

**FEDERAL FISCAL YEAR 2020  
REPORT ON THE REVIEW  
OF THE  
NEW MEXICO DIVISION OF VOCATIONAL  
REHABILITATION  
VOCATIONAL REHABILITATION  
AND  
SUPPORTED EMPLOYMENT PROGRAMS**



**U.S. Department of Education  
Office of Special Education and  
Rehabilitative Services  
Rehabilitation Services Administration**

**July 13, 2021**

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# SECTION 1: THE SCOPE OF THE REVIEW

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## **A. Background**

Section 107 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA), 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 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 of the Rehabilitation Act subject to the performance accountability provisions described in Section 116(b) of WIOA. 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 Services under Title VI of the Rehabilitation Act.

In Federal fiscal year (FFY) 2020, RSA conducted an off-site review of the State Vocational Rehabilitation Services program (VR program) and the State Supported Employment Services program (Supported Employment program) administered by the New Mexico Division of Vocational Rehabilitation (DVR). RSA—

- Assessed the performance of the VR and the Supported Employment programs with respect to the achievement of quality employment outcomes for individuals with disabilities, including those with significant and most significant disabilities; and
- Identified strategies and corrective actions to improve program and fiscal performance related to the following focus areas:
  - Performance of the VR and Supported Employment programs; and
  - Financial management of the VR and Supported Employment programs.

The nature, scope, and focus of this review and the process by which RSA carried out its review activities from August 18 through October 6, 2020, was defined by information, documents, and data submitted by DVR, as well as technical assistance requests from the VR agency.

## **B. Review Team Participants**

Members of the RSA review team included Samuel Pierre and Caneshia McAllister (Technical Assistance Unit), Tonya Stellar (Vocational Rehabilitation Program Unit), Rimal Desai (Data Collection and Analysis Unit), and Patricia Dickerson (Fiscal Unit). Although not all team members participated in all aspects of the off-site review, each contributed to the gathering and analysis of information, along with the development of this report.

## **C. Acknowledgements**

RSA wishes to express appreciation to the representatives of DVR for the cooperation and assistance extended throughout the review process. RSA also appreciates the participation of

others, such as the State Rehabilitation Council (SRC), the Client Assistance Program, advocates, and other stakeholders in the review process.

## **SECTION 2: FOCUS AREA – PERFORMANCE OF THE STATE VOCATIONAL REHABILITATION SERVICES AND STATE SUPPORTED EMPLOYMENT SERVICES PROGRAMS**

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### **A. Purpose**

Through this focus area, RSA assessed programmatic performance leading to the achievement of employment outcomes, including the quality of those outcomes, by individuals with disabilities served in the VR program through an analysis of VR program data, policies and internal controls, the VR process, and service delivery. The analysis below, along with any accompanying findings and corrective actions, is based, in part, on a review of the programmatic data contained in Appendix A of this report. The data used in the analysis are those collected and reported by the VR agency.

### **B. Analysis of Performance**

#### **The VR Process**

The total number of applicants for VR services declined by 44.1 percent from 4,301 individuals in program year (PY) 2017, to 2,402 individuals in PY 2019. At the same time, the number of eligible individuals decreased by 44.4 percent from 4,134 individuals in PY 2017 to 2,295 individuals in PY 2019. The greatest percentages of participants served by DVR in PY 2019, were individuals with psychological or psychosocial disabilities (32.5 percent), cognitive disabilities (32.2 percent), and physical disabilities (24.8 percent).

During PYs 2017 and 2018, over 99 percent of eligibility determinations were made within 60-days from the date of application and within the Federal standard. However, timely eligibility determinations decreased by 10 percent from PY 2018 to PY 2019 (89.4 percent).

DVR implemented an order of selection (OOS) in FFY 2011, and closed two priority categories, including significantly disabled (SD) and non-significantly disabled (NSD) in August 2018, due to the lack of fiscal resources and staff capacity. DVR communicated that the closure of the SD and NSD priority categories, coupled with a significant staff vacancy rate (over 40 percent during the period under review), contributed to the overall decline in the number of individuals who applied and were determined eligible for VR services, as well as the decline in DVR outreach activities and the agency's ability to serve new VR applicants. DVR is currently serving individuals who are most significantly disabled (MSD), and at the time of the review, there were approximately 600 individuals on a waiting list for services.

