment staff to use workforce data as part of the rehabilitation process to be used by both counselor and consumer to inform IPE development and job search.

### **3. Expand Quality Assurance**

#### **Strategies:**

**3.1** development and implementation of a comprehensive quality assurance system that is tied into DVR strategic goals and objectives;

**3.2** continue development of an automated case management system; and

**3.3** development of measurable state plan objectives.

**Status 3:** DVR outlined its strategic plan in the FY 2009 State Plan amendment. The strategic plan was developed by staff and managers called the “Implementation Team” or I Team. The strategic plan includes strategies and objectives for each of the ten major goal areas.

DVR collects a range of quality assurance data that ties directly back to the strategic plan goals and priorities. These include a comprehensive consumer satisfaction survey every two years, a staff satisfaction survey, and a comprehensive employer survey. In addition, DVR uses an automated performance “Dashboard” for summary reports and outcome measures at the state, district and counselor level. DVR tracks employer outreach and engagement using the account management system. Additionally, DVR tracks long-term supported employment outcomes in partnership with the Division of Developmental Services and the Department of Mental Health using Department of Labor wage data from the workers compensation system.

The DVR I Team and SRC review the data from these sources on an ongoing basis. The I Team works with the VR management team to develop and implement strategies to improve outcomes and processes in response to data trends.

DVR ensures quality services through the DVR Senior Management Team that meets weekly to ensure strategic initiatives are moving forward. DVR program managers oversee statewide programs such as supported employment, JOBS, Reach Up, benefits and work incentives counseling program and transition services. DVR managers and senior counselors review VR counselor case work and case files on a regular basis. In addition, all twelve offices have regular medical/psychological consultations to support staff around complex cases.

The VR Training Coordinator works with the I Team and DVR management to identify training needs and develop an annual training plan. Quarterly statewide all staff meetings are conducted via video conference or Vermont Interactive Television sharing best practices across offices, addressing policy and procedure issues and recognizing success.

Development is underway for a new web based case management system. System testing of early modules has begun. Beta testing of the system is scheduled to begin in the spring of 2013.

## **Compliance Findings and Corrective Actions**

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

## **SECTION 5: FOCUS AREAS**

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### **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 DVR with the federal requirements related to its organization within the Vermont Agency for Human Services (AHS), and the ability of the DVR to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

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

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

- AHS secretary, Department of Disabilities, Aging and Independent Living (DAIL) commissioner, DVR director and DVR senior managers;
- DAIL and DVR staff members responsible for the fiscal management of the VR program;
- SRC Chairpersons and members; and
- TACE center representatives.

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

- diagrams, organizational charts and other 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, tables, charts and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of staff working on each program;
- the number of full-time equivalents (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 DVR;

- individuals who work on rehabilitation work of the DVR and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals under DVR 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 Vermont procurement requirements and processes.

## **Overview**

AHS, the DSA for the VR program, is comprised of six departments, including Children and Family Services, Health, Corrections, Mental Health, and Vermont Health Access, as well as the Department of Aging and Independent Living (DAIL), wherein DVR is located. The secretary of AHS oversees the portfolio of Departments within AHS. Located in DAIL, along with DVR, are the divisions of Licensing and Protection, Disability and Aging Services, and Blind and Visually Impaired (DBVI). DVR is located at a level, and has a status, comparable to the other program offices and divisions located within DAIL and the departments of AHS.

The directors of DVR and DBVI report directly to the secretary of AHS, while the commissioner of DAIL provides day-to-day functional assistance to, and coordination among, DVR and the other divisions within DAIL. DAIL staff provides fiscal and human resource support to DVR, while other administrative functions, such as information technology, are centralized at the state level.

DVR is composed primarily of six regional vocational rehabilitation services units, three support units, the Employee Assistance Program (EAP) unit, and the Medicaid Infrastructure Grant (MIG) unit. At the time of the review, there were 136 positions considered to be within the DVR with five vacant positions and 131 staff working within DVR. The EAP unit consists of five staff and a supervisor who provide a wide range of EAP services to employees across the state, including individuals who may not have a disability. The six staff performing the EAP functions are also engaged, at least part time, in work other than the vocational rehabilitation or other rehabilitation work of the DSU. Similarly, the Employment Services Manager and three Business Account Managers (BAMs), as well as the budget and policy manager, the Reach Up Coordinator and the DVR director are engaged for a portion of their time in work other than the vocational rehabilitation or other rehabilitation work of the agency. This comprises a total of 13 individuals (9.9 percent) of the DSU staff, with the remaining 90.1 percent engaged solely in the VR work of the agency.

RSA's review of the organizational structure of DVR did not result in the identification of observations and recommendations.

## **Technical Assistance**

RSA provided the technical assistance described below to DVR related to this focus area during the course of its monitoring activities.

Specifically, RSA provided an explanation to DVR concerning the requirement that at least 90 percent of the DSU's staff must work full-time on the provision of VR or other rehabilitation

services. This particular requirement was of significant interest to DVR given the number of programs and staff that are involved in other than vocational rehabilitation or rehabilitation related work. Potential actions and challenges that might result in the agency not being in compliance were discussed including: assigning additional staff to manage any new or future contracts or program activities that involve work considered to be other than vocational rehabilitation or other rehabilitation work; establishing staff positions within the agency to handle programs that are currently being managed through contract staff that are performing non-VR or other rehabilitation work; and reductions in the current number of DSU staff who are performing full-time work on the provision of VR or other rehabilitation service while retaining the same number of staff engaged in non-VR or other rehabilitation work.

## **B. Transition Services and Employment Outcomes for Youth with Disabilities**

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

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

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

To implement this focus area, RSA reviewed:

- formal interagency agreements between the VR agency and the state educational agency (SEA);
- annual Client Assistance Program reports;
- transition-related VR service policies and procedures; and
- VR agency resources and collaborative efforts with other federal, state and local entities.

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

- the number and percentage of youth with disabilities who exited the VR program at various stages of the process;
- the amount of time spent in key phases of the VR process, including eligibility determination, development of the individualized plan for employment (IPE) and the achievement of a vocational goal;
- the number and percentage of youth with disabilities receiving various VR services, including, among others, assessment, university and vocational training, transportation, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by youth with disabilities.

To provide context for the agency's performance in the area of transition, RSA also compared the performance of DVR with the national average of all combined, general, or blind state agencies as appropriate.

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:

- DVR administrator/director;
- DVR VR counselors and transition staff;
- DVR transition coordinators serving as liaisons with the SEA and other agencies; and
- state school personnel.

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

In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

## **Technical Assistance**

RSA provided technical assistance to DVR in the areas described below related to transition services and employment outcomes for youth with disabilities.

### **DVR's early involvement with transition-age youth:**

- RSA provided technical assistance to DVR regarding its early intervention with transition-age youth. Specifically, RSA acknowledged that DVR's early involvement with students with disabilities can positively impact transition outcomes. However, it appears that some students are remaining in "Status 00"—referral status—as a "consultative case" or referral for prolonged periods of time, up to several years.
- RSA provided technical assistance regarding DVR's utilization of its referral form. Specifically, RSA pointed out that the referral form contains all of the elements of an application and could constitute an application. On the DVR website, under the "forms" for youth it states: "Once you are ready to begin receiving formal services from the Division of Vocational Rehabilitation there are forms that you will be asked to complete, they are: Vocational Rehabilitation Division (DVR) Referral Information Form, DVR Individualized Plan for Employment, and DVR Release of Information Form." No reference is made to a separate application form and the inference could be made that the referral form constitutes an application.
- RSA clarified that DVR can provide VR services only to applicants and eligible individuals for the VR program. Therefore, DVR can provide outreach explaining the role of VR services in transition and participate in meetings to assist in the development and completion of IEPs, and the identification of community and summer employment resources.
- RSA also provided examples of services that cannot be provided prior to application, eligibility and IPE. These include the provision of guidance and counseling or interest inventories related to career or college exploration; some of the activities included in DVR's transition guide, "Nothing But the Best," that outlines the roles that transition counselors play in IEP, 504, and transition plan meetings, specifically "The transition counselor can offer to work individually with the student to explore possible careers, discuss education and training options, and offer job search assistance."

