

**FISCAL YEAR 2013
MONITORING REPORT
ON THE
WASHINGTON DIVISION OF
VOCATIONAL REHABILITATION**



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

SEPTEMBER 20, 2013

TABLE OF CONTENTS

	Page
Section 1: Executive Summary	1
Section 2: Performance Analysis	4
Section 3: Emerging Practices	10
Section 4: Results of Prior Monitoring Activities.....	12
Section 5: Focus Areas.....	14
A. Organizational Structure Requirements of the Designated State Agency (DSA) and Designated State Unit (DSU).....	14
B. Transition Services and Employment Outcomes for Youth with Disabilities	16
C. Fiscal Integrity of the Vocational Rehabilitation Program	18
Section 6: Compliance Findings and Corrective Actions	20
Appendix A: Agency Response	30
Appendix B: Legal Requirements.....	36

SECTION 1: EXECUTIVE SUMMARY

Background

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

Through its monitoring of the VR and SE programs administered by the Washington Division of Vocational Rehabilitation (WADVR) 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 March 4 through 7, 2013, is described in detail in the FY 2013 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program located at: <http://rsa.ed.gov/display.cfm?pageid=321>

Emerging Practices

Through the course of its review, RSA collaborated with WADVR, 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.

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

- Access to Markets Program: WADVR established a statewide program for entrepreneurs with disabilities that is intended to increase sales and build visibility through improved marketing strategies.
- Partnership with Washington State Microenterprise Association (WSMA): The Washington State Microenterprise Association is a non-profit organization committed to strengthening economic development systems that support the growth of strong and effective Microenterprise Development Organizations. WADVR partnered with the WSMA to provide WADVR staff and customers with a clearinghouse of microenterprise and small business information.
- On-the-Job Training Pilot Project: WADVR is conducting a two year pilot project with the Employment Security Department to test a model of service-delivery that places WADVR customers in permanent employment, through which these individuals receive on-the-job training provided by the employer.

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

Summary of Observations

RSA's monitoring of WADVR did not result in the identification of observations related to the focus areas covered in the review.

Summary of Compliance Findings

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

- WADVR has not satisfied the organizational requirements for a designated state unit, because it is not located at, and does not have a status, comparable to that of the major components of the Department of Social and Health Services, the designated state agency.
- WADVR does not require employees working on multiple cost objectives to maintain Personnel Activity Reports that reflect the distribution of the actual activity of each employee in order to determine the amount of expenses to be allocated to the VR award.
- WADVR expended VR program funds on administrative costs not associated with the VR program.
- WADVR drew down federal VR program funds when program income was available for disbursement.
- WADVR does not maintain internal controls, including the review of supporting documentation, to ensure that VR program funds used by the state's regional business centers to pay for space leased by WADVR were associated with costs allowable under, and allocable to, the VR program.

- WADVR did not develop individualized plans for employment for all youth with disabilities both prior to their exit from the school setting and within the timeline specified in its written VR policies.

Development of the Technical Assistance Plan

RSA will collaborate closely with WADVR and the Region X TACE at the University of Washington Center for Continuing Education in Rehabilitation (Region X TACE) to develop a plan to address the technical assistance needs identified by WADVR in Appendix A of this report. RSA, WADVR and the Region X TACE will conduct a teleconference within 60 calendar days following the publication of the final monitoring 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, WADVR and the Region X 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 Corinna Stiles, Carol Dobak, and Brian Miller (Vocational Rehabilitation Program Unit); Sean Barrett (Fiscal Unit); Fred Isbister (Technical Assistance Unit); and Steven Zwillinger (Data Analysis and Collection 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 WADVR for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the SRC, the Client Assistance Program, 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 WADVR. 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 WADVR open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. WADVR 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
WADVR 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	12,280	12,925	10,973	11,882	11,266	-1,014	301,985
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	-8.3%	100.0%
Exited as an applicant	Number	662	1,091	1,563	1,580	1,420	758	45,137
	Percent	5.4%	8.4%	14.2%	13.3%	12.6%	114.5%	14.9%
Exited during or after trial work experience/extended evaluation	Number	17	36	58	26	19	2	2,889
	Percent	0.1%	0.3%	0.5%	0.2%	0.2%	11.8%	1.0%
TOTAL NOT DETERMINED ELIGIBLE	Number	679	1,127	1,621	1,606	1,439	760	48,026
	Percent	5.5%	8.7%	14.8%	13.5%	12.8%	111.9%	15.9%
Exited without employment 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 order of selection waiting list	Number	1,360	211	0	0	0	-1,360	1,534
	Percent	11.1%	1.6%	0.0%	0.0%	0.0%	-100.0%	0.5%
Exited without employment after eligibility, before IPE	Number	6,894	7,687	5,011	5,071	4,579	-2,315	79,337

All Individual Cases Closed	Number, Percent, or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
	Percent	56.1%	59.5%	45.7%	42.7%	40.6%	-33.6%	26.3%
TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES	Number	8,254	7,898	5,011	5,071	4,579	-3,675	85,573
	Percent	67.2%	61.1%	45.7%	42.7%	40.6%	-44.5%	28.3%
Exited with employment	Number	1,831	2,357	2,404	2,676	2,765	934	91,339
	Percent	14.9%	18.2%	21.9%	22.5%	24.5%	51.0%	30.2%
Exited without employment	Number	1,516	1,543	1,937	2,529	2,483	967	77,047
	Percent	12.3%	11.9%	17.7%	21.3%	22.0%	63.8%	25.5%
TOTAL RECEIVED SERVICES	Number	3,347	3,900	4,341	5,205	5,248	1,901	168,386
	Percent	27.3%	30.2%	39.6%	43.8%	46.6%	56.8%	55.8%
EMPLOYMENT RATE	Percent	54.71%	60.44%	55.38%	51.41%	52.69%	-3.69%	54.24%
Transition age youth	Number	3,230	3,296	2,541	2,766	2,650	-580	103,112
	Percent	26.3%	25.5%	23.2%	23.3%	23.5%	-18.0%	34.1%
Transition aged youth employment outcomes	Number	652	752	664	659	745	93	29,468
	Percent	35.6%	31.9%	27.6%	24.6%	26.9%	14.3%	32.3%
Competitive employment outcomes	Number	1,802	2,330	2,372	2,637	2,726	924	89,811
	Percent	98.4%	98.9%	98.7%	98.5%	98.6%	51.3%	98.3%
Supported employment outcomes	Number	191	259	220	203	223	32	11,621
	Percent	10.4%	11.0%	9.2%	7.6%	8.1%	16.8%	12.7%
Average hourly wage for competitive employment outcomes	Average	\$10.72	\$11.07	\$11.56	\$12.43	\$12.16	\$1.44	\$11.21
Average hours worked for competitive employment outcomes	Average	27.5	27.3	26.7	27.3	27.2	-0.3	31.0
Competitive employment outcomes at 35 or more hours per week	Number	727	913	882	1,060	1,071	344	45,423
	Percent	39.7%	38.7%	36.7%	39.6%	38.7%	47.3%	49.7%
Employment outcomes meeting SGA	Number	1,051	1,331	1,316	1,577	1,659	608	56,039
	Percent	57.4%	56.5%	54.7%	58.9%	60.0%	57.8%	61.4%
Employment outcomes with employer-provided medical insurance	Number	422	513	431	492	460	38	19,815
	Percent	23.0%	21.8%	17.9%	18.4%	16.6%	9.0%	21.7%

Positive Trends

As shown in Table 2.1, the performance of the VR program improved in a number of important areas during the five-year period covering FY 2007 to FY 2011. Significantly, the number of

individuals served by WADVR who achieved employment increased by 51 percent, from 1,831 to 2,765 individuals between FY 2007 and FY 2011. The total number of individuals who received services increased by almost 57 percent, from 3,347 to 5,248 individuals over the same period.

These trends reflect the decreases in the number of individuals who exited the program during certain stages of the VR process. The number of eligible individuals who exited the program before an individualized Plan for Employment (IPE) declined by 33 percent, from 6,984 in FY 2007 to 4,579 in FY 2011. Also, the number of individuals who exited after the determination of eligibility, but prior to receiving services, decreased by 45 percent, from 8,254 in FY 2007 to 4,579 in FY 2011. According to WADVR, these decreases resulted, in part, from changes in the referral process from the DSHS Community Services Division (DSHS/CSD), which required individuals with disabilities to apply for VR services to retain their DSHS/CSD benefits. DSHS/CSD now refers only those individuals with disabilities who want to WADVR who want to apply for VR services.