During the off-site review, DVR and RSA discussed the agency's plan and strategies to reduce and eliminate the OOS. Specifically, DVR communicated that agency outreach to workforce development partners, local educational agencies and community partners increased since DVR began serving individuals from the SD waiting list in PY 2019. Specifically, DVR reported serving 304 individuals in June 2020 and 334 individuals in July 2020 from its OOS waiting list.

In total, DVR shared that it served and removed 1,200 individuals from the OOS waiting list since September 2019.

DVR indicated that the agency has sustained a dramatic number of vacancies and has experienced staff turnover during the last two years. DVR must seek approval through the State of New Mexico to hire staff and fill staff positions. During the fall of FFY 2020, DVR was given permission to start hiring staff; however, at the time of the review, DVR had 24 VR counselor and four rehabilitation technician vacancies. Not only have staff vacancies affected the agency's ability to serve clients but these vacancies also have negatively affected timely service delivery as four program managers and most VR counselors manage multiple caseloads across ten DVR service areas.

The percentage of individualized plans for employment (IPEs) developed within 90 days from the date of eligibility determination increased from 77.0 percent in PY 2017, to 79.8 percent in PY 2019. The RSA team provided technical assistance on DVR's current and draft policies and practices regarding the development of an IPE, including the State Educational Agency (SEA) memo (issued December 31, 2018), the Area Office Process Model: VR Process (issued June 2019), and draft pre-employment transition services policy and procedures (drafted January 31, 2020). At the time of the review, DVR's existing policy and case review procedures did not include the 90-day standard for IPE development. DVR should include the statutory IPE standard of 90 days from the date of eligibility determination in all of DVR's IPE-related policies and procedures and provide training to staff on the requirements in Section 102 (b)(30)(F) of the Rehabilitation Act and 34 C.F.R. § 361.45(e).

During discussions of strategies and initiatives to improve the timely development of the IPE, DVR communicated that VR counselor performance evaluations include timely eligibility determinations and IPE development. DVR reported that the case management system has an automatic tracking component that alerts VR counselors and supervisors of delays in meeting timelines. RSA recommended DVR change the automatic notification to alert staff when activity due or deadlines are approaching, rather than when deadlines are overdue. The agency shared that counselors are counseled for a "first notice of overdue activities," and disciplinary action is taken for a "second notice of overdue activities." RSA and DVR discussed the need for monthly supervisory and counselor review of activity due reports, including timely eligibility determinations and IPE development. DVR shared that in an effort to improve performance, the agency is in the process of becoming a data-driven agency and using data to inform staff training needs and policy development. DVR is developing strategies to advance VR counselors' career counseling and labor market skills in order to engage and retain VR participants and inform IPE development and service provision.

The number of individuals with an IPE who had not received services decreased from 22 individuals in PY 2017, to 5 individuals in PY 2018; however, this figure increased to 17 individuals in PY 2019. The number of individuals with an IPE who received services also declined from 2,901 participants in PY 2017, to 1,238 participants in PY 2019. DVR suggested that the decline in the number of individuals entering the VR system from PYs 2017 and 2018, had a direct effect on the number of individuals served and the number of individuals who achieved employment during the period under review.

## **Attrition**

The number of individuals who exited the VR program decreased by 22.6 percent from 3,856 individuals in PY 2017, to 2,982 individuals in PY 2019. Of the 2,982 individuals who exited the VR program in PY 2019, 1,196 individuals exited from various stages of the VR process prior to the development of an IPE. During this period of time, the greatest percentage of individuals exited the VR process after eligibility, but from an order of selection waiting list (16.5 percent), after eligibility, but prior to a signed IPE (16.4 percent), and after the development of an IPE and without an employment outcome (38.2 percent). The attrition of eligible individuals with an IPE, prior to the achievement of employment, may be due to the significant decrease in the number of participants who received VR services from 7,368 individuals in PY 2017, to 5,288 individuals in PY 2019.