### **Other technical assistance provided:**

- options for meeting federal requirements in its transition services agreement with the Vermont Department of Education;
- strategies for developing IPEs within the agency's time standard, clarifying that IPEs for transition-age youth must meet the time standard for developing IPEs and the requirement that the IPE be developed before the student leaves school;
- the option that DVR and the Vermont DBVI can both have open service records for the same consumer; and
- the timeframes and services provided between identification and referral to application and eligibility.

## **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 cost principles, governing three components of review: financial resources, match and maintenance of effort (MOE), and internal controls.

RSA used a variety of resources and documents in the course of this monitoring, including data maintained on RSA's MIS generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from FY 2007 thru FY 2011, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

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

- the federal 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;
- documentation of expenditures including contracts, purchase orders and invoices;
- if appropriate, third-party cooperative arrangements;
- internal agency fiscal reports and other fiscal supporting documentation, as needed; and
- VR agency cost benefit analysis reports.

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

In addition, the compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

### **Technical Assistance**

RSA provided technical assistance to DVR related to the fiscal integrity of the VR program while on-site in Vermont. Specifically, RSA demonstrated the process for running queries in the RSA-MIS. RSA staff also reviewed DVR's Federal Financial Reports SF-269/SF-425 submissions in the RSA-MIS and compared the submitted data with the SF-269/SF-425 reporting requirements. Technical assistance was also provided on the process 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**

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RSA identified the following compliance findings and corrective actions that DVR is required to undertake. Appendix A of this report indicates whether or not the agency requests technical assistance 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.

DVR must develop a corrective action plan for RSA's review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed and submitted online using the RSA website at <http://rsa.ed.gov> within 45 days from the issuance of this report and RSA is available to provide technical assistance to enable DVR to develop the plan and undertake the corrective actions.

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

### **1. Expenditure of Funds Under the VR Program**

#### **Legal Requirements:**

- Rehabilitation Act—Sections 7(38), 103(a), 103(b)(5), and 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.5(b)(58), 34 CFR 361.12, 34 CFR 361.48, 34 CFR 361.49(a)(6), and 34 CFR 361.60(b)(1)
- EDGAR—34 CFR 80.20(a) and 34 CFR 80.24(a)
- Federal Cost Principles—2 CFR 225, Appendix A, C.1.a, 2 CFR 225, Appendix A, C.2, and 2 CFR 225, Appendix A, C.3.a

#### **Finding:**

As required by 34 CFR 361.12 and 34 CFR 80.20(a), DVR has not ensured that all funds expended under the VR program are solely for allowable costs, namely the provision of VR services or the administration of the VR program, as required by section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3. In particular, DVR did not ensure that funds expended under the contracts with the Vermont Association of Business and Industrial Rehabilitation (VABIR) were solely in connection with the provision of VR services to DVR applicants and consumers or the administration of the VR program because DVR does not monitor the expenditures to ensure that they are sufficiently traceable through appropriate supporting documentation for allowable purposes. Furthermore, to the extent that these funds were spent for the benefit of individuals who are not DVR applicants or eligible consumers, such expenditures would not be allowable under the VR program.

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

DVR contracts annually with VABIR, the only community rehabilitation program in Vermont, for the provision of services to individuals with disabilities. Under this contract, VR funds are used, in whole or in part, to cover the costs associated with nine VABIR Business Account Managers (BAMs), who conduct outreach to employers to develop working relationships that provide opportunities for career exploration, work experience and employment for VR eligible individuals. In addition, the Reach Up program, a Temporary Assistance for Needy Families program operated through the Vermont Department for Children and Families, also receives BAM services. Although the contract program budget separately categorizes line item costs and sources of funding provided by the VR program and by Reach Up, there is no specific basis or justification for the allocation of costs or explanation of the funding formula applied to each program to ensure that each program's funds are used solely to benefit its own consumers. Moreover, as will be shown later in this finding, it appears that VR funds are used to pay for 100 percent of certain costs that benefit all programs served by the BAMs.

The VABIR contract provides for the delivery of VR services listed in Section 103(a) and 34 CFR 361.48. Under the performance-based contract, the nine BAMs are responsible for the provision of services identified in Attachment A of the FY 2013 contract. Each BAM serves as a single point of contact for mental health, developmental disability and vocational rehabilitation employment programs under Vermont's Creative Workforce Solutions (CWS). The CWS is a collaborative initiative designed to assist Vermont employers in meeting their business needs while also assisting job seekers, including DVR consumers and Reach Up program participants, in career exploration activities and the identification of employment opportunities. Specific services provided by each of the BAMs are: to meet with local employment teams (ETs) two to four times monthly; coordinate meetings with Business Advisory Councils, as appropriate; maintain and support use of the Salesforce database of employer contacts; develop 10-15 new employer contacts per month; develop employment-specific alternative placement opportunities as directed by ETs; provide 16-30 job leads to ETs per month; facilitate equal access for ETs/employer meetings, as appropriate; coordinate local employer events (2-5 per year); and develop and maintain relationships with local employer groups (Chambers of Commerce, Rotary Clubs, etc.). These services are allowable under the VR program in accordance with section 103(a)(4) of the Rehabilitation Act and 34 CFR 361.48(l) as job-related services to the extent that they are provided on behalf of specific DVR consumers in accordance with their IPEs. Also, BAMs are charged, under the contract, to collaborate with Vermont's Invest Employee Assistance Program (EAP) to coordinate a business development strategy that leverages existing and potential business relationships and contacts. In addition to the authority to provide many of

these services to specific individuals in accordance with their IPEs, these services also would be allowable as a service to groups, pursuant to 34 CFR 361.49(a)(6), to the extent that they are provided for the purpose of contributing to the rehabilitation of DVR's consumers but are not tied specifically to any one individual's IPE.

Local employment teams (ETs) provide the link between the services provided by BAMs and the individual VR consumer. Local employment teams are composed of VR counselors, mental health and developmental disability program staff, Reach Up staff, VABIR employment specialists and youth employment specialists. VR counselors, Reach Up and other agency staff request information on opportunities for exploration for specific careers, work experience and employment and BAMs provide information they have regarding those requests, employer needs and other labor market information. Employment specialists and youth employment specialists work directly with consumers and follow up on any employment leads provided by BAMs. BAMs do not carry a caseload and do not have direct service-provision contact with VR or Reach Up consumers.

DVR has a well-developed and active monitoring process for the programmatic aspects of the VABIR contract, including monthly activity reports and monthly financial reports for each of the two funding sources. The monthly activity report is organized to collect data, aggregated by Vermont region, on activities related to the established performance measures. Separate monthly financial reports outline monthly and year-to-date expenditures for each of the program budget categories to be charged to the respective funding source. DVR staff indicated that VABIR submits a list of VR consumers served under the contract on a monthly basis. However, DVR does not monitor supporting documentation to ensure that the expenditures charged to and paid for with VR funds under the contract are limited solely to allowable VR costs – namely the provision of services to DVR consumers and applicants. When asked about this during a pre-on-site teleconference, DVR informed RSA that it was providing these services, including the services provided by the BAMs, under the “services to groups” authority at 34 CFR 361.49 as a collaborative partner in the CWS and, therefore, DVR thought it did not need to ensure that the services were provided solely to DVR applicants and consumers. DVR's assertion during the pre-on-site teleconference is consistent with the language of the VABIR contract, which clearly requires that the individuals to whom services are provided be “groups of individuals with disabilities and/or participants in the state Reach Up program.” DVR applicants and consumers are not specifically mentioned (see Attachment A). Section 103(b) of the Rehabilitation Act and 34 CFR 361.49(a) permit the use of VR program funds to support the provision of certain services listed therein that benefit groups of individuals with disabilities. Nevertheless, services provided to groups under 34 CFR 361.49(a)(6) must be provided to eligible VR applicants or consumers, not just to “groups of individuals with disabilities.” The examples contained in the regulatory provision reinforce that this particular authority, unlike some of the other provisions of 34 CFR 361.49(a), is intended to be used for the provision of VR services to groups of VR applicants and consumers – not a more general group of individuals with disabilities.