As the number of individuals served increased, the quality of employment outcomes also improved. The average hourly VR wage increased from \$10.72 in FY 2007, to \$12.16 in FY 2011. The number of individuals who achieved competitive employment outcomes and worked 35 or more hours per week increased by 47 percent, from 727 in FY 2007, to 1,071 in FY 2011. In addition, the number of individuals who obtained employment outcomes with earnings meeting or exceeding the level of substantial gainful activity, as determined by the Social Security Administration, increased from 1,051 in FY 2007 to 1,659 in FY 2011, or an increase of 57 percent. The number of individuals who achieved employment and received employer-provided medical insurance increased by 9 percent, from 422 individuals in FY 2007 to 460 in FY 2011.

Trends Indicating Potential Risk to the Performance of the VR Program

During the five-year period under review, the number of individuals who exited the VR program as an applicant increased by 114 percent, from 662 in FY 2007 to 1,420 in FY 2011. As a percentage of individuals whose cases were closed, these numbers represented 5.4 percent of the total in FY 2007 and 12.6 percent of the total in FY 2011.

Although the agency is assisting an increasing number of individuals to achieve employment outcomes as noted above, the number of individuals who do not achieve employment after receiving services is increasing at a faster rate. In FY 2007, 1,516 individuals did not achieve employment, compared to 2,483 individuals in FY 2011. Therefore, while the number of individuals who exited the program with employment increased by 51 percent from FY 2007 to FY 2011 as described above, the number of individuals who exited without employment increased by almost 64 percent during the same period.

Supported Employment

WADVR assisted more individuals to achieve supported employment outcomes in FY 2011 than at any other time in the five-year period under review. The number of individuals who obtained

supported employment increased from 191 in FY 2007 to 223 in FY 2011. However, the percentage of individuals who achieved supported employment compared to the total who achieved employment decreased from 10.4 percent to 8.1 percent during the review period, or a decline of almost 17 percent.

Transition Outcomes

During the five years from FY 2007 to FY 2011, the number of employment outcomes obtained by transition-age youth increased by almost 15 percent, from 652 to 745. However, the percentage of employment outcomes secured by transition aged youth of all individuals who achieved employment decreased from 35.6 percent in FY 2007 to 26.9 percent in FY 2011. During the course of the review, WADVR indicated its intent to conduct further analyses to determine the degree to which the factors described in the above paragraphs and others affected its performance related to the number of individuals engaged in the various stages of the VR process, variations in VR services provided in local offices, as well as the quantity and quality of employment outcomes they achieve. These analyses will enable WADVR to more effectively modify and enhance its goals by which it assesses the performance of the program and the strategies used to attain these goals.

Fiscal Analysis

Table 2.2
WADVR Fiscal Performance Data for FY 2008 through FY 2012

VR Fiscal Profile	Quarter	2008	2009	2010	2011	2012
Grant amount	4 th	43,456,631	45,200,145	43,694,074	46,277,862	45,861,517
	Latest/ Final*	43,456,631	45,200,145	43,694,074	46,277,862	45,861,517
Total outlays	4 th	31,387,060	27,519,637	23,013,224	18,396,096	15,742,014
	Latest/ Final*	55,282,346	57,343,111	55,519,789	58,802,874	42,716,647
Total unliquidated obligations	4 th	0	0	7,192,536	5,160,127	7,529,563
	Latest/ Final*	0	0	0	0	7,218,472
Federal share of expenditures	4 th	19,561,345	15,376,671	11,187,509	5,871,084	3,708,659
	Latest/ Final*	43,456,631	45,200,145	43,694,074	46,277,862	31,736,647
Federal share of unliquidated obligations	4 th	0	0	7,192,536	5,160,127	7,529,563
	Latest/ Final*	0	0	0	0	7,218,472
Total federal share	4 th	19,561,345	15,376,671	18,380,045	11,031,211	11,238,222
	Latest/ Final*	43,456,631	45,200,145	43,694,074	46,277,862	38,955,119
Recipient share of expenditures	4 th	11,825,715	12,142,966	11,825,715	12,525,012	12,033,355
Recipient share of unliquidated obligations	4 th	0	0	0	0	0
	Latest/ Final*	0	0	0	0	0
Agency actual match (total recipient share)	4 th	11,825,715	12,142,966	11,825,715	12,525,012	12,033,355
	Latest/ Final*	11,825,715	12,142,966	11,825,715	12,525,012	12,033,355
Agency required match (total recipient share required)	4 th	5,294,239	4,161,666	4,534,361	1,588,997	3,056,562
	Latest/ Final*	11,761,452	12,233,330	11,825,715	12,525,012	8,304,373
Over/under match (remaining recipient share)	4 th	-6,531,476	-7,981,300	-7,291,354	-10,936,015	-8,976,793
	Latest/ Final*	-64,263	90,364	0	0	-3,728,982
MOE **	4 th					
	Latest/ Final*		12,142,966	11,825,715	12,525,012	12,033,355
Unobligated funds qualifying for carryover	4 th	23,895,286	29,823,474	25,314,029	35,246,651	34,623,295
	Latest/ Final*	0	0	0	0	6,906,398
Total federal program income earned	4 th	1,883,263	2,803,412	1,440,155	941,399	1,355,548
	Latest/ Final*	1,883,263	2,803,412	1,459,272	995,088	1,355,548
Total indirect costs	4 th	2,147,951	2,044,326	771,207		334,146
	Latest/ Final*	2,147,825	3,565,719		1,535,645	1,033,539

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

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

Fiscal Analysis

RSA reviewed fiscal performance data from federal FY 2008 through federal FY 2012. Based on the data in the table above, the agency matched its grant award in each fiscal year reviewed and was able to carry over significant amounts of unexpended VR program funds each year. The amount of carry-over increased each year, from \$23,895,286 in FY 2008 to \$34,623,295 in FY

2012. Because the size of the grant remained relatively constant over these years, the amount of carry-over funds represented an increasing percentage of the grant, from 55 percent in FY 2008, to 75 percent in FY 2012. WADVR reported that this trend was due primarily to the availability of VR program funds through the American Reinvestment and Recovery Act of 2009, which the agency expended in place of its funding under the Rehabilitation Act. In addition, WADVR used the carry-over of funds as a method to guard against future reductions in state-appropriated matching funds.

However, during the period under review, WADVR received approximately 99 percent of the required non-federal share from state appropriations, with the remainder provided through a small set-aside from the Office of Deaf and Hard of Hearing. According to the data in Table 2.2, the agency met its maintenance of effort requirements in each year of the review period.

SECTION 3: EMERGING PRACTICES

While conducting the monitoring of the VR program, the review team collaborated with the WADVR, 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, including Supported Employment and Self-Employment

- **Access to Markets Program**: In partnership with the Washington Community Alliance for Self-Help (CASH), WADVR established a statewide program for entrepreneurs with disabilities that is intended to increase sales and build visibility through improved marketing strategies. Through this program, WADVR provides funding for an outside sales specialist who assists individuals with product evaluation and marketing, the development of marketing plans, and the placement of products at the Ventures retail store located in the Historic Pike Place Market in Seattle. The program also provides support to WADVR counselors and its approved business consultants during the stages of the self-employment process, including the determination of concept feasibility and start-up.
- **Partnership with Washington State Microenterprise Association (WSMA)**: The Washington State Microenterprise Association is a non-profit organization committed to strengthening economic development systems that support the growth of strong and effective Microenterprise Development Organizations. WADVR is a paid member of the WSMA and participates in statewide microenterprise forums and activities. WADVR partnered with the WSMA to provide WADVR staff and customers with a clearinghouse

of microenterprise and small business information. The website provides an interactive option for the WADVR counselor and customer to explore the option of self-employment by utilizing a variety of assessment tools, guiding the customer through the steps of developing a sound business idea and providing access to microloan programs. Counselors and customers can also obtain technical assistance by submitting questions through the WSMA website.