Of those individuals who exited the VR program in PY 2019, 44.0 percent were reported as “unable to locate,” 19.9 percent were reported as “no longer interested in receiving services or further services,” and 16.2 percent were reported as “all other reasons.” In an effort to decrease attrition, DVR reported that it is engaged in agency discussions and the development of strategies to address timely delivery of services, career counseling strategies, and client engagement. The rehabilitation services unit (RSU) administrator and field operations directors reported that they review data weekly and track fiscal resources and the number of individuals on the order of selection SD and NSD waiting lists. In addition, DVR communicated that it requires multiple attempts be made to contact an individual before a case can be closed as “unable to locate,” including at least three contacts using two modes of communication (e.g., phone call, e-mail or letter). Although case closure reasons are not included in counselor performance evaluations, DVR communicated that program managers must approve all case closures as of April 2020.

The number of individuals who achieved competitive integrated employment decreased from 949 individuals (or 24.6 percent of those who exited the VR program) in PY 2017, to 475 individuals (or 15.9 percent of those who exited the VR program) in PY 2019. The number of participants who exited with a supported employment outcome in competitive integrated employment decreased substantially from 19 individuals in PY 2017, to one individual in PY 2018 and one individual in PY 2019. From PY 2017 to PY 2019, the employment rate declined from 40.7 percent to 29.0 percent. The RSA team discussed DVR’s strategies to decrease attrition, including improving client engagement and the quality of services provided and employment outcomes achieved. Efforts to ensure accurate reporting of outcomes, including reasons for exit were also discussed.

## **VR Services**

From PY 2017 through PY 2019, the number of participants in receipt of VR services decreased from 7,368 to 5,288 individuals. Of the 5,288 participants who received VR services in PY 2019, 596 participants (11.3 percent) received the following postsecondary education training services: graduate degree training (0.8 percent), bachelor’s degree training (5.3 percent), and junior or community college training (5.2 percent). During the same period, DVR reported 192 participants (3.6 percent) as recipients of occupational or vocational training. In PY 2019, 27.2

percent of the 5,288 participants served (1,438 participants) were eligible for measurable skill gains (MSGs); however, DVR reported that 728 participants earned MSGs. From PY 2017 through PY 2019, the percentage of participants eligible for MSGs increased from 17.5 percent to 27.2 percent. During the same period, the number of participants reported as having earned MSGs also increased from 166 individuals in PY 2017, to 728 individuals in PY 2019.

The review of performance data highlighted inconsistencies between the amount of training provided and the number of MSGs reported. Of the 978 participants in receipt of training services in PY 2019, 596 participants (11.3 percent) received postsecondary education. Similarly, MSGs were underreported for students in secondary school during the same period of time. Specifically, DVR reported 6,136 students with disabilities, and 142 secondary diplomas and 433 postsecondary transcripts/report cards measurable skill gains types in PY 2019. Despite the number of participants in receipt of training services, and number of students reported, only 728 participants earned 714 MSGs in PY 2019. From PY 2017 to PY 2019, the number of all measurable skill gains types (i.e., educational functional level, secondary diploma, postsecondary transcript/report card, training milestone and skills progression increased.

DVR acknowledged a significant discrepancy in the number of individuals receiving training services and the number of participants who earned MSGs and agreed that there is a need to identify, evaluate, and address reasons for the differences. DVR communicated that it held statewide trainings on documenting, reporting, and tracking MSGs and credential attainment during PYs 2018 and 2019, including training on entering MSGs in the case management system and obtaining the required supporting documentation. DVR also reported that it was in the process of developing a staff academy to include training on the reporting and documentation of MSGs and credential attainment. At the time of the review, the agency had developed case management job aides to assist staff with reporting MSGs and credential attainment; however, it had not developed policies or procedures specific to documenting, reporting and tracking measurable skill gains and credential attainment in the manual of operating procedures (MOP) (last issued August 1, 2012).