In addition to the above-described concern, RSA found other examples of costs charged to the VR program under the FY 2013 VABIR contract program budget that raise questions about their allowability under and allocability to the VR program:

- The program budget itemized costs for DVR customers only and for Reach Up customers only. However, each budget section included a line item for salaries at 20,000 total annual FTE hours for 10 BAMs. (Note: There was one BAM vacancy at the time of the review). Yet, the budget for DVR notes \$307,100 for these costs while the Reach Up budget lists \$62,900. The contract does not describe a cost allocation method used to identify these costs to ensure that the amount charged to the VR program was proportional to the benefit received under the VR program.
- The budget for DVR includes costs for marketing and BAM training but the Reach Up budget does not, meaning that DVR is charged 100 percent of these costs. Clearly, both programs benefit from marketing efforts and the professional development of BAMs. Therefore, DVR may use VR funds only to the extent that those costs are allocable to the VR program in accordance with federal cost principles. .
- DVR's contract monitoring process includes comparison of monthly reporting information to approved budgets and quarterly meetings to review BAM performance with regional DVR staff and VABIR staff. DVR does not monitor the expenditure of funds by reviewing primary accounting records to verify the allowability and allocability of the expenditures submitted by VABIR. The review of monthly reports may permit DVR to process payments. However, it does not provide DVR with information necessary to ensure compliance with federal requirements.

The examples listed above demonstrate that DVR does not have procedures in place to ensure it expended and accounted for VR grant funds under the VABIR contracts in accordance with pertinent laws and procedures as required by 34 CFR 80.20(a). By not having such procedures, DVR is unable to ensure that VR funds are spent solely for allowable purposes, such as ensuring that personnel and related costs charged to DVR under the VABIR contracts, and paid for with VR funds, are in proportion to the benefit received by the VR program in accordance with the federal cost principles found at 2 CFR 225, Appendix A, paragraph C. To the extent that the costs are not proportional to the benefit received, the costs would neither be allowable under, nor allocable to, the VR program.

### **Corrective Actions 1: DVR must:**

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will cease using VR funds to pay costs that lack the supporting documentation necessary to ensure that such costs are allocable, specifically those costs under the contract with VABIR; and
- 1.2 develop and implement a cost allocation methodology that demonstrates the proportional benefit DVR receives from expenditures under the VABIR contract for the BAMs; and, develop and implement written policies and procedures for maintaining and verifying supporting documentation for VR expenditures (incurred by both DVR and its contractors), that 1) include methods for monitoring and implementation, and 2) ensure funds are not used in violation of restrictions and prohibitions or applicable statutes.

## 2. Provision of Transition Services to Eligible Consumers

### Legal Requirements:

- Rehabilitation Act—Sections 102(a); 102(b)(1); 103(a) and 103(b)(6)
- VR Program Regulations—34 CFR 361.48 and 34 CFR 361.49(a)(7)

### Finding:

DVR’s guidance to transition VR counselors (TVRCs) does not meet the requirements of Section 103(a) of the Rehabilitation Act because it allows for the provision of individualized VR services to transition-age youth who are not DVR applicants or eligible individuals and who have not yet developed an IPE for the provision of those services.

Section 103(a) of the Rehabilitation Act states that VR services are any services described in an IPE that are necessary to assist an individual with a disability in preparing for, retaining, or regaining an employment outcome. Among the services listed are transition services for students with disabilities and counseling and guidance, including information and support services to assist an individual in exercising informed choice (sections 103(a)(2) and (15) of the Rehabilitation Act). In order to develop an IPE for the receipt of individualized VR services described in section 103(a), an individual must have applied for and be determined eligible for VR services in accordance with section 102(a) of the Rehabilitation Act (section 102(b)(1)).

According to information provided by DVR TVRCs and management during the monitoring process, TVRCs provide the following individualized services to students who have not applied for or been determined eligible for VR services, and who have not developed an IPE:

- exploration of the student’s vocational interests, e.g., including an interest inventory;
- exploration of the student’s interest in post-secondary training, including college; and
- career exploration activities.

Section 1 of the DVR transition guide, titled *Nothing But the Best*, is consistent with the information that DVR TVRCs and management provided to RSA during the monitoring process. Specifically, this document makes it clear that some “services [are] provided prior to official case opening”:

Transition services which may be provided without officially opening a case or establishing eligibility may include:

Consultation to students and families: may be provided in person, via phone or in writing regarding career options, VR services, or referrals to other agencies.

In addition, Section 8 of the DVR guide, “Working with High Schools,” discusses the TVRC’s role in school meetings, such as IEP meetings, 504 plan and transition plan meetings, and states:

The VR transition counselor’s role in the above mentioned meetings is to offer technical assistance and support, to offer information regarding community

resources that may be available for the student, and to ensure that the target areas of transition (independent living, employment, community participation and post-secondary/continuing education) are being addressed. The transition counselor can offer to work individually with the student to explore possible careers, discuss education and training options, and offer job search assistance. (Emphasis supplied)

While some of the activities described in the above passages would be allowable as information and referral services under the VR program, the more specific services of working with the students directly – e.g., to explore career opportunities and provide job search assistance would be allowable under section 103(a) only to the extent that the services were listed on the individual student’s IPE. As stated above, the individual student must be determined eligible for VR services before an IPE can be developed and implemented. In this case, the DVR written guidance, which was confirmed by information provided during on-site interviews, makes it clear that the TVRCs provide some individualized services to students despite the fact that they have not yet applied and been determined eligible for VR services or developed an IPE. Such activities would not be allowable under the VR program.

On the other hand, DVR TVRCs may provide technical and consultation services to the schools to assist them in serving students in transition, pursuant to section 103(b)(6) of the Rehabilitation Act and 34 CFR 361.49(a)(7). Such service is provided to the schools themselves – not students or their families – and is general in its nature and scope. This service to groups authority does not permit the provision of individualized services to students in transition such as provided by DVR TVRCs. During the on-site monitoring process, conversations with DVR TVRCs and management revealed that DVR was providing the transition services described herein under this particular authority to groups and, therefore, believed that it was not necessary to limit the services to students who had been determined eligible and who had implemented IPEs. As stated throughout this finding, the individualized services provided by DVR TVRCs to students in transition must be provided only to those students who have been determined eligible and whose IPEs specify those services. Provision of these services to non-consumers is not permitted under the VR program pursuant to section 103(a) of the Rehabilitation Act and 34 CFR 361.48.

**Corrective Actions: DVR must:**

- 2.1 cease the provision of counseling and guidance and other individualized VR services to transition-age youth that must be provided only to applicants and eligible individuals during the development of or under an IPE; and clarify in guidance that the provision of consultation and technical assistance to educational agencies does not include individualized consultation or VR services to students and their parents or guardians; and
- 2.2 clarify and train TVRCs and education partners on the role and allowable activities of the VR counselor with individuals that have not applied for VR services (for example: orientation to the VR process and VR services, participation in career fairs).

### 3. Cost Allocation between VR Agencies

#### Legal Requirements:

- Rehabilitation Act—Sections 101(a)(2)(C) and 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.12, and 34 CFR 361.13(b)(2)
- EDGAR—34 CFR 80.20(a)(2)
- Federal Cost Principles—2 CFR 225, Appendix A, paragraphs C.1 and C.3

#### Finding:

DVR is not in compliance with Section 111(a)(1) of the Rehabilitation Act; regulations at 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and federal cost principles at 2 CFR 225, Appendix A, because it expends VR program funds allotted for the administration of the program and the provision of services under DVR's State Plan on costs that must be charged to that part of the VR program administered by Vermont Division for the Blind and Visually Impaired (DBVI) under that agency's State Plan. Section 101(a)(2) of the Rehabilitation Act permits a state to designate more than one organizational unit for the provision of VR services, stating:

If the State has designated only 1 State agency pursuant to subparagraph (A), the State may assign responsibility for the part of the plan under which vocational rehabilitation services are provided for individuals who are blind to an organizational unit of the designated State agency and assign responsibility for the rest of the plan to another organizational unit of the designated State agency...