- **On-the-Job Training Pilot Project:** In January 2012, WADVR began a two-year pilot project with the Employment Security Department (ESD) to test a model of service delivery that places WADVR customers in permanent employment through which the employer provides on-the-job training. The pilot project is being conducted at twelve WADVR locations across the state to serve a maximum of 320 customers. The service delivery model includes the following components: referral of the WADVR customer by the VR counselor to an ESD WorkSource Specialist (WSS); the immediate provision of job placement services to the customer, including resume development, identification of job openings, assistance with the submission of applications, the scheduling of interviews, the practice of interview skills and outreach to potential employers; the development of a 90-day training plan by the WSS agreed to by the employer and customer, and approved by the VR counselor; the payment of a monthly training fee to the employer and the submission of a monthly training report by the employer to the WSS and VR counselor; bi-weekly contact by the WSS with the employer and customer; the termination of WSS services at the end of the training period and follow-along by the VR counselor for an additional 90 days, at which time the case is closed if the customer is succeeding in the employment. WADVR also reimburses ESD for the staffing costs associated with the six WSS positions that are dedicated to the pilot project. Performance data is available from WADVR.

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

SECTION 4: RESULTS OF PRIOR MONITORING ACTIVITIES

During its review of the VR and SE programs in federal FY 2013, RSA assessed progress toward the implementation of the goals accepted by WADVR resulting from the prior monitoring review in FY 2007. WADVR was not required to develop a corrective action plan in connection with the FY 2007 monitoring and it does not request additional technical assistance related to the implementation of any of the goals described below.

Goals

In response to RSA's monitoring report dated September 7, 2007 WADVR accepted the goals listed below. A brief summary of the agency's progress toward implementation of each goal is provided.

1. The Number and Quality of Successful Outcomes

Goal: WADVR will manage its resources in an effective manner so that it can improve the quantity and quality of employment outcomes achieved by individuals with disabilities.

Methods of Evaluation: WADVR will be successful if:

- New applications to each area office increase (baseline performance level will be determined in FY 2008); and
- The number of new IPEs developed will increase with an FY 2008 agency performance target of 5,600.

Status: The number of new applications in FY 2008 was 9,599. This number set the baseline for subsequent years. This number continued to increase through FY 2011, when the agency received 11,200 new applications. The number of new IPEs in FY 2008 was 5,059, establishing the target for subsequent years. WADVR's performance on this measure has varied, improving to the development of 5,645 new IPEs in FY 2010, but decreasing to 4,859 in FY 2011. WADVR continues its efforts to increase the number of new applications and the number of new IPEs through outreach efforts.

2. Performance of Service Providers

Goal: DVR will develop a community rehabilitation program (CRP) business model that meets the needs of the agency and enhances provider effectiveness.

Methods of Evaluation: WADVR will be successful if:

- Percent of overall rehabilitation outcomes resulting from CRP placement services compared to previous years;
- Number of CRPs offering benefits planning on a fee for service basis with target to be determined based on assessment of need and identification of high demand areas; and

- Length of time it takes for CRP services to commence after a referral has been made compared to previous years.

Status: WADVR received technical assistance from the Region X TACE to facilitate redeveloping the WADVR CRP business model. As a result, the TACE and WADVR confirm the current CRP business model meets the needs of the agency and enhances provider effectiveness.

3. Requirements for a State Rehabilitation Council

Goal: The governor will appoint a representative of the CAP to the SRC for DVR, in accordance with 34 CFR 361.17(b)(1)(iii), by September 30, 2007.

Method of Evaluation: An appointment is made in accordance with the requirements of federal regulations.

Status: Following the FY 2007 monitoring review, the governor appointed a representative of the CAP to the SRC for WADVR and a CAP representative has consistently served on the SRC since that time.

SECTION 5: FOCUS AREAS

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

The purpose of this focus area was to assess the compliance of WADVR with the federal requirements related to its organization within the Department of Social and Health Services (DSHS) and the ability of WADVR 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 DSHS and WADVR under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which WADVR 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 WADVR 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:

- DSHS and WADVR senior administrators, directors and senior managers;
- DSHS and WADVR staff members responsible for the fiscal management of the VR program;
- SRC chairperson and members;
- Client Assistance Program staff 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 full-time equivalent (FTE) staff working on each program;
- the number of full-time employees (FTEs) in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:

- individuals who spend 100 percent of their time devoted to the rehabilitation work of WADVR;
- individuals who engage in the rehabilitation work of WADVR and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals under WADVR 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 Washington procurement requirements and processes.

Overview

Under the administration of an interim director, WADVR is the DSU in Washington State responsible for the provision of VR services to individuals with disabilities and is located within DSHS, the DSA, which, in turn, is led by a secretary. Sixteen individual program and operational offices administered by assistant secretaries comprise the major components of DSHS, including the Financial Services Administration, Children’s Administration, Economic Services Administration, Juvenile Justice and Rehabilitation Administration, and Aging and Disability Services which itself is comprised of several disability-related units (Behavioral Health and Service Integration, Aging and Long-Term Support, and Developmental Disabilities Administrations). Each program office is led by either a chief financial officer or an assistant secretary. The assistant secretaries responsible for these DSHS major components serve on the “executive leadership team,” established to address the Department’s culture, mission and values for its 16,350 employees.

WADVR is located within the Juvenile Justice and Rehabilitation Administration (JJRA), which is organized into eight program and one operations component, including:

- Models for Change;
- Division of Operations Support Services;
- Division of Institution Programs;
- Division of Treatment & Intergovernmental Programs;
- Office of Juvenile Justice;
- Reentry & Transition Program;
- Special Commitment Center;
- Division of Community Programs and Parole; and
- Division of Vocational Rehabilitation.

The WADVR interim director reports to the assistant secretary of JJRA who reports to the DSHS secretary. WADVR administers the VR, supported employment and independent living programs. There are 322.10 FTEs assigned to WADVR and 292 were filled at the time of this review.

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

Technical Assistance

During the course of its review, RSA provided technical assistance to WADVR related to this focus area, meeting with the secretary of DSHS, the assistant secretary of JJRA and the interim director of WADVR to explain federal requirements governing the organizational structure of the VR program and the non-delegable responsibilities of the DSU as a result of the location of WADVR within JJRA in February 2013. Specifically, RSA provided guidance concerning the placement of the DSU at a comparable level to that of the major components of the DSA (see Section 6, Finding 1), as well as the non-delegable responsibilities of the DSU for the provision of VR services and the expenditure of VR program funds.

B. Transition Services and Employment Outcomes for Youth with Disabilities

The purpose of this focus area was to assess WADVR'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);
- 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 WADVR 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 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 WADVR 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:

- WADVR administrator and senior staff;
- WADVR counselors and transition staff
- liaison from the Office of Superintendent of Public Instruction, the SEA, to WADVR;
- representatives of the parent training and information center established pursuant to section 682(a) of the Individuals with Disabilities Education Act (IDEA);
- SRC chairperson and members;
- Client Assistance Program staff members; and
- TACE center representatives.

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

Technical Assistance

The RSA review team provided technical assistance to WADVR in the area of transition services and employment outcomes for youth with disabilities while onsite in Washington. Specifically, RSA discussed with pertinent WADVR staff:

- the determination of eligibility for individuals with borderline intellectual functioning as explained in TAC 11-01, "Determining Eligibility for Persons with Borderline Intellectual Functioning under the State Vocational Rehabilitation Services Program," January 21, 2011;

- the potential impact on the agency's rehabilitation rate resulting from WADV's practice of reporting the closures of those individuals who exit the VR program after the determination of eligibility, after the development of the IPE, but before receiving services, in the same category as the closures of individuals who exit the program without employment after receiving services;
- the need to provide clarification regarding the agency's financial need policy to families of transition-age youth, so that the policy does not act as a deterrent to the participation of these youth in the VR program;
- the agency's general practice of not providing summer work experiences to youth with disabilities while still in high school and the benefit these experiences can have in areas of the state where school resources are limited;
- emerging practices related to collaborative relationships with state agencies responsible for the provision of services to individuals, including youth, with mental illness;
- reporting requirements associated with the conduct of the comprehensive statewide needs assessment over a multi-year period, rather than during a single year; and
- the large percentage of transition-age youth whose cases were closed prior to the receipt of services, approximately 42 percent in FY 2011, along with the increasing percentage of youth whose cases were closed after they were determined not eligible for services, representing approximately ten percent of all youth whose cases were closed in FY 2011.