Of the total number of participants in receipt of career services in PY 2019, 93.5 percent of services provided were vocational rehabilitation counseling and guidance, while 31.7 percent of services provided were information and referral services. From PY 2017 to PY 2019, the number of participants in receipt of job search assistance decreased significantly from 559 individuals to 22 individuals, respectively. Similarly, the number of participants in receipt of job placement assistance decreased from 632 individuals in PY 2017, to 388 individuals in PY 2019. During this period of time, only 0.6 percent of career services provided were job search assistance, and 7.3 percent of career services were job placement assistance services. Since these services are most frequently provided directly by VR counselors, it is evident that direct services are not being reported.

In PY 2017, only one participant received customized employment services and no participants received these services during PYs 2018 and 2019. DVR's structure includes a benefits counseling unit of five staff who provide benefits counseling; however, during PYs 2017, 2018, and 2019, no participants were reported as having received this service. At the time of the review, a customized case management system feature was under development to improve the

reporting of benefits counseling and customized services and employment. DVR reported that during the period under review, the case management system only captured purchased services and did not capture services provided directly by DVR staff. However, there was an increase in the percentages of some of the services typically provided by VR counselors (e.g., vocational rehabilitation counseling and guidance, information and referral services and job placement) from PY 2017 to PY 2018, while other direct services (e.g., job search) declined during the same period. RSA clarified during the review that all services, purchased or provided directly by DVR or through comparable benefits, must be reported for each individual in receipt of such service. In addition, vocational rehabilitation counseling and guidance generally should be reflected on every participant's IPE.

From PY 2017 to PY 2019, the number of participants who received supported employment services increased from 83 individuals (1.1 percent) to 139 individuals (2.6 percent). None of the youth with most significant disabilities served received extended services during the same period of time. Of the 475 participants who exited with competitive integrated employment, only one achieved supported employment in PY 2019, a decline from 19 individuals in PY 2017. The RSA review team explored how supported employment services and extended services for youth with most significant disabilities are procured and reported on the RSA-911. DVR shared that there are discrepancies in identifying and documenting supported employment cases. Specifically, the agency communicated three reasons for the decline in service provision and supported employment outcomes, including the lack of supported employment services providers; Medicaid waiting lists for long-term supports; and failure to reflect cases as supported employment cases, unless long-term supports were identified.

In fall 2020, DVR established a committee for supported employment providers, and began developing partnerships with the University of New Mexico Partners for Employment and the Developmental Disability Supports Division (DDSD) to initiate and expand supported employment services. There are four mechanisms for funding long-term supports, including developmental disability (DD) waivers and Mi Via waivers through DDSD, as well as State general funds (no additional State general fund slots were available after July 1, 2020), and a new support waiver scheduled to begin September 1, 2020. The new support waivers provide \$10,000 per individual in ten service areas (e.g., employment and transportation). Two thousand individuals will be served through these support waivers in FFY 2021 and FFY 2022, and the remaining individuals on the DD waitlist will be served in FFY 2023. DVR anticipates that these additional fiscal resources will increase opportunities for long-term supports. DVR also aligned its supported employment rates with DDSD in PY 2018, to ensure consistent rates across the State. DVR acknowledged the need to revise current supported employment policies in the MOP and train staff on the provision of supported employment services to individuals with most significant disabilities, including the provision of extended services to youth with most significant disabilities.

The number of participants in receipt of other services, transportation and maintenance services decreased from PY 2017 through PY 2019. In terms of other services provided to participants in PY 2019, 350 individuals (6.6 percent) received other services, while 290 individuals (5.5 percent) received transportation services and 280 individuals (5.3 percent) received maintenance services. DVR committed to analyzing the services reported as "other services" and training staff

on the definitions for and reporting codes assigned to each service purchased and provided directly by VR counselors.

### **Quality of Employment Outcomes**

In PY 2019, 475 individuals exited the VR program after achieving competitive integrated employment, a significant decrease from 949 individuals in PY 2017. During this period, the median hourly earnings earned for these individuals was \$11.00 per hour and the median hours worked per week was 30 hours. Of the individuals who achieved employment, 28.6 percent received public support, including SSDI (20.0 percent) and SSI for the aged, blind or disabled (22.3 percent). Approximately 20 percent of individuals with medical coverage at exit received employer-provided medical coverage during PY 2019, while 55.8 percent received Medicaid and 15.2 percent received Medicare.