In addition, Section 111(a)(1) and regulations at 34 CFR 361.3 allow the use of VR program funds only for the provision of services and the administration of the program under the State Plan. Taken together, these statutory and regulatory provisions mean that if a state has designated more than one state unit, one to serve individuals who are blind and visually impaired and another to serve individuals with all other disabilities, each unit is responsible for the VR program expenditures incurred in connection with the provision of VR services or the administration of the program under its State Plan.

In accordance with Section 101(a)(2) of the Rehabilitation Act and 34 CFR 361.13(b)(2), Vermont has established two separate agencies to administer and operate the VR program in the state, DBVI for the provision of VR services to individuals who are blind and visually impaired and DVR for the provision of these services to all other individuals with disabilities. Each agency submits a State Plan with annual updates describing the manner in which it provides VR services and administers the program to its respective populations.

Federal regulations at 34 CFR 361.12 and 34 CFR 80.20(a) require the agency to implement fiscal control and accounting procedures sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes. Federal cost principles at 2 CFR 225, Appendix A, paragraph C.1 state that for a cost to be allowable under a federal award, it must be allocable to the federal award. Paragraph C.3 of this section states that a cost is allocable to a

particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received. Finally, any cost allocable to a particular federal award or cost objective under the principles provided for in 2 CFR 225 may not be charged to other federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the federal awards, or for other reasons (2 CFR 225, Appendix A, paragraph C.3.c).

DVR, in the instances described below, expended VR funds for program costs that should have been charged to the portion of the program administered and operated by DBVI.

DVR has 16 designated school transition counselors and a senior transition counselor operating out of twelve DVR district offices. These counselors work directly with the Vermont high schools. DVR transition counselors have dedicated caseloads and meet students in their local high schools. DBVI has four vocational rehabilitation counselors who serve adults who are blind and visually impaired and maintain a transition caseload. In DBVI's State Plan attachment 4.8(b)(2), the agency references an agreement between DBVI and DVR through which DBVI makes use of the DVR statewide system of in-school transition counselors. The attachment states that transition counselors will not, in most cases, provide intensive services but can attend an occasional IEP meeting, act as a liaison to the school, keep the DBVI counselor abreast of school and regional resources, and be there as a possible resource for students. The rationale for this agreement was that DBVI's transition caseload is small and coordination with DVR could result in improved statewide coverage versus contracting for a single, part-time coordinator for DBVI transition services.

RSA met with DVR and DBVI counselors and staff while onsite. A DVR transition counselor and a DBVI counselor described how the transition agreement worked. In this case, a student who was a DBVI consumer was also a candidate for DVR's JOBS program. The DVR counselor attended all of the JOBS meetings on the DBVI consumer's behalf and communicated all of the information and related services back to the DBVI counselor, while the DBVI counselor proceeded with the other services supporting the individual's case. As illustrated in this example, the DVR counselor acts as a consultant and does not have an open case record while the DBVI counselor does have an open case. Discussions with DBVI and DVR staff confirmed that DVR is assigning these costs to the portion of the VR program it administers under the DVR State Plan and does not allocate the costs associated with provision of services to DBVI consumers to DBVI.

As DVR and DBVI are responsible for that portion of the VR program it administers under separate State Plans, each can incur only those costs that can be properly assigned to it in accordance with Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3. In addition, pursuant to regulations at 34 CFR 361.12 and 34 CFR 80.20(a), DVR and DBVI must be able to trace expenditures for the provision of VR services and administrative costs under each State Plan separately, and allocate costs proportionally based upon the benefits received. Because DVR expends funds allotted to it for its administration and operation of its portion of the VR program on services that must be charged to DBVI, DVR is not in compliance with these requirements and the federal cost principles at 2 CFR 225, Appendix A.

### **Corrective Action 3: DVR must:**

- 3.1 submit a written assurance that it will cease using VR program funds to pay for expenditures that must be incurred by DBVI for its portion of the administration and operation of the Vermont VR program pursuant to 34 CFR 361.12, 34 CFR 80.20(a)(2) and the federal cost principles at 2 CFR 225, Appendix A; and
- 3.2 develop a process for appropriately allocating costs to DBVI for services provided by DVR transition counselors, or a process for serving DBVI consumers jointly through dual cases..

## **4. Personnel Costs**

Federal regulations at 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a) require that VR funds must be used solely for the provision of VR services or for the administration of the VR program, that State agencies must be responsible for financial accountability, and that procedures must be in place to ensure that expenditures are traceable and compliant with federal statutes. Additionally, Federal cost principles at 2 CFR part 225, Appendix B, paragraphs 8.h.3, 8.h.4 and 8.h.5 require periodic certifications for employees working solely on a single Federal award or cost objective; and that personnel activity reports or equivalent documentation that allocates costs to the benefitting cost objective be maintained for employees working on multiple cost objectives. DVR is not in compliance with these regulations and those specific to the allocation of personnel costs because it:

- does not maintain periodic certifications for employees working solely on one grant; and
- may improperly charge salary expenses for staff working on the VR and other programs solely to the VR award.

### **A. Periodic Personnel Certifications**

#### **Legal Requirements:**

- Federal Cost Principles—2 CFR 225, Appendix B, paragraph 8.h.3

#### **Finding:**

DVR is not in compliance with requirements set forth in 2 CFR 225, Appendix B, paragraph 8.h.3, which state:

Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having firsthand knowledge of the work performed by the employee.

During the monitoring visit, RSA requested that DVR provide copies of semi-annual certifications for staff working solely on the VR award. In response, DVR stated that they do not require staff working solely on one program to complete semiannual certifications and DVR was unable to provide the required certifications. Therefore, the agency is not in compliance with the requirements of federal cost principles found in 2 CFR 225, Appendix B, paragraph 8.h.3.

**Corrective Action 4.A:** DVR must develop and implement procedures to ensure that DVR employees who work solely on a single cost objective or single federal award prepare semi-annual certifications that are signed by the employee or a supervisory official having first-hand knowledge of the work performed by the employee.

## **B. Unallowable VR Expenditures— Assignment of Personnel Costs to the VR Program**

### **Legal Requirements:**

- Rehabilitation Act—Section 111(a)(1)
- VR Program Regulations—34 CFR 361.3; 34 CFR 361.5(b)(2) and 34 CFR 361.12
- EDGAR—34 CFR 80.20(a)
- Federal Cost Principles—2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5; 2 CFR 225, Appendix A, C.3.a

### **Finding:**

DVR is not in compliance with Section 111(a) (1) of the Rehabilitation Act, along with regulations a 34 CFR 361.3 and 2 CFR 225 Appendix A, paragraphs C to the degree that it may have expended VR program funds on personnel costs associated with staff working on other programs.

DVR must ensure that VR funds are spent solely on the provision of VR services and the administration of the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3. To constitute an administrative cost under the VR program, expenditures must be incurred in the performance of administrative functions of the VR program (34 CFR 361.5(b)(2)). Administrative salaries, including those for clerical and other support staff who work under the VR program, constitute a VR-related administrative cost (34 CFR 361.5(b)(2)(xi)). Non-VR-related personnel costs do not constitute VR administrative costs because they do not arise from the performance of administrative functions for the VR program. Therefore, non-VR-related expenditures are not allowable under the VR program, pursuant to 34 CFR 361.3, and may not be paid for with VR funds.

DVR administers multiple programs including Vocational Rehabilitation, State Independent Living Services, and Supported Employment. The allocation of personnel costs related to vacation or sick leave for staff working across programs that DVR administers is not properly allocated. To be allocable to the VR program, the cost must be proportional to the benefit received by the federal program (2 CFR 225, Appendix A, C.3.a).