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 website generated from reports submitted by the VR agency, e.g., Financial Status Report (SF-269/SF-425) and the Annual VR Program/Cost Report (RSA-2). The review covered fiscal data from FY 2008 thru FY 2012, 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 WADVR did not result in the identification of observations and recommendations. The compliance findings identified by RSA through the implementation of this focus area are contained in Section 6 of this report.

Technical Assistance

RSA provided technical assistance to WADVR related to the fiscal integrity of the VR program while onsite in Washington. At the agency's request, RSA explained the federal requirements pertaining to third-party cooperative arrangements for the purpose of improving the delivery of VR services to individuals with disabilities set forth in 34 CFR 361.28, particularly considerations related to the contribution of non-federal share, allowable services and statewideness. In addition, RSA explained the requirement to describe in the VR State Plan, as well as the State Plan for Independent Living, the use of VR funds reserved for innovation and expansion activities to support the Statewide Independent Living Council resource plan, as permitted by Section 101(a)(18) and regulations at 34 CFR 361.35.

SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

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

WADVR 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 WADVR 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. DSU Organizational Structure

Legal Requirements:

- Rehabilitation Act of 1973, as amended – Section 101(a)(2)(B)(ii)(IV)
- VR Program Regulations - 34 CFR 361.13(b)(1)(iv)
- RSA-TAC-12-03, "Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program," April 16, 2012

Finding:

WADVR is not in compliance with the organizational requirements for a designated state unit (DSU), as required by section 101(a)(2)(B)(ii)(IV) of the Rehabilitation Act and 34 CFR 361.13(b)(1)(iv), because it is not located at a comparable level and does not have a comparable status as other major components of the Department of Social and Health Services (DSHS), the designated state agency (DSA).

According to the FY 2013 VR State plan (the most recent plan approved by RSA) and all previous plans, WADVR is the DSU in the State of Washington responsible for the administration and operation of the VR program; these plans also identify DSHS, under the administration of a secretary, as the DSA. Assistant secretaries are responsible for each of the sixteen individual program and operational administrations that comprise the major components of DSHS.

Until February 2013, the director of WADVR reported to the chief of staff within the office of the DSHS secretary. On February 8, 2013, the DSHS secretary notified his department employees and stakeholders that, along with other organizational changes, WADVR would be located immediately within the Juvenile Justice and Rehabilitation Administration (JJRA). In addition to WADVR, JJRA is comprised of seven other programs and one operational division, each led by a chief executive officer or director who reports to the JJRA assistant secretary. The other divisions include the:

- Models for Change;
- Division of Institution Programs;
- Division of Treatment & Intergovernmental Programs;
- Office of Juvenile Justice;
- Reentry & Transition Program;
- Special Commitment Center;
- Division of Community Programs and Parole; and
- Division of Operations Support Services.

Section 101(a)(2)(B)(ii)(IV) of the Rehabilitation Act and 34 CFR 361.13(b)(1)(iv) require that the DSU, where one exists, must be “located at an organizational level and [have] an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.” “This particular requirement...affirms a cardinal principle concerning the organization of the VR program – that the VR program is an integral categorical program, not to be merged with other organizations of state government.” (TAC 12-03, Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program, page 8 (April 16, 2012))

As further stated in TAC 12-03, “[t]he requirement that the DSU be located at a level and have a status comparable to that of the other major units of the DSA, in effect, places constraints upon the alternatives available to the State in designating an agency to administer the VR program...[The] objective of these constraints is to prevent the submersion of the VR program within the structure of the DSA, which could reduce the program’s scope and effectiveness” (id.)

It has been the “long-standing” policy of RSA that an evaluation of whether the DSU is located at an organizational level comparable to other major organizational units within the DSA is based on, among other factors, the directness of the reporting line from the VR director to the chief officer of the DSA, as compared with that of the heads of other major organizational units within the DSA. It is permissible for state government structures to include a level of organization outside the head of the DSA’s office that incorporates the DSU within its own structure, thus creating an additional organizational layer between the head of the DSA and the DSU. However, the evaluation of whether this intervening organizational level interferes in the directness of communication between the heads of the DSU and DSA is based on considerations of the role of the head of the intervening organization in terms of the administration of the VR and other programs located within the intervening level. For example, RSA will examine the involvement of the head of the intervening organization in decisions related to legislative, budget, strategic planning, policy development, and the allocation of resources (including staff) of the VR program, particularly as compared to the involvement of the heads of intervening

levels in matters administered by the directors of other major components within the DSA. Under circumstances where the DSU director does not provide input on such matters directly to the head of the DSA, but rather does so through the head of the intervening organization, RSA will consider whether the input provided by the VR director is marginalized prior to being transmitted to the head of the DSA (id).

According to the DSHS organizational chart dated February 26, 2013, 16 individual program and operational administrations comprise the major components of DSHS. In addition to JJRA, examples of these administrations include the Financial Services Administration, Children's Administration, Economic Services Administration, and Aging and Disability Services Administration, which is comprised of several disability-related units: the Behavioral Health and Service Integration Administration, Aging and Long-Term Support Administration and the Developmental Disabilities Administration. Each administration is led by either a chief financial officer or an assistant secretary.

Placed within JJRA, WADVR does not constitute a major component of DSHS. In the case of WADVR, the administrator (DSU director) reports to the assistant secretary of JJRA. The assistant secretary of JJRA reports to the DSHS secretary. The DSHS Public affairs website states that the assistant secretary of JJRA, "...oversees Juvenile Rehabilitation institutions, the Division of Vocational Rehabilitation and the Special Commitment Center for violent sexual predators on McNeil Island in Puget Sound." This reference to the oversight by the assistant secretary with respect to the program offices located within JJRA is consistent with information obtained by RSA during the course of the review. Specifically, the assistant secretary and staff from the JJRA Division of Operation Support Services are involved in decisions with respect to the administrative and fiscal operations of WADVR, such as development and transmittal of budget information, procurement of space, personnel and the physical location of staff. Thus, the assistant secretary of JJRA is performing an administrative role in relation to the activities of WADVR, rather than acting as a conduit of information and facilitator of communication between the DSU director and the head of the DSA as is permitted under Section 101(a)(2) of the Rehabilitation Act and 34 CFR 361.13(b) (TAC 12-03, page 8). Finally, the secretary of DSHS, the assistant secretary of JJRA and the director of WADVR, could not describe any regular and routine mechanisms for direct communication between the director of WADVR and the secretary of DSHS related to the administration and operation of the VR program. For these reasons, it appears that JJRA, not DSHS, is functioning in the manner of a DSA as envisioned under the Rehabilitation Act and implementing regulations.

As described above, WADVR is not located at a comparable level with the sixteen major programmatic and operational administrations within DSHS. Instead, the director of WADVR reports to the assistant secretary of JJRA, who then reports to the secretary of DSHS. In addition, the assistant secretary and other staff of JJRA are involved in the administration of the WADVR VR program, including budget development and personnel matters. Because the assistant secretary of JJRA performs a role beyond that of a conduit of information and facilitator of communication between WADVR and DSHS, and there do not exist any mechanisms for direct communication between the director of WADVR and the secretary of DSHS, so critical to the organizational integrity of a DSU, the relationship of WADVR to DSHS does not satisfy the requirements of Section 101(a)(2) of the Rehabilitation Act and 34 CFR 361.13(b).

Corrective Action 1: WADVR must provide written assurance to RSA within ten days following the issuance of the final monitoring report that it will work with the secretary of DSHS to ensure that revisions will be made to the DSHS organizational structure in a timely manner that will enable WADVR to comply with Federal organizational requirements for the DSU of the VR program. In particular, the revised organizational structure must ensure that WADVR has a status equal to other major organizational units within the DSA.

2. Personnel Activity Reports

Legal Requirements:

- VR Program Regulations - 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

Finding:

WADVR is not in compliance with regulations at 34 CFR 361.12, 34 CFR 80.20(a) and 2 CFR 225 Appendix B, paragraphs 8.h.4 and 8.h.5, which require employees working on multiple cost objectives to maintain Personnel Activity Reports (PARs) that reflect an after-the-fact distribution of the actual activity of each employee, in order to determine the amount of expenses to be allocated to the VR award. Federal regulations require WADVR to assure in its State Plan that it will implement policies and procedures for the efficient and effective administration of the VR program to ensure that all functions are carried out properly and financial accounting is accurate (34 CFR 361.12). WADVR is also required to implement fiscal controls to ensure that VR funds are expended and accounted for accurately and that expenditures are traceable to a level sufficient to determine that such expenditures were made in accordance with applicable federal requirements (34 CFR 80.20(a)). PARs must be signed by the employee, prepared at least monthly, coincide with one or more pay periods, and account for the total activity for which each employee is compensated.