In PY 2019, the three occupations most achieved by DVR participants included office and administrative support occupations (53 individuals), food preparation and serving related occupations (51 individuals), and building and grounds cleaning and maintenance occupations (51 individuals). Occupations with the highest median hourly earnings for participants achieving employment, included healthcare practitioners and technical occupations (\$25.00), business and financial operations occupations (\$20.00), and management occupations (\$19.30).

The most frequently reported standard occupation classification (SOC) title reported for PY 2017 included locker room, coatroom and dressing room attendants (57 individuals). DVR investigated and addressed the reporting of locker room, coatroom and dressing room attendants, as it appeared to be a default setting in the case management system. In PYs 2018 and 2019, the most frequently reported SOC title was janitors and cleaners, except maids and housekeeping cleaners.

RSA and DVR discussed the need to assess in-demand industries and the necessary preparation of individuals for such careers, as well as the development of strategies to increase the number of individuals who achieve high-quality employment. DVR is partnering with other workforce development programs to survey employers and determine workforce training needs in the fields of information technology and healthcare.

### **Pre-Employment Transition Services**

Of the 6,136 students with disabilities reported by DVR in PY 2019, 570 students, or 9.3 percent, received pre-employment transition services. Of those students who received pre-employment transition services, 200 students were potentially eligible for VR services and 370 had applied for VR services at the time services were provided. For PYs 2017 and 2018, all of the students in receipt of pre-employment transition services were applicants of DVR, and none were reported as potentially eligible students during the same period of time. DVR indicated that its current case management system was unable to track pre-employment transition services until October 2019. Since that time, DVR has developed pre-employment transition services codes. DVR reported the inability to accurately track, and report pre-employment transition services may

have contributed to the significantly low percentage of all students with disabilities who were reported as receiving pre-employment transition services during PY 2019.

Of the 8,735 pre-employment transition services provided in PY 2019, the largest percentages of services were job exploration counseling (25.3 percent), workplace readiness training (20.5 percent), and work-based learning experiences (20.4 percent). The smallest percentages of pre-employment transition services provided were instruction in self-advocacy (16.1 percent) and counseling on enrollment opportunities (17.8 percent). Although DVR did not report the provision of instruction in self-advocacy in PYs 2017 or 2018, it increased the total number of pre-employment transition services reported (8,735) and the number of instruction in self-advocacy services provided (1,404) in PY 2019.

During the period under review, DVR was not able to disaggregate pre-employment transition services provided through contracts so it could report services received by each individual served. Rather, services were reported as contract measurables, many of which were not specifically aligned with pre-employment transition services provided, but supported New Mexico's Strategic Plan for Education, "Kids First, New Mexico Wins," and reflected such measures as increased graduation rates and student preparedness for postsecondary education and careers. DVR reported that improvements have been made each quarter since PY 2019 in order to streamline the reporting process. DVR developed an application for pre-employment transition services that allows for every service provided to every student (all five services) to be requested and documented.

DVR reported that it gave contractors access to these applications in PY 2020 in order to record and report services provided. Moving forward, DVR has the ability to upload contractor records in its case management system. DVR communicated that it is responsible for updating and editing service records, after a contractor uploads the records. At the time of the review, DVR was still in the process of developing instruction in self-advocacy programming through its centers for independent living (CILs). DVR shared that it would like to improve the frequency with which all pre-employment transition services are provided to students and it dedicated a State transition coordinator and six transition counselors to work with students in order to expand pre-employment transition services. In addition, in PY 2019, DVR began to require that all VR counselors spend at least 12 hours a week providing or arranging for the provision of pre-employment transition services.

### **Internal Controls**

The RSA review team assessed performance accountability in relation to the internal control requirements in 2 C.F.R. § 200.303. Internal controls mean a process, implemented by a non-Federal entity, designed to provide reasonable assurances regarding the achievement of objectives in the effectiveness and efficiency of operations, reliability of reporting for internal and external use, and compliance with applicable laws and regulations. Internal controls are established and implemented as a measure of checks and balances to ensure proper expenditures of funds. Internal controls serve to safeguard assets and prevent fraud, waste, abuse, and mismanagement. They include methods and procedures the grantee uses to manage the day-to-

day operations of grant-supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved.