During the on-site visit, DVR staff stated that employees who work on multiple programs and take vacation or sick leave have 100 percent of that time charged to the VR program. DVR is not allowed to charge salary expenses for staff working on programs other than VR to the VR award. Staff working on multiple cost objectives must charge their time to the appropriate cost objective based upon the proportionate benefit received, and must utilize personnel activity reports as required in 2 CFR 225, Appendix B, Paragraphs 8.h.4 and 8.h.5. The practice of assigning personnel costs to the VR program that are allocable to other programs is not in accordance with the federal cost principles outlined in 2 CFR 225, VR implementing regulations at 34 CFR 361.3 and 34 CFR 361.12, and EDGAR 34 CFR 80.20(a).

**Corrective Action 4.B:** DVR must cease using Title I funds for personnel costs, including those related to vacation and sick leave that are incurred in the administration of other programs.

## 5. Financial Reporting

### Legal Requirements:

- VR Regulations—34 CFR 361.12
- EDGAR—34 CFR 80.20(a); 34 CFR 80.25(b)

### Finding:

DVR is not in compliance with the requirements of 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.25(b) because it submitted inaccurate SF-269 and SF-425 reports for FYs 2007 through 2011. In particular, DVR did not report indirect costs generated by a cost allocation plan on the SF-269 and SF-425 reports and claimed fees generated through the Employee Assistance Program as program income.

#### Indirect Costs

For the VR awards in FYs 2007 through 2009, DVR reported the Indirect Expense data element for Total Amount Charged (11d) as zero and the Federal Share (11e) as zero on the SF-269. The instructions in RSA-TAC-01-02, dated August 8, 2001, require grantees reporting indirect costs under a cost allocation plan to enter the Total Amount of Indirect Expense claimed in data element (11d). The federal share of the amount reported in data element (11d) should be entered in (11e).

For the FY 2010 and the FY 2011 VR awards, the SF-425 reports revealed that the Indirect Expense data element for the Rate (11b) was reported as “SWCAP” and the Base (11d) was left blank on the final report. 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-269 and SF-425 reporting forms, this resulted in a zero reported for the Amount Charged (11e) data element for all instances. Therefore, the SF-269 and SF-425 reports submitted by DVR for FYs 2007 through FY 2011 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).

Federal regulations require that all recipients of federal funds accurately report the financial results of all federally-assisted activities (34 CFR 361.12 and 34 CFR 80.20(a)). As a recipient of federal Title I VR funds, DVR must comply with these requirements. DVR's inaccurate reporting of indirect costs resulted in an inaccurate reporting of the expenditures that DVR incurred in each of those years. Therefore, DVR's submission of inaccurate reports is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

### Program Income

DVR is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.25(b) because it submitted inaccurate SF-269 and SF-425 reports for FYs 2007 through 2011. In particular, DVR claimed fees generated through the Employee Assistance Program as program income.

The Employee Assistance Program is designed to assist employees with personal and financial issues. The fees collected from employers and employees for services provided should not be considered program income. During the review, the agency shared documentation with RSA staff that showed the total amount of revenue earned from the EAP program and claimed as program income as indicated below.

FY 2007 -----678,591.52

FY 2008 -----803,399.49

FY 2009 -----954,371.68

FY 2010 --- 1,045,645.11

FY 2011 --- 1,080,629.09

Program income is defined as gross income received by the grantee directly generated by a grant supported activity (34 CFR 80.25(b)). The EAP program is a self-sustaining program and is not a grant supported activity.

### **Corrective Actions 5: DVR must:**

- 5.1 cease the inaccurate reporting of indirect costs on the SF-425;
- 5.2 cease claiming revenue generated through the EAP as program income; and
- 5.3 develop and implement internal processes necessary to ensure the accurate and timely submission of Federal Financial Reports to RSA.

## 6. Development of the IPE

### Legal Requirements:

- Rehabilitation Act—Section 101(a)(9)(A)
- VR Program Regulations—34 CFR 361.45(e)

### Finding:

DVR is not in compliance with Section 101(a)(9)(A) of the Rehabilitation Act and the requirements of 34 CFR 361.45(e) because it is not meeting its established 90-day time standard for the development of IPEs. As required by Section 101(a)(9)(A), DVR assures in its annual State Plan that an IPE meeting federal requirements will be developed in a timely manner for each individual following the determination of eligibility. The VR program regulations at 34 CFR 361.45(e) state that the agency must establish standards including timelines that take into consideration the needs of each individual. According to the *DVR Policy and Procedure Manual*, Chapter 203 Individual Plan for Employment, Section II Development:

The Agency will, in a timely manner, assist each eligible individual who meets the Order of Selection (OOS) criteria (when DVR is under an OOS) to develop and implement an IPE. As a standard, the IPE should be developed within 90 days of determining that the individual is eligible and meets the agency’s OOS criteria. Delays in the development of the IPE must be explained in the case record.

As illustrated in Table 6.1 below, DVR did not meet the requirements in Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e) because it did not develop IPEs for a significant number of transition-age youth in a timely manner and within the 90-day timeline that DVR established as its standard pursuant to these federal requirements. DVR’s performance in meeting its 90-day time standard to develop IPEs for transition-age youth ranged from 64.90 percent meeting the standard in FY 2008 to a high of 72.14 percent meeting the standard in FY 2011. An additional 10.39 percent had IPEs developed within 91-180 days in FY 2011, for a total of 82.53 percent of IPEs being developed within six months.

**Table 6.1**  
**Vermont DVR Service Record Breakdown for Transition-Age Youth Served by Time:**  
**Eligibility to IPE**  
**FY 2006 through FY 2011**

Served: From Eligibility to IPE	Transition- Age Youth (FY2007)	Transition- Age Youth (FY2008)	Transition- Age Youth (FY2009)	Transition- Age Youth (FY2010)	Transition- Age Youth (FY2011)
Percent served: 0 - 3 months	70.72%	64.90%	68.20%	67.22%	72.14%
Percent served: 4 -6 months	10.72%	14.61%	10.55%	11.14%	10.39%
Percent served: greater than 6 months	18.56%	20.48%	21.24%	21.64%	17.47%

<b>Served: From Eligibility to IPE</b>	<b>Transition- Age Youth (FY2007)</b>	<b>Transition- Age Youth (FY2008)</b>	<b>Transition- Age Youth (FY2009)</b>	<b>Transition- Age Youth (FY2010)</b>	<b>Transition- Age Youth (FY2011)</b>
<b>Total Number Served</b>	<b>625</b>	<b>698</b>	<b>739</b>	<b>790</b>	<b>847</b>

DVR counselors cited difficulty in meeting the agency’s time standard for transition-age youth due to the need for career exploration and assessments to develop well-founded IPEs with attainable goals. This approach is not consistent with the developmental stage of transition-age youth who will change their vocational goal as they explore vocational options. Writing initial IPEs that will be amended as the goal is refined will support and facilitate the natural course of vocational exploration and keep the student engaged with the VR process.

Some counselors stated that their goal was to write the IPE before the student left the school setting. While this approach meets the federal requirement to write the transition student’s IPE before leaving school, it does not meet the requirement to develop the IPE within DVR’s 90 day time standard. A transition student’s IPE must meet both requirements.

**Corrective Action 6:** DVR must submit the actions that it will take, including timelines, to ensure that IPEs are developed in a timely manner and within 90 days of eligibility determination (e.g., in accordance with the agency’s established timeline developed pursuant to Section 101(a)(9) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.45(e)).

## **7. Interagency Agreement with Vermont Department of Education and Vermont Agency of Human Services**

### **Legal Requirements:**

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

### **Finding:**

The current interagency agreement submitted by DVR on transition services, titled “Interagency Agreement with Vermont Department of Education and Vermont Agency of Human Services” does not describe transition services for students with disabilities needing those services who do not receive educational services under IDEA, such as students who receive educational services under section 504 of the Rehabilitation Act of 1973, as amended (act).