WADVR administers the VR and state independent living services (SILS) programs. The agency administers the SILS program by contracting funds received pursuant to Title VII, Part B, of the Rehabilitation Act to six centers for independent living (CILs). Managing the program involves efforts of the director, contract manager and fiscal staff. During the on-site review, conversations with the contract manager indicated that the CILs have required an extensive amount of technical assistance, including actions related to the potential recoupment of funds.

As part of the monitoring review, RSA requested that WADVR provide documentation demonstrating the distribution of personnel costs across awards including any PARs or related documentation for staff working on more than one award. WADVR subsequently informed RSA that all personnel costs are paid entirely using VR program funds, and as such PARs or other documentation necessary to demonstrate compliance with 2 CFR 225 Appendix B, paragraphs 8.h.4 and 8.h.5 are not maintained. Because the director, contract manager and fiscal staff devote a portion of their time to the administration of the SILS program, their salaries and

associated costs must be allocated proportionately. The costs charged to the VR program for personnel time and effort spent administering the SILS program represent unallowable VR costs. Therefore, the costs associated with these positions, including salary, benefits and leave, must be allocated proportionately to the SILS and VR program, based upon the actual time spent on each program as reported on the PAR.

Corrective Action 2: WADVR must develop and implement procedures, including monitoring processes, to ensure that individuals who work on more than one federal award or cost objective complete personnel activity reports or equivalent documentation that reflect an after-the-fact distribution of the actual activity of each employee; accounts for the total activity for which each employee is compensated; is prepared at least monthly, coincides with one or more pay periods; and, are signed by the employee in accordance with 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5. The procedures must ensure that the PAR documentation is used to allocate personnel costs in proportion to the time spent working on the programs.

3. Unallowable VR Expenditures – Facility Costs

Legal Requirements:

- Rehabilitation Act—Sections 7(1)(h) and 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.5(b)(2)(viii) and 34 CFR 361.12
- EDGAR – 34 CFR 80.20(a)
- Federal Cost Principles—2 CFR 225, Appendix A, paragraph C

Finding:

WADVR is not in compliance with Section 111(a) (1) of the Rehabilitation Act, and regulations at 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a) and 2 CFR 225 Appendix A, paragraph C, to the degree that it expended VR program funds on costs related to facility space it did not occupy, because such expenditures are not associated with the administration of the VR program.

As a recipient of Title I VR funds, WADVR 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)). WADVR 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).

On October 1, 2007, space formerly occupied by WADVR in the Shelton Washington DSHS building was assumed by the DSHS Division of Fraud Investigation (DFI). The DSHS Leased Facilities Unit made the determination that WADVR would continue to pay for the space now occupied by DFI through the end of the State fiscal biennium (June 30, 2009) as WADVR had

been budgeted to pay for this space. For the period beginning October 1, 2007 through June 30, 2009, WADVR paid \$12,503.35 for the space occupied by DFI. The DSHS Leased Facilities Unit changed its practice on July 1, 2009. WADVR was not charged for the DFI space after June 30, 2009.

The VR funds used to pay for facilities leased by DFI are not an allowable cost to the VR program, because these expenditures are not associated with the administrative costs of the VR program as defined by the Rehabilitation Act and its implementing regulations. According to the definition of “administrative cost,” VR agencies can expend funds for the purpose of, “Operating and maintaining designated State unit facilities, equipment, and grounds” (Section 7(1)(h) of the Rehabilitation Act; 34 CFR 361.5(b)(2)(viii)). Because WADVR did not occupy the space described in the above paragraph, the expenditure of VR program funds associated with that space was not related to the administrative program. Therefore, these expenditures were not allowable or allocable to the VR program in accordance with pertinent provisions of the Rehabilitation Act, VR program regulations and the federal cost principles contained in 2 CFR 225, Appendix A, paragraph C.

Corrective Action 3: WADVR must:

- 3.1 cease using VR funds to pay costs that are unallowable in accordance with Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and federal cost principles at 2 CFR 225, Appendix A, paragraph C, including the cost of space occupied by entities other than WADVR; and
- 3.2 develop and implement internal control processes to ensure that VR program funds are expended only for costs that are allowable and allocable to the programs in accordance with the Rehabilitation Act, implementing regulations and the federal cost principles at 2 CFR 225, Appendix A, paragraph C.

4. Program Income

Legal Requirements:

- EDGAR— 34 CFR 80.21(f)(2)

Finding:

WADVR is not in compliance with regulations at 34 CFR 80.21(f)(2) to the degree that it expended VR program funds when program income was available for disbursement. WADVR must assure that VR funds are drawn and expended from federal accounts only when program income is not available to be expended to cover the same costs (34 CFR 80.21(f)(2)).

A review of reports from the federal grants management system (G5) and Federal Financial Reports (SF-425s) indicate that WADVR drew down federal funds when program income was available for disbursement. As indicated by the chart below, WADVR ended each fiscal year between 2010 and 2012 with program income available to be disbursed, despite having drawn down VR funds throughout the year.

**Table 6.1
WADVR Federal Drawdowns and Unexpended Program Income
FY 2010 through FY 2012**

Fiscal Year	Federal cash disbursements (Drawdowns)	Total Federal Income Earned	Unexpended Program Income
2010	\$ 11,187,509	\$ 1,440,155	\$ 1,440,155
2011	\$ 5,871,084	\$ 941,399	\$ 941,399
2012	\$ 3,708,659	\$ 1,355,548	\$ 1,164,289

Discussions with WADVR indicated that agency officials and staff are aware of the requirement to spend program income before drawing down VR funds, but believed it applied only to program income and VR funds made available within the same year. For example, WADVR did not draw down FY 2012 funds while FY 2012 program income was available. However, the agency drew down FY 2011 funds when FY 2012 program income was available to be expended. Regulations at 34 CFR 80.21(f)(2) require that program income be dispersed before drawing down federal funds and does not provide for exceptions based on the year federal funding was made available or the year program income was received.

Corrective Action 4: WADVR must:

- 4.1 cease expending federal funds when program income is available, in accordance with EDGAR— 34 CFR 80.21(f)(2); and
- 4.2 develop written processes necessary to ensure that VR funds are not expended when program income is available in accordance with 34 CFR 80.21(f)(2).

5. Internal Controls

Legal Requirements:

- Rehabilitation Act – Section 111(a)(1)
- VR Program Regulations - 34 CFR 361.3 and 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a); 34 CFR 80.40(a)

Finding:

WADVR is not in compliance with regulations at 34 CFR 361.12 and 34 CFR 80.20(a) because it does not ensure that charges to VR program funds by the regional business centers (RBC) for WADVR facility costs were used properly and efficiently and only for allowable VR program expenditures as required by Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3.

As a recipient of VR funds, WADVR is required to:

- 1) administer the program properly and efficiently (34 CFR 361.12);
- 2) ensure that VR funds are properly accounted for and that accurate data are collected and reported (34 CFR 80.20(a)); and
- 3) 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 and 34 CFR 361.3).

RBCs are regional agencies that provide a variety of fiscal processing services to agencies within Washington state government. WADVR reports that RBCs make direct payments to landlords for a number of WADVR leases for space occupied by VR staff. Although WADVR has not entered into a written agreement with the RBCs detailing the manner in which the RBCs will pay for VR facility costs, WADVR has developed an approved lease budget developed and maintained by DSHS, the DSA. However, the RBCs pay all invoices in accordance with the lease budget using VR program funds without WADVR reviewing the actual expenses to assure the costs are allocable or allowable. The RBC pays these expenses directly and does not allow WADVR to reconcile expenses at a later date.

The issue listed above involves coordination with a number of agencies not directly under the auspices of WADVR. Regardless, WADVR, as the DSU, is required to have methods of administration necessary to ensure financial accountability and accurate accounting of allowable expenditures for the VR program. Even when the transactions are between state agencies or other entities, WADVR is required to maintain control of and monitor the expenditure of VR funds as necessary to ensure they are only used in accordance with VR statutes, regulations and policy (34 CFR 80.40(a)). The example detailed above demonstrates that WADVR does not have sufficient processes to ensure it expends and accounts for VR grant funds in accordance with 34 CFR 361.12 and 34 CFR 80.20(a).