Although DVR lacked sufficient written internal controls and quality assurance policies specific to data collection, verification and reporting on the RSA-911 and service record reviews, it issued DVR's Program Policy Instruction (PPI) 04-02 on April 19, 2017, Client Services – Independent Vocational Rehabilitation Counselor Procedures on October 7, 2009 (partially updated July 23, 2018), an Area Office Process Model (version 1.3) on June 28, 2019, and case management system job aids from 2017 through 2019, to be further discussed in Section D under Finding 2.1. DVR issued its current MOP on August 1, 2012, and is in the process of revising it to align with the requirements of the Rehabilitation Act, as amended by Title IV of WIOA, and implementing regulations. Technical assistance provided by RSA on draft supported employment policies (issued August 24, 2020) and the draft MOP (January 2020) is further described in Section C.

RSA and DVR also discussed the internal controls necessary to evaluate and monitor whether policies and procedures were properly implemented by DVR staff. During the review, DVR communicated that it reviewed all of its supported employment cases over the past three years and reported that field offices engage in an informal review process overseen by supervisors and branch managers. However, at the time of the review, DVR did not have a formal, systematic service record review process to assess and evaluate reporting errors, or identify staff training needs. However, DVR indicated that it was in the process of developing a formalized service record review process to include monthly and quarterly reviews at the State and local levels in the near future. In addition, DVR shared that it was in the process of reviewing performance goals to determine whether there are necessary policy revisions to improve timely provision of services, as well as the quality and quantity of employment outcomes.

During the period of review, DVR did not have a process to track and report services provided directly (in-house) by DVR staff. In PYs 2017 and 2018, DVR reported no potentially eligible students in receipt of pre-employment transition services; however, in the latter part of PY 2018, DVR implemented two new case types, including "PRE" to track the provision of pre-employment transition services to potentially eligible students directly by DVR staff and "CNT" to track pre-employment transition services provided through "pre-ETS" service provider contracts to both potentially eligible and eligible students with disabilities. These case types enabled DVR to begin tracking potentially eligible students (200 students in PY 2019) in receipt of pre-employment transition services. RSA and DVR discussed practices and necessary written internal control policies and procedures to ensure accurate data are entered, verified, and tracked in the case management system, and to reduce reporting discrepancies (discussed further in Sections C and D).

At the time of the review, DVR had not implemented policies or procedures specific to MSGs, post-exit performance measures or wage data elements; however, communicated its plans to address the lack of policies and procedures. In the first quarter of PY 2018, DVR did not report any post-exit data for participants who exited the VR program. The lack of written internal controls, as well as insufficient VR program policies and procedures, has affected DVR's ability

to monitor the effectiveness and efficiency of its programs, assess and improve performance, and manage day-to-day operations.

### **C. Technical Assistance and Recommendations**

#### **Organizational Structure, Non-Delegable Responsibilities, Expenditure of Funds**

As a follow-up to previous technical assistance provided to DVR by RSA, the review team reviewed with DVR the requirements in Section 101(a)(2)(B)(ii)(II), (IV) and (V) of the Rehabilitation Act and 34 C.F.R. § 361.13(b)(1)(i)(ii), (iv) and (v) that specify the DSU is responsible for the administration of the State agency's vocational rehabilitation program, has a full-time director who is responsible for the day-to-day operations of the VR program, is located at an organizational level and has an organizational status within the DSA comparable to that of other major organizational units of the DSA, and has the sole responsibility within the DSA for expending VR program funds.

#### **Organizational Structure**

RSA clarified that requirements afford a State considerable flexibility in the placement of the DSU for the VR program within its governmental structure, however, with some constraints. The VR program is not to be merged with, or submerged within, other governmental units, including the structure of the DSA, which could reduce the VR program's scope and effectiveness (see Congressional Oversight Hearings of November 30 and December 10, 1973). 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. RSA TAC 12-03 makes clear that the determination of whether a DSU is at a comparable level to other major organizational units within a DSA should consider 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 major 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.