Section 101(a)(11)(D) of the Act and 34 CFR 361.22(b) require that the State Plan for Titles I and VI-B provide information on the coordination of transition services with the state educational agency. The agreement, 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 state interagency agreement meets all of the requirements set forth in 34.361.22(b). However, the agreement does not include students with disabilities in need of transition services who do not receive services under an IEP, such as those receiving regular education services, education services under a 504 plan or youth who are not in school. The Rehabilitation Act and its implementing regulations do not limit the requirements to special education students.

**Corrective Action 7:** DVR must submit a signed agreement with the SEA that fulfills the requirements outlined in 34 CFR 361.22(b) for meeting the transition needs of students with disabilities pursuant to Section 101(a)(11)(D) of the Rehabilitation Act.

# APPENDIX A: AGENCY RESPONSE

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## Section 6: Compliance Findings and Corrective Actions

### 1. Expenditure of Funds Under the VR Program

**Corrective Actions 1:** DVR must:

- 1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will cease using VR funds to pay costs that lack the supporting documentation necessary to ensure that such costs are allocable, specifically those costs under the contract with VABIR; and
- 1.2 develop and implement a cost allocation methodology that demonstrates the proportional benefit DVR receives from expenditures under the VABIR contract for the BAMs; and, develop and implement written policies and procedures for maintaining and verifying supporting documentation for VR expenditures (incurred by both DVR and its contractors), that 1) include methods for monitoring and implementation, and 2) ensure funds are not used in violation of restrictions and prohibitions or applicable statutes.

**Agency Response:** DVR will provide a written assurance to RSA as requested within 10 days of final receipt of the monitoring report that DVR will cease using VR funds to pay costs that lack the supporting documentation necessary to ensure that such costs are allocable, specifically those costs under the contract with VABIR for the Business Account Managers (BAM).

DVR will also develop and implement a cost allocation methodology that demonstrates the proportional benefit DVR receives from expenditures under the VABIR contract for the BAMs; and develop and implement written policies and procedures for maintaining and verifying supporting documentation for VR expenditures (incurred by both DVR and its contractors) that 1) include methods for monitoring and implementation, and 2) ensure funds are not used in violation of restrictions and prohibitions or applicable statutes.

**Technical Assistance:** DVR requests technical assistance.

DVR has already reached out to RSA to formally request technical assistance in developing a cost allocation methodology that will be in compliance with the Rehabilitation Act.

### 2. Provision of Transition Services to Eligible Consumers

**Corrective Actions:** DVR must:

- 2.1 cease the provision of counseling and guidance and other individualized VR services to transition-age youth that must be provided only to applicants and eligible individuals during the development of or under an IPE; and clarify in guidance that the provision of consultation and technical assistance to educational agencies does not include individualized consultation or VR services to students and their parents or guardians; and

- 2.2 clarify and train TVRCs and education partners on the role and allowable activities of the VR counselor with individuals that have not applied for VR services (for example: orientation to the VR process and VR services, participation in career fairs).

**Agency Response:** DVR withdrew its original response.

**RSA Response:** RSA revised the original draft of 2.1 and 2.2 to clarify the corrective actions.

**Technical Assistance:** DVR does not request technical assistance.

### **3. Cost Allocation between VR Agencies**

**Corrective Action 3:** DVR must:

- 3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will cease using VR program funds to pay for expenditures that must be incurred by DBVI for its portion of the administration and operation of the Vermont VR program pursuant to 34 CFR 361.12, 34 CFR 80.20(a)(2) and the federal cost principles at 2 CFR 225, Appendix A; and
- 3.2 develop a process for appropriately allocating costs to DBVI for services provided by DVR transition counselors, or a process for serving DVBI consumers jointly through dual cases.

**Agency Response:** DVR will submit a written assurance to RSA within 10 days of receipt of the final monitoring report that DVR will cease using VR program funds to pay for expenditures that must be incurred by DBVI for its portion of the administration and operation of the Vermont VR program.

DVR will develop a process for appropriately allocating costs to DBVI for services provided by DVR transition counselors, or a process for serving DVBI consumers jointly through dual cases. DVR and DBVI will revise the MOU between the two agencies to include the agreed process for allocating costs.

**Technical Assistance:** DVR requests technical assistance.

DVR would like RSA's technical assistance in the development of the DVR and DBVI MOU.

### **4. Personnel Costs**

**Corrective Action 4.A:** DVR must develop and implement procedures to ensure that DVR employees who work solely on a single cost objective or single federal award prepare semi-annual certifications that are signed by the employee or a supervisory official having first-hand knowledge of the work performed by the employee.

**Corrective Action 4.B:** DVR must cease using Title I funds for personnel costs, including those related to vacation and sick leave that are incurred in the administration of other programs.

**Agency Response:**

4.A—DVR has implemented certification procedures starting with QE 12-31-12 to ensure that DVR employees who work solely on a single cost objective or single federal award have signed off on work performed. This certification is also signed off by the supervisor of the employee. A report is run of all DVR employees who have allocated time on a single federal award at the end of the quarter. This list is then presented to and signed off by the employees and the supervisors with first-hand knowledge of the work performed by the employee.

4. B—DVR would like to clarify that personnel costs can be claimed to Title I funds, however, recognizes that personnel costs related to vacation and sick leave time for those employees working on multiple funding sources/cost objectives should be allocated proportionately to those cost objectives worked on/allocated to during the quarter by employee.

DVR, starting with QE 6-30-13, has begun to assign a distinct program code to “non-work hours” for all DVR employees. This cost will then be allocated proportionately to the cost objectives positive reported to during the quarter by employee.

**RSA Response:** RSA agrees that personnel costs can be allocated to Title 1. However, for employees working on multiple programs/cost objectives, costs must be allocated proportionately to those funding sources/cost objectives.

**Technical Assistance:** DVR does not request technical assistance.

## **5. Financial Reporting**

**Corrective Actions 5:** DVR must:

- 5.1 cease the inaccurate reporting of indirect costs on the SF-425;
- 5.2 cease claiming revenue generated through the EAP as program income; and
- 5.3 develop and implement internal processes necessary to ensure the accurate and timely submission of Federal Financial Reports to RSA.

**Agency Response:**

5.1 & 5.3—DVR will report indirect costs on the SF-425 as the Policy Directive RSA-PD-12-06 instructs going forward. Our current internal processes do ensure timely submission of Federal Financial Reports to RSA.

5.2—DVR developed the EAP program in the early 1990’s as an outreach and early intervention strategy to engage eligible VR consumers to help them retain employment. In addition, it is a strategy to build deeper relationships with employers. At the time DVR sought guidance from the RSA Regional Commissioner about how to manage the program fiscally and was advised to treat EAP revenue as program income.

DVR has been claiming revenue generated by the EAP program for over twenty years. The program has been reviewed by RSA multiple times during this period most recently in 2007 with no findings. RSA cites that “Program income is defined as gross income received by the grantee directly generated by a grant supported activity (34 CFR 80.25(b). The EAP program is a self-sustaining program and is not a grant supported activity.” While in recent years the revenue from the EAP program has covered the direct costs of the services, this has not always been the case and is not guaranteed moving forward. If EAP were to lose some larger accounts in any given year, direct costs could easily exceed revenue.

DVR reviewed 34 CFR 80.25 in detail and cannot find any basis for this finding. Also as noted, RSA has also repeatedly reviewed this program and found DVR in compliance with reporting of EAP revenue as program income. Therefore we respectfully request that RSA withdraw this finding.

**RSA Response:** DVR did not provide documentation to support EAP as a grant-supported activity. Therefore, revenue generated by EAP does not meet the definition of program income. The finding stands as written.

**Technical Assistance:** DVR does not request technical assistance.

## **6. Development of the IPE**

**Corrective Action 6:** DVR must submit the actions that it will take, including timelines, to ensure that IPEs are developed in a timely manner and within 90 days of eligibility determination (e.g., in accordance with the agency’s established timeline developed pursuant to Section 101(a)(9) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.45(e)).