Corrective Action 5: WADVR must:

- 5.1 cease using VR funds to pay costs that lack the supporting documentation necessary to ensure that such costs are allowable in accordance with Section 111(a)(1) of the Rehabilitation Act and regulations at 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a), including those associated with VR program facility costs paid by the RBCs; and
- 5.2 develop and implement internal control processes necessary to ensure that VR funds expended through the RBCs are allowable and allocable to the VR program in accordance with federal requirements.

6. Development of the Individualized Plan for Employment (IPE)

Legal Requirements:

- Rehabilitation Act—Section 101(a)(9)
- VR Program Regulations—34 CFR 361.22(a); and 361.45 (a)(1) and (e)

Finding:

WADVR is not in compliance with regulations at 34 CFR 361.22(a)(2), which requires WADVR to develop and approve an IPE for a student in transition who has been determined eligible for the VR program, prior to the student exiting the school setting. In addition, WADVR did not develop IPEs for all youth with disabilities within the timeline specified in its written VR program policies, as required by Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e).

During the on-site monitoring process, RSA interviewed WADVR staff responsible for the provision of transition services to eligible students with disabilities. As part of those interviews, WADVR staff informed RSA that it was their estimation that the agency was developing and approving IPEs for 40-60 percent of the transition-age students determined eligible for VR services prior to the students leaving the school setting. This indicates that approximately half of the students determined eligible for the VR program were exiting school without an IPE developed and approved, which is not in accordance with the requirements of 34 CFR 361.22(a).

WADVR does not track in its case management system the percentage of youth with disabilities who have an IPE in place prior to leaving the school setting, so the exact percentage of transitioning youth with disabilities who have an IPE prior to exiting the school system could not be precisely determined during the RSA review. Nonetheless, numerous stakeholders, including WADVR staff and community partners, reported to RSA that VR counselors encounter challenges to participating in meetings pertaining to the individual education plans for students with disabilities during which WADVR's role in transitioning from school to work could be discussed, resulting in delays of the development of the IPE prior to the student leaving school.

Pursuant to Section 101(a)(9) of the Rehabilitation Act and in accordance with the implementing regulations at 34 CFR 361.45(a)(1) and (e), WADVR has established a timeline of 120 days from the date on which eligibility is determined for the development of the IPE for each student served. As part of its monitoring process, RSA reviewed the data provided by WADVR in the RSA-911 Report regarding the length of time taken for IPE development. In particular, WADVR data show:

- In FY 2011, slightly more than 73 percent of youth with disabilities had an IPE developed within 180 days, compared to the national average for combined VR agencies of 80 percent. Given that this is 40 days longer than the agency's time standard of 120 days, RSA assumes the percentage of IPEs developed within the standard is less than the 73 percent reported. Trend data over five years demonstrates that WADVR is improving on this measure, as only 43 percent of youth with disabilities had an IPE in less than 180 days in FY 2007. It then dipped slightly to 40 percent in FY 2008, before trending upward to 54 percent and 63 percent in FYs 2009 and 2010 respectively. The exact number and percentages cannot be precisely calculated as RSA's data collection reports in three month increments – i.e., 0-90 days, and 91-180 days.
- A significant percentage of youth with disabilities exit the VR program after eligibility is determined and before an IPE is developed. In FY 2011, 42.2 percent of youth with disabilities exited the VR program at this stage in the VR process, compared to the

national performance for combined VR agencies of 27.2 percent in that same fiscal year. WADVR's performance on this measure fluctuated over the five years reviewed by RSA, from 53.6, 56.4, 44.2, and 42.6 percent in FY 2007 to FY 2010 respectively. Although WADVR has improved on this measure since FY 2007, data show that performance has not changed appreciably over the past three fiscal years for which there is verified data.

As the five-year data demonstrate, WADVR did not fully comply with Section 101(a)(9) of the Rehabilitation Act and the requirements of 34 CFR 361.45(a)(1) and (e), because it did not develop IPEs for all youth with disabilities in a timely manner and within the 120-day standard established by WADVR pursuant to these federal requirements.

Corrective Action 6: WADVR must:

- 6.1 develop and approve IPEs for eligible students with disabilities as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for VR services leaves the school setting, as required by 34 CFR 361.22(a)(2); and
- 6.2 take the steps necessary to ensure that IPEs are developed for all youth with disabilities in a timely manner and within the 120 days of eligibility determination 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).

APPENDIX A: AGENCY RESPONSE

Section 4: Results of Prior Monitoring Activities

WADVR does not request additional technical assistance regarding Goals identified in the FY 2007 monitoring report.

Section 5: Focus Areas

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

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

Transition Services and Employment outcomes for Youth with Disabilities

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

Fiscal Integrity of the Vocational Rehabilitation Program

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

Section 6: Compliance Findings and Corrective Actions

1. DSU Organizational Structure

Corrective Action 1: WADVR must provide written assurance to RSA within ten days following the issuance of the final monitoring report that it will work with the secretary of DSHS to ensure that revisions will be made to the DSHS organizational structure in a timely manner that will enable WADVR to comply with Federal organizational requirements for the DSU of the VR program. In particular, the revised organizational structure must ensure that WADVR has a status equal to other major organizational units within the DSA.

Agency Response: Finding number 1 of Section 6: Compliance Findings and Corrective Action of the Rehabilitation Services Administration's (RSA) draft monitoring report indicated WADVR is not in compliance with the organizational requirements for a designated state unit (DSU), as required by section 101(a)(2)(ii)(IV) of the Rehabilitation Act and 34 Code of Federal Regulation (CFR) 361.13(b)(1)(iv) due to WADVR not being at a comparable level and not having comparable status within the designated state agency (DSA) as other major components. WADVR's response is the DSU is at a level of status that historically is comparable to previous

levels of status within the DSA and, thus, in compliance. In addition, WADVR is at a level of status as other major components within the DSA.

WADVR has a long history of being placed in various administrations while located in the Department of Social and Health Services (DSHS), the current DSA. In one previous configuration, WADVR was in the Rehabilitation Services Administration (RSA). While in this organization structure, the WADVR Director reported directly to the DSHS Assistant Secretary in charge of the Administration. The WADVR Director did not report directly to the DSHS Secretary. Nonetheless, WADVR maintained autonomy and integrity in the provision of services. This was the case in all of the previous organizational configurations.

At first glance, WADVR may not seem to be at the same level of status as other major components, but at closer inspection it is. While the majority of the other divisional programs provide services that may be more closely aligned with other programs within their administration, WADVR is of equal status. For example, the Economic Services Administration (ESA) has a number of divisional programs- Community Services Division, Division of Support Enforcement, etc. These programs are, in some aspect, at the same level of status as WADVR yet these programs report directly to the Administration's Assistant Secretary. These programs also offer many services focused on the economic improvement of the customers served, which is somewhat akin to WADVR mission.

For these two reasons, WADVR is in compliance with the organizational requirements for a designated state Unit (DSU), as required by section 101(a)(2)(ii)(IV) of the Rehabilitation Act and 34 Code of Federal Regulation (CFR) 361.13(b)(1)(iv).

RSA Response: RSA appreciates WADVR's efforts to indicate its compliance with the organizational structure requirements of the DSA and DSU for the VR program by describing the location of WADVR in prior configurations of DSHS, and the alignment of the services provided by other programmatic offices located at the level of WADVR within the current structure of DSHS with those provided by WADVR. However, RSA has based this finding solely on the facts associated with the location of WADVR within the structure of DSHS as of February 2013 and does not take into account previous configurations of DSHS and WADVR, which RSA has not reviewed and on which it has no comment.

In addition, though RSA agrees that other programmatic offices, such as those located within the Economic Services Administration, have similar missions when compared to that of WADVR, it is RSA's long-standing policy to analyze compliance with the requirements of section 101(a)(2)(B)(ii)(IV) of the Rehabilitation Act and 34 CFR 361.13(b)(1)(iv) by considering the line of communication between the head officer of the DSU with that of the DSA and the role played by the head officer of any intervening organizational unit in the administration of the DSU. As explained in the finding, the WADVR administrator reports to the assistant secretary of JJRA, who, along with other staff of JJRA, is involved in the oversight and administration of the WADVR VR program, a role that is beyond that of a facilitator of communication between the administrator of WADVR and the secretary of DSHS. Furthermore, officials of DSHS, JJRA and WADVR provided RSA with no evidence of regular and routine direct communication between the WADVR administrator and the DSHS secretary with respect to the administration

and operation of the VR program. It is for these reasons that RSA has found that DSHS and WADVR are not in compliance with the organizational structure requirements for the VR program.