None of these factors alone is determinative. Instead, they must be considered together to determine whether the organizational structure established by the State meets the requirements of the Rehabilitation Act and VR program regulations.

The determination as to what constitutes a “major organizational unit” within the DSA depends largely on the organizational structure of the DSA. 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.

According to New Mexico's VR services portion of the approved PY 2020 Combined State Plan, submitted and signed by the DVR director on March 6, 2020, DVR is the DSU responsible for providing VR services to individuals with disabilities. The DSA for the VR program is the New Mexico Public Education Department (PED), under the administration of a cabinet secretary, who reports to the Governor. In accordance with New Mexico Statute §§ 9-1-5 B. (10), and 9-24-6 the secretary appoints, with the Governor's consent, a "director" for each division who shall serve at the pleasure of the secretary. The vocational rehabilitation division is one of the divisions created under PED (New Mexico Statute § 9-24-4).

The RSA team reviewed the PED organizational structure chart as well as DVR organizational charts submitted on August 31, 2020 to determine if the DVR director is located at a comparable level and status as other "major organizational units" of the DSA as required in Section 101(a)(2)(B)(ii) (IV) of the Rehabilitation Act and 34 C.F.R. § 361.13(b)(1)(iv). According to the PED organizational chart, the cabinet secretary oversees five deputy cabinet secretaries, a chief of staff managing director, director of general counsel, and an administrative assistant. The deputy cabinet secretaries report directly to the cabinet secretary and manage multiple directors of divisions assigned to their respective organizational components which include: Identity, Equity and Transformation; Finance and Operations; Policy, Strategy and Accountability; Academic Engagement and Student Success; and Teaching, Learning and Assessment. DVR is not represented on the organizational chart under any of the deputy cabinet secretaries and is, in fact, absent on the organizational chart, which inhibits a complete analysis of whether DVR is situated at a comparable organizational level and status to other major organizational units.

The DVR director oversees two executive secretary administrative assistants (vacant); an IT CIO and Tech Manager of the Information Services Unit (ISU) (vacant); attorney supervisor (i.e., chief counsel); two program administrators of the Rehabilitation Services Unit (RSU) and the Disability Determination Unit (DDU), respectively; a deputy director (vacant) of the Administrative Service Unit (ASU); and a director of human resources and risk management. The Statewide Independent Living Council and State Rehabilitation Council are also attached to DVR. DVR's organizational and reporting structures for its units and components include—

- The IT CIO and Tech Manager, who oversees the ISU, including an administrative officer, IT systems administration manager (vacant), and twelve application developers, quality assurance analysts, business operations, systems, IT network administration and end user support specialists;
- The chief counsel, who manages an attorney and a paralegal assistant;
- The RSU administrator, who oversees six administrative operations managers (A/O), who supervise all nine field area offices across the State of New Mexico; as well as an executive secretary administrative assistant, a community and social services coordinator, who manages six transition counselors, a social and community services coordinator supervisor, who oversees four community and social services specialists, a deaf and hard of hearing coordinator, a social and community services coordinator (vacant), and a staff development specialist. The A/Os oversee 11 rehabilitation counselor supervisors (two of

which are vacant), 73 rehabilitation counselors (14 of which are vacant), 11 VR technicians (two of which are vacant), 18 executive secretaries or administrative assistants, and 26 community and social services specialists; and

- The DDU program administrator, supervised by the DVR director, who oversees three administrative operations managers, an executive secretary and administrative assistant, and staff. The DDS employs 19 disability adjudication staff and four business operations specialists (one vacancy).

The DVR director oversees programmatic (RSU and DDU) and operational units (ISO, ASU, chief counsel, human resources and risk management); manages a deputy director, director, program administrators, supervisors, and managers; and similar to the deputy cabinet secretaries, the DVR director reports directly to the cabinet secretary. However, since DVR is not reflected on the PED organizational chart, RSA could not determine whether DVR constitutes a major organizational unit within PED as a division equal to the other divisions within PED, or at the same level and status as deputy cabinet secretaries. Therefore, the only basis for establishing that DVR is at the same organization level and status as other divisions in PED is through the statutory reference in New Mexico Statute § 9-24-4, which lists it as one of several divisions under the secretary. Given that the DVR director reports directly to the PED cabinet secretary, regardless of any other considerations such as title, grade, etc., it appears that DVR is at a comparable status and level with other divisions according to New Mexico statute. A question remains as to whether the DVR director functions at the same level and status as a deputy cabinet secretary.