**Agency Response:** DVR will submit a corrective action plan to RSA to ensure IPE’s are developed within 90 days of certification of eligibility.

**Technical Assistance:** DVR requests technical assistance.

DVR would like RSA’s technical assistance with the development, implementation and monitoring of a corrective action plan.

## **7. Interagency Agreement with Vermont Department of Education and Vermont Agency of Human Services**

**Corrective Action 7:** DVR must submit a signed agreement with the SEA that fulfills the requirements outlined in 34 CFR 361.22(b) for meeting the transition needs of students with disabilities pursuant to Section 101(a)(11)(D) of the Rehabilitation Act.

**Agency Response:** DVR will develop an agreement with the SEA that fulfills the requirements outlined in 34 CFR 361.22(b) for meeting the transition needs of students with disabilities pursuant to Section 101(a)(11)(D) of the Rehabilitation Act.

**Technical Assistance:** DVR requests technical assistance.

DVR would like RSA's technical assistance in developing the draft agreement and RSA's review and approval prior finalization and signature of the agreement.

## APPENDIX B: LEGAL REQUIREMENTS

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

### Rehabilitation Act of 1973, as amended

#### Definitions

**Section 7** For the purposes of this Act:

- (38) Vocational rehabilitation services. The term "vocational rehabilitation services" means those services identified in section 103 which are provided to individuals with disabilities under this Act.

#### Section 101(a)(9)(A)—Individualized plan for employment

##### (A) Development and implementation.

The State plan shall include an assurance that an individualized plan for employment meeting the requirements of section 102(b) will be developed and implemented in a timely manner for an individual subsequent to the determination of the eligibility of the individual for services under this title, except that in a State operating under an order of selection described in paragraph (5), the plan will be developed and implemented only for individuals meeting the order of selection criteria of the State.

#### Section 101(a)(11)(D) Coordination with education officials

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

(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 transition services.

## **Section 102(a) Eligibility and Individualized Plan for Employment**

### **(a) Eligibility**

#### **(1) Criterion for eligibility**

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

**(A)** is an individual with a disability under section 7(20)(A); and

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

#### **(2) Presumption of benefit**

##### **(A) Demonstration**

For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.

##### **(B) Methods**

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

#### **(3) Presumption of eligibility**

##### **(A) In general**

For purposes of this section, an individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be—

**(i)** considered to be an individual with a significant disability under section 7(21)(A); and

**(ii)** presumed to be eligible for vocational rehabilitation services under this title (provided that the individual intends to achieve an employment outcome consistent with the unique strengths,

resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual) unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual in accordance with paragraph (2).

### **(B) Construction**

Nothing in this paragraph shall be construed to create an entitlement to any vocational rehabilitation service.

### **(4) Use of existing information**

#### **(A) In general**

To the maximum extent appropriate and consistent with the requirements of this part, for purposes of determining the eligibility of an individual for vocational rehabilitation services under this title and developing the individualized plan for employment described in subsection (b) for the individual, the designated State unit shall use information that is existing and current (as of the date of the determination of eligibility or of the development of the individualized plan for employment), including information available from other programs and providers, particularly information used by education officials and the Social Security Administration, information provided by the individual and the family of the individual, and information obtained under the assessment for determining eligibility and vocational rehabilitation needs.

#### **(B) Determinations by officials of other agencies**

Determinations made by officials of other agencies, particularly education officials described in section 101(a)(11)(D), regarding whether an individual satisfies 1 or more factors relating to whether an individual is an individual with a disability under section 7(20)(A) or an individual with a significant disability under section 7(21)(A) shall be used, to the extent appropriate and consistent with the requirements of this part, in assisting the designated State unit in making such determinations.

#### **(C) Basis**

The determination of eligibility for vocational rehabilitation services shall be based on—

(i) the review of existing data described in section 7(2)(A)(i); and

(ii) to the extent that such data is unavailable or insufficient for determining eligibility, the provision of assessment activities described in section 7(2)(A)(ii).

## **(5) Determination of ineligibility**

If an individual who applies for services under this title is determined, based on the review of existing data and, to the extent necessary, the assessment activities described in section 7(2)(A)(ii), not to be eligible for the services, or if an eligible individual receiving services under an individualized plan for employment is determined to be no longer eligible for the services—

**(A)** the ineligibility determination involved shall be made only after providing an opportunity for full consultation with the individual or, as appropriate, the individual's representative;

**(B)** the individual or, as appropriate, the individual's representative, shall be informed in writing (supplemented as necessary by other appropriate modes of communication consistent with the informed choice of the individual) of the ineligibility determination, including—

**(i)** the reasons for the determination; and

**(ii)** a description of the means by which the individual may express, and seek a remedy for, any dissatisfaction with the determination, including the procedures for review by an impartial hearing officer under subsection (c);

**(C)** the individual shall be provided with a description of services available from the client assistance program under section 112 and information on how to contact that program; and

**(D)** any ineligibility determination that is based on a finding that the individual is incapable of benefiting in terms of an employment outcome shall be reviewed—

**(i)** within 12 months; and

**(ii)** thereafter, if such a review is requested by the individual or, if appropriate, by the individual's representative.

## **(6) Timeframe for making an eligibility determination**

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

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

**(B)** the designated State unit is exploring an individual's abilities, capabilities, and capacity to perform in work situations under paragraph (2)(B).

## **Section 102(b)(1) Development of an Individualized Plan for Employment**

### **(1) Options for developing an individualized plan for employment**

If an individual is determined to be eligible for vocational rehabilitation services as described in subsection (a), the designated State unit shall complete the assessment for determining eligibility and vocational rehabilitation needs, as appropriate, and shall provide the eligible individual or the individual's representative, in writing and in an appropriate mode of communication, with information on the individual's options for developing an individualized plan for employment, including—

**(A)** information on the availability of assistance, to the extent determined to be appropriate by the eligible individual, from a qualified vocational rehabilitation counselor in developing all or part of the individualized plan for employment for the individual, and the availability of technical assistance in developing all or part of the individualized plan for employment for the individual;

**(B)** a description of the full range of components that shall be included in an individualized plan for employment;

**(C)** as appropriate—

**(i)** an explanation of agency guidelines and criteria associated with financial commitments concerning an individualized plan for employment;

**(ii)** additional information the eligible individual requests or the designated State unit determines to be necessary; and

**(iii)** information on the availability of assistance in completing designated State agency forms required in developing an individualized plan for employment; and

**(D)(i)** a description of the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsection (c); and

**(ii)** a description of the availability of a client assistance program established pursuant to section 112 and information about how to contact the client assistance program.

## **Section 103(a) Vocational Rehabilitation Services**

### **(a) Vocational Rehabilitation Services for Individuals**

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

**(1)** an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

**(2)** counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);

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

- (14) rehabilitation technology, including telecommunications, sensory, and other technological aids and devices;
- (15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment;
- (16) supported employment services;
- (17) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
- (18) specific post-employment services necessary to assist an individual with a disability to, retain, regain, or advance in employment.

### **Section 103(b)(6)**

#### **(b) Vocational Rehabilitation Services for Groups of Individuals**

Vocational rehabilitation services provided for the benefit of groups of individuals with disabilities may also include the following:

- (6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

### **Section 111**

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

## **VR Program Regulations**

### **34 CFR 361.3—Authorized activities.**

The Secretary makes payments to a State to assist in—

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

### **34 CFR 361.5(b)(2)**

(2) *Administrative costs under the State plan* means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under this part, including expenses related to program planning, development, monitoring, and evaluation, including, but not limited to, expenses for—

- (i) Quality assurance;
- (ii) Budgeting, accounting, financial management, information systems, and related data processing;
- (iii) Providing information about the program to the public;

- (iv) Technical assistance and support services to other State agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in § 361.49(a)(4);
- (v) The State Rehabilitation Council and other advisory committees;
- (vi) Professional organization membership dues for designated State unit employees;
- (vii) The removal of architectural barriers in State vocational rehabilitation agency offices and State-operated rehabilitation facilities;
- (viii) Operating and maintaining designated State unit facilities, equipment, and grounds;
- (ix) Supplies;
- (x) Administration of the comprehensive system of personnel development described in § 361.18, including personnel administration, administration of affirmative action plans, and training and staff development;
- (xi) Administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;
- (xii) Travel costs related to carrying out the program, other than travel costs related to the provision of services;
- (xiii) Costs incurred in conducting reviews of determinations made by personnel of the designated State unit, including costs associated with mediation and impartial due process hearings under § 361.57; and
- (xiv) Legal expenses required in the administration of the program.