WADVR did not provide in its response evidence, beyond that which was reviewed by RSA and discussed with the Agency and DSA during the course of monitoring, describing mechanisms for direct communication between the head officers of WADVR and DSHS with respect to the VR program. Consequently, the finding stands as written and WADVR must take the necessary corrective actions to bring the organizational structure of the VR program into compliance with Section 101(a)(2)(B)(ii)(IV) of the Rehabilitation Act and 34 CFR 361.13(b)(1)(iv).

Technical Assistance: WADVR may request technical assistance.

2. Personnel Activity Reports

Corrective Action 2: WADVR must develop and implement procedures, including monitoring processes, to ensure that individuals who work on more than one federal award or cost objective complete personnel activity reports or equivalent documentation that reflect an after-the-fact distribution of the actual activity of each employee; accounts for the total activity for which each employee is compensated; is prepared at least monthly, coincides with one or more pay periods; and, are signed by the employee in accordance with 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5. The procedures must ensure that the PAR documentation is used to allocate personnel costs in proportion to the time spent working on the programs.

Agency Response: Individuals who spend time on multiple cost objectives are paid with 100 percent General Fund State dollars with the exception of three individuals. One individual, the contracts monitoring manager, spends approximately 11 percent of her time on IL Part B activities on a consistent basis. This individual maintains time records and calculates time spent on Part B activities monthly. Charges related to Part B will be moved from the VR Basic Support grant to the Social Security program income on a quarterly basis after-the-fact. Other individuals who spend time on IL Part B include one contracts specialist, one fiscal analyst, and the Director. These three individuals spend minimal time on IL Part B activities. Resources to maintain time records for these three individuals would exceed the time spent on Part B activities.

RSA Response: WADVR states in its response that the personnel costs for any staff working on multiple cost objectives are supported with state general funds only. However, it is not clear from this statement if these general funds are used to satisfy the VR program matching requirement only. If so, these funds can only be used for allowable costs under the VR program. To the degree that these state general funds are used to match federal VR program funds and represent the time staff devotes to programs other than the VR program, such expenditures are not allowable under the VR program.

In addition, RSA appreciates that WADVR will comply with the federal cost principles by preparing PARs for the contracts manager indicating the time she spends on the SILS program. However, the regulations at 2 CFR 225 Appendix B, paragraphs 8.h.4 and 8.h.5 do not make

exceptions for those instances in which personnel devote only a minimal amount of time to the activities of a particular federal award or cost objective; nor do the regulations take into consideration the cost of preparing PARs in such instances. Therefore, the finding stands as written and WADVR must take the corrective actions necessary to bring itself into compliance with 2 CFR 225, Appendix B, paragraph 8.H.4 and 8.H.5 by developing PARs for all personnel who devote a portion of their time to the activities of multiple cost objectives.

Technical Assistance: WADVR may request technical assistance.

3. Unallowable VR Expenditures – Facility Costs

Corrective Action 3: WADVR must:

- 3.1 cease using VR funds to pay costs that are unallowable in accordance with Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and federal cost principles at 2 CFR 225, Appendix A, paragraph C, including the cost of space occupied by entities other than WADVR; and
- 3.2 develop and implement internal control processes to ensure that VR program funds are expended only for costs that are allowable and allocable to the programs in accordance with the Rehabilitation Act, implementing regulations and the federal cost principles at 2 CFR 225, Appendix A, paragraph C.

Agency Response: As of July 1, 2009, the DSA no longer charged VR for facility space that was not occupied by VR. VR educated the DSA regarding unallowable cost and federal cost principles. VR was assured by the DSA that VR funds will only be used for VR activities. VR is implementing a process to monitor all lease payments after-the-fact to ensure federal grant funds are expended appropriately. Funding appropriated to VR for lease activities will remain with the VR program if appropriated funds are unspent.

RSA Response: RSA appreciates that the DSA is no longer charging VR for facility space not occupied by WADVR and is implementing a process to monitor lease payments. RSA encourages WADVR to use the steps outlined in the Agency's Response as the foundation for developing corrective actions to ensure compliance with pertinent federal requirements. The finding remains unchanged.

Technical Assistance: WADVR may request technical assistance.

4. Program Income

Corrective Action 4: WADVR must:

- 4.1 cease expending federal funds when program income is available, in accordance with EDGAR— 34 CFR 80.21(f)(2); and
- 4.2 develop written processes necessary to ensure that VR funds are not expended when program income is available in accordance with 34 CFR 80.21(f)(2).

Agency Response: VR will expend program income prior to expending grant funds. During the carry over period, VR will move federal grant expenditures from the Basic Support grant to program income without regard to the grant period we incurred the expenditure and the period the revenue was received. For example: DVR will expend FFY 2013 grant funds during the carry over period or the second year of the grant. While program income is received during the FFY 2014 period, VR will move FFY 2013 grant expenditures to the program income received during FFY 2014.

RSA Response: RSA appreciates that WADVR will draw down program income prior to expending grant funds. RSA strongly encourages WADVR to use the steps outlined in the Agency's Response as the foundation for developing corrective actions to ensure compliance with pertinent federal requirements. The finding remains unchanged.

Technical Assistance: WADVR may request technical assistance

5. Internal Controls

Corrective Action 5: WADVR must:

- 5.1 cease using VR funds to pay costs that lack the supporting documentation necessary to ensure that such costs are allowable in accordance with Section 111(a)(1) of the Rehabilitation Act and regulations at 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a), including those associated with VR program facility costs paid by the RBCs; and
- 5.2 develop and implement internal control processes necessary to ensure that VR funds expended through the RBCs are allowable and allocable to the VR program in accordance with federal requirements.

Agency Response: Although Regional Business Centers pay for VR leases only, VR will implement a process to monitor all lease payments after-the-fact to ensure federal grant funds are expended appropriately.

RSA Response: RSA appreciates that WADVR will implement a process to monitor all lease payments. RSA encourages WADVR to outline the process referred to in the Agency's Response as the foundation for developing corrective actions to ensure compliance with pertinent federal requirements.

Technical Assistance: WADVR may request technical assistance.

6. Development of the Individualized Plan for Employment (IPE)

Corrective Action 6: WADVR must:

- 6.1 develop and approve IPEs for eligible students with disabilities as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for VR services leaves the school setting, as required by 34 CFR 361.22(a)(2); and

6.2 take the steps necessary to ensure that IPEs are developed for all youth with disabilities in a timely manner and within the 120 days of eligibility determination 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: The Compliance Findings and Corrective Action of the Rehabilitation Services Administration's (RSA) draft monitoring report indicated WADVR is not in compliance with the development and approval of an IPE for students in transition who have been determined eligible for VR services, in accordance with 34 CFR 361.22(a)(2). The finding further states that WADVR has not developed IPEs for all eligible transition youth within the timeline specified in the VR program policies, as required by Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e).

WADVR strives to develop IPEs for transitioning youth as soon as possible after the youth is determined eligible, at the very least, no later than by the time the youth exits school. WADVR works with local educational agencies (LEA) to identify referrals for VR services at the beginning of the youth's last year of school, sooner if possible. WADVR's current practice is to monitor progress towards IPE development in a manner that will allow the VRC of record to work with the transition youth, while in school, to complete the necessary activities so the IPE is in place when the youth exits school or, preferably, has a job before exiting school.

WADVR established IPE development guidelines on a case-by-case basis (see WADVR Customer Service Manual page 609). While WADVR's case management system tracks the timeline of the transition customer and the VRC of record documents progress made towards IPE development on a regular basis in the case management system, WADVR recognizes that certain factors may cause the development of the customer's IPE to be impractical or not feasible before the student exits school. For example, WADVR may identify a transition student late in the school year or the student may choose not to make timely decisions regarding the development of an IPE.

For these reasons, WADVR is in compliance with the development and approval of an IPE for students in transition who have been determined eligible for VR services, in accordance with 34 CFR 361.22(a)(2), Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e).