#### Sole Responsibility for Expending VR Funds and Non-Delegable Functions

RSA clarified, in accordance with the VR program regulations, that the DSU's responsibility for the day-to-day operations of the VR program include certain responsibilities that cannot be delegated to another individual or agency, such as: (1) all decisions affecting eligibility for VR services, the nature and scope of available services, and the delivery of those services; (2) policy formulation and implementation; and (3) the allocation and expenditure of VR program funds (34 C.F.R. § 361.13(c)).

VR program regulations in 34 C.F.R. § 361.13(c)(1) specify minimum activities that are the responsibilities of the DSU. Specifically, DVR, as the DSU for the VR program in New Mexico, must be solely responsible for: all decisions affecting the eligibility for VR services; the nature, scope and provision of services; determinations to close service records; policy formulation and implementation; the allocation and expenditure of VR funds; and participation of the VR program as a partner in the one-stop service delivery system (see also Section 101(a)(2)(B)(ii)(V) of the Rehabilitation Act). DVR is not permitted to delegate any of these functions or responsibilities to another entity or individual (34 C.F.R. § 361.13(c)(2)).

As explained in RSA TAC 12-03, the Rehabilitation Act and VR program regulations permit administrative functions to be performed by personnel outside the DSU. For example, PED, as the agency designated in the State to administer the VR services portion of the State Plan under Section 101(a)(2) of the Rehabilitation Act, could streamline certain administrative functions for all programs under its purview, such as the processing of payroll or payments to service

providers. However, PED is not permitted to interfere in or directly administer those areas identified by 34 C.F.R. § 361.13(c) as being DVR's non-delegable functions. Therefore, RSA explained that the directive to discontinue the order of selection (OOS) quickly, reportedly made by PED, interfered with the non-delegable responsibility of the DSU and only the DSU could make the determination regarding the discontinuance of the OOS.

New Mexico's approved program year PY 2020 VR services portion of its Combined State Plan allowed for the continuation of DVR's 2018 implementation of an OOS due to insufficient fiscal and staff capacity to provide the full range of VR services to all eligible individuals in the State of New Mexico (Section 101(a)(5) of the Rehabilitation Act and 34 C.F.R. § 361.36(a)(1)). During the course of the review, DVR sustained a \$1.7 million budget cut for FFY 2021, as a result of economic difficulties facing the State of New Mexico due to the pandemic, representing the sum total of a four percent statewide budget cut and the loss of Federal funds due to the State's inability to match all of its Federal funds. As such, the funds available and necessary to reduce DVR's OOS waiting list were also reduced. DVR reported that it was directed by PED to discontinue the order of selection, and while it was the goal of PED and DVR to reduce the OOS waiting list, the limited budget, coupled with staff vacancies (i.e., 40.0 percent of FTEs were vacant during the review period), DVR was unable to discontinue the OOS and open all categories, despite the expressed directive from PED.

DVR also submitted performance data to RSA, which demonstrate that DVR would not be able to provide the full range of VR services to all eligible individuals in the State during PY 2021. The fact that more than 600 individuals will remain on the OOS waiting list at the start of PY 2021 makes clear that not all eligible individuals can be provided the full range of VR services. However, if DVR were to make a different determination, it must do so based on each of the projections established by 34 C.F.R. § 361.36(b)(2).

Also, during the course of the review, DVR communicated that PED, as the DSA, intervenes in DVR personnel actions. Specifically, the PED cabinet secretary intervened in the disciplinary actions against a DVR employee, and in another instance the cabinet secretary directed that his legal counsel and the DVR director meet regarding a DVR employee's EEOC complaint. Personnel actions are not among those responsibilities identified by 34 C.F.R. § 361.13(c) as belonging