**34 CFR 361.5(b)(58)—Vocational rehabilitation services.**

- (i) If provided to an individual, means those services listed in §361.48; and
- (ii) If provided for the benefit of groups of individuals, also means those services listed in §361.49.

**34 CFR 361.12—Methods of administration.**

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

**34 CFR 361.22—Coordination with education officials.**

- (b) *Formal interagency agreement.* The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—
  - (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
  - (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;

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

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

### **34 CFR 361.45(e)—Standards for developing the IPE.**

The designated State unit must establish and implement standards for the prompt development of IPEs for the individuals identified under paragraph (a) of this section, including timelines that take into consideration the needs of the individuals.

### **34 CFR 361.48—Scope of vocational rehabilitation services for individuals with disabilities.**

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

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

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

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

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

(e) In accordance with the definition in §361.5(b)(40), physical and mental restoration services, to the extent that financial support is not readily available from a source other than the designated State unit (such as through health insurance or a comparable service or benefit as defined in §361.5(b)(10)).

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

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

- (h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in §361.5(b)(57).
- (i) Vocational rehabilitation services to family members, as defined in §361.5(b)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (j) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind provided by qualified personnel.
- (k) Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.
- (l) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- (m) Supported employment services in accordance with the definition of that term in §361.5(b)(54).
- (n) Personal assistance services in accordance with the definition of that term in §361.5(b)(39).
- (o) Post-employment services in accordance with the definition of that term in §361.5(b)(42).
- (p) Occupational licenses, tools, equipment, initial stocks, and supplies.
- (q) Rehabilitation technology in accordance with the definition of that term in §361.5(b)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices.
- (r) Transition services in accordance with the definition of that term in §361.5(b)(55).
- (s) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.
- (t) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

**34 CFR 361.49(a)(6)—Scope of vocational rehabilitation services for groups of individuals with disabilities.**

(a) The designated State unit may also provide for the following vocational rehabilitation services for the benefit of groups of individuals with disabilities:

(6) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual. Examples of those other services might include the purchase or lease of a bus to provide transportation to a group of applicants or eligible individuals or the purchase of equipment or instructional materials that would benefit a group of applicants or eligible individual.

### **34 CFR 361.49(a)(7)—Scope of vocational rehabilitation services for groups of individuals with disabilities.**

(a) The designated State unit may also provide for the following vocational rehabilitation services for the benefit of groups of individuals with disabilities:

(7) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

### **34 CFR 361.60(b)(1)**

(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...

(3) Contributions by private entities. Expenditures made from contributions by private organizations, agencies, or individuals that are deposited in the account of the State agency or sole local agency in accordance with State law and that are earmarked, under a condition imposed by the contributor, may be used as part of the non-Federal share under this section if the funds are earmarked for—

(i) Meeting in whole or in part the State's share for establishing a community rehabilitation program or constructing a particular facility for community rehabilitation program purposes;

## **Education Department General Administrative Regulations (EDGAR)**

### **34 CFR 80.20(a)**

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

- (1) Permit preparation of reports required by this part and the statutes authorizing the grant; and
- (2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

### **34 CFR 80.24(a)**

(a) Basic rule: Cost 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 80.25(b)**

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

### **34 CFR 80.40—Monitoring and reporting program performance.**

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

## **Federal Cost Principles**

### **2 CFR 225, Appendix A, C.1.**

#### C. Basic Guidelines

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:

- a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.

### **2 CFR 225, Appendix A, C.2.**

2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining reasonableness of a given cost, consideration shall be given to:

- a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.
- b. The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.
- c. Market prices for comparable goods or services.
- d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
- e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

### **2 CFR 225, Appendix A, C.3.a.**

3. Allocable costs.

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

### **2 CFR 225, Appendix B, paragraph 8.h.3**

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

### **2 CFR 225, Appendix B, 8.h.4**

(4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection 8.h.(5) of this appendix unless a statistical sampling system (see subsection 8.h.(6) of this appendix) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:

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

### **2 CFR 225, Appendix B, paragraph 8.h.5**

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

## **RSA Policy Directives (PD)**

**RSA-PD-12-06:** "Revision of PD-11-02, instructions for completing the Federal Financial Report (SF-425) for the Vocational Rehabilitation State Grants Program"

### **11. Indirect Expense:**

Indirect costs are generally charged to federal awards via an indirect cost rate. The rate is simply the percentage relationship of indirect costs to direct costs and is substantiated by a standardized set of work papers referred to as the indirect cost proposal. Any grantee that wishes to claim indirect costs under federal grants must prepare an indirect cost proposal and submit it to the cognizant federal agency for approval (2 CFR 225, Appendix A, paragraphs B and F). Grantees claiming indirect expense based on an approved cost allocation plan (CAP), rather than an indirect cost rate, should follow the directions included in the line item instructions below.

#### **11b. Rate:**

Enter the approved indirect cost rate(s) in effect during the reporting period. For cost allocation plans only, enter 100% of the costs attributable to this award.

## **RSA Technical Assistance Circulars**

**RSA-TAC-01-02:** "Supplementary Instructions for Completing the SF-269, Financial Status Report, For the Independent Living Services Program, Part B, Independent Living, Part C, Centers for Independent Living Program (If Administered by a State Agency Pursuant to Section 723), Independent Living Services for Older Individuals Who Are Blind Program, Chapter 2, Supported Employment Program, Client Assistance Program, and Protection and Advocacy of Individual Rights Program"

**BLOCK 11. INDIRECT EXPENSE.** Indirect costs are normally charged under Federal awards via an indirect cost rate. The rate is simply the percentage relationship of indirect costs to direct costs and is substantiated by a standardized set of work papers referred to as the indirect cost proposal. Any State agency or other grantee that wishes to claim indirect costs under Federal grants must prepare an indirect cost proposal and submit it to the cognizant Federal agency for approval. (OMB Circular A-87 for State agencies and OMB Circular A-122 for non-profits)

Note: Grantees claiming indirect expense based on an approved indirect cost rate should complete Blocks 11.a through 11.e.

**a—TYPE OF RATE.** At the time of approval, the Federal cognizant agency will determine and identify one of three kinds of agreements that the rate is based on—Provisional/Final, Predetermined, or Fixed with Carry Forward (FCF). Indicate the kind of agreement that is identified in the Federal cognizant agency approval.

**b—RATE.** Enter the indirect rate(s) approved by the Federal cognizant agency and the period(s) covered. For example: six percent, July 1998 through June 1999.

**c**—BASE. Enter the total amount of expenditures (Base) that the indirect rate is being applied against.

**d**—TOTAL AMOUNT. Multiply Block 11.c by the percentage rate identified in Block 11.b and indicate that amount.

**e**—FEDERAL SHARE. Multiply Block 11.d by the percentage of Federal Financial Participation (90 percent for Independent Living - Part B and Independent Living—Older Blind Programs) and indicate that amount as the claimed Federal share.

Note: Grantees claiming indirect expense based on an approved cost allocation plan, rather than an indirect cost rate, should leave Blocks 11.a, 11.b and 11.c blank, but should enter the total amount of indirect expense claimed during the reporting period in Block 11.d. The Federal share of the amount reported in Block 11.d should be reported in Block 11.e.