RSA Response: RSA appreciates WADVR's efforts to develop IPEs for transitioning youth in a timely manner prior to the time the youth exit from the school setting. However, as explained in the finding, WADVR must develop these IPEs within the timeline it established pursuant to Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e), and do so prior to the time the youth exit school. Because WADVR has provided no information indicating that it is in compliance with these requirements, the finding remains unchanged and WADVR must take the steps necessary to comply with Section 101(a)(9) of the Rehabilitation Act and 34 CFR 361.45(e), as well as those regulations at 34 CFR 361.22(a)(2).

Technical Assistance: WADVR may request technical assistance.

APPENDIX B: LEGAL REQUIREMENTS

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

Rehabilitation Act of 1973, as amended

Section 7(1)(h)

(1) Administrative costs

The term "administrative costs" means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program carried out under title I, including expenses related to program planning, development, monitoring, and evaluation, including expenses for--

(h) operating and maintaining designated State unit facilities, equipment, and grounds;

Section 101(a)(2)(B)(ii)(IV) State Plans

(2) Designated state agency; designated state unit

(B) Designated state unit

(ii) if not such an agency, the State agency (or each State agency if 2 are so designated) shall include a vocational rehabilitation bureau, division, or other organizational unit that--

(IV) is located at an organizational level and has an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.

Section 101(a)(9)(A) State Plans

(9) 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 111(a)(1) Payments to States

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 361.12 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 361.13 State agency for administration.

b) Designation of State unit.

- (1) If the designated State agency is not of the type specified in paragraph (a)(1)(i) of this section or if the designated State agency specified in paragraph (a)(3) of this section is not primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities, the State plan must assure that the agency (or each agency if two agencies are designated) includes a vocational rehabilitation bureau, division, or unit that—
 - (i) Is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities and is responsible for the administration of the State agency's vocational rehabilitation program under the State plan;
 - (iv) Is located at an organizational level and has an organizational status within the State agency comparable to that of other major organizational units of the agency.

34 CFR 361.22 Coordination with education officials.

- (a) Plans, policies, and procedures.
- (2) These plans, policies, and procedures in paragraph (a)(1) of this section must provide for the development and approval of an individualized plan for employment in accordance with §361.45 as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for vocational rehabilitation services leaves the school setting or, if the designated State unit is operating under an order of selection, before each eligible student able to be served under the order leaves the school setting.

34 CFR 361.40 Reports.

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

34 CFR 361.45 Development of the individualized plan for employment.

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

- (b) *Other definitions.* The following definitions also apply to this part:
- (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--
 - (viii) Operating and maintaining designated State unit facilities, equipment, and grounds;

Education Department General Administrative Regulations (EDGAR)

34 CFR 80.20 Standards for financial management systems.

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

34 CFR 80.21 Payment.

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

34 CFR 80.40 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 as Cited in the CFR

2 CFR 225—Appendix A

C. Basic Guidelines

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

- a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
- b. Be allocable to Federal awards under the provisions of 2 CFR part 225.
- c. Be authorized or not prohibited under State or local laws or regulations.
- d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
- e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
- f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- g. Except as otherwise provided for in 2 CFR part 225, be determined in accordance with generally accepted accounting principles.
- h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
- i. Be the net of all applicable credits.
- j. Be adequately documented.

3. Allocable costs.

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

....

- c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in 2 CFR part 225 may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.

2 CFR 225—Appendix B

8. Compensation for personal services.

h. Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.

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

by the cognizant Federal agency. Such documentary support will be required where employees work on:

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

RSA subregulatory issuances (policy directives, technical assistance circulars)

RSA-TAC-12-03, Organizational Structure and Non-Delegable Responsibilities of the Designated State Unit for the Vocational Rehabilitation Program, Pages 8-10, Date: April 16, 2012.

....

Organizational Level and Status of the DSU

Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv) require that the DSU, where one exists, must be “located at an organizational level and [have] an organizational status within the designated State agency comparable to that of other major organizational units of the designated State agency.” This particular requirement has remained unchanged since its inclusion in the 1965 amendments to the *VR Act* and, along with the other requirements discussed above, affirms a cardinal principle concerning the organization of the VR program – that the VR program is an integral categorical program, not to be merged with other organizations of state government.

The requirement that the DSU be located at a level and have a status comparable to that of the other major units of the DSA, in effect, places constraints upon the alternatives available to the State in designating an agency to administer the VR program. As clearly articulated in the Congressional Oversight Hearings of November 30 and December 10, 1973, the objective of these constraints is to prevent the submersion of the VR program within the structure of the DSA, which could reduce the program's scope and effectiveness. The requirements have been consistently interpreted to mean that the VR unit must have clear, direct supervision of VR staff with regard to program policy, operations, and related program matters.

When evaluating whether the DSU is at a comparable level to other major organizational units within the DSA, it has been the long-standing policy of RSA that such an evaluation will take into consideration such factors as:

- the directness of the reporting line from the VR director to the head of the DSA;
- the title, status, and grade of the VR director, as compared with those of the heads of other organizational units within the DSA;
- the extent to which the VR director can determine the scope and policies of the VR program; and
- the kind and degree of authority delegated to the director of the DSU for the administration of the VR program.

Each of these factors should be considered when determining if the DSU is located at a level comparable to other major units of the DSA, and not submerged within the organizational structure of the DSA to such an extent that the DSU director is limited in his or her ability to have input into legislative and other matters affecting the VR program in a manner that is more restricted than that of other directors of comparable programs. However, with respect to the consideration of the title, status, and pay grade of the DSU director, RSA has not historically been involved in providing direction to the states regarding personnel matters, except as they relate to the requirements for a comprehensive system of personnel development. Absent a functional impact, differences in title, status and pay grade between the DSU director and other directors in the DSA may not raise concerns in connection with the federal requirements at Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv). On the other hand, if such differences reflect a devaluation of the DSU, this factor should be considered, along with the others mentioned herein, to determine the state's compliance with the federal organizational requirements for the DSU and the ability of the DSU to carry out the non-delegable responsibilities specified in 34 CFR 361.13(c).

Ideally the DSU director reports directly to the head of the DSA. However, given the complexity of some state government structures, the head of the DSA may find it necessary to require that the DSU director report to a deputy within his or her office instead. Such an organizational structure is permissible within the requirements of Section 101(a)(2)(B)(ii)(IV) of the *Rehabilitation Act* and 34 CFR 361.13(b)(1)(iv), so long as the DSU director and the directors of the other major components are treated similarly. Under such arrangements, the deputy within the DSA's office typically functions as a conduit of information and facilitator of communication between the DSU director and the head of the DSA, as well as with the heads of the other major units.

Unlike the above-described organizational structure, some state government structures include a level of organization outside the head of the DSA's office that incorporates the DSU within its own structure, thus creating an additional organizational layer between the head of the DSA and the DSU. While additional organizational layers between the DSA and the DSU may be permissible, their presence can complicate the determination of the proper placement of the DSU. When evaluating this intervening organizational level in light of the factors listed above, especially that of the directness of communication between the head of the DSA and the DSU director, RSA considers the role of the head of the intervening organization in terms of the administration of the VR and other programs located within the intervening level. Specifically, RSA considers whether this individual's role interferes with the DSU director's ability to perform the non-delegable functions listed at 34 CFR 361.13(c). For example, RSA will examine the involvement of the head of the intervening organization in decisions related to legislative, budget, strategic planning, policy development, and the allocation of resources (including staff) of the VR program, particularly as compared to the involvement of the heads of intervening levels in matters administered by the directors of other major components within the DSA. Under circumstances where the DSU director does not provide input on such matters directly to the head of the DSA, but rather does so through the head of the intervening organization, RSA will consider whether the input provided by the VR director is marginalized prior to being transmitted to the head of the DSA. The marginalization of such input could have a negative effect on the ability of the DSU director to carry out the non-delegable responsibilities for the VR program set forth at 34 CFR 361.13(c).

In summary, RSA considers many factors when analyzing whether the DSU is located at a level comparable to other major components within the DSA. Except for the factor pertaining to the VR director's ability to carry out the non-delegable functions required by 34 CFR 361.13(c), none of these factors are dispositive on their own. Instead, they all work together to help RSA determine whether the organizational structure established by the state meets the spirit and intent of the federal requirements.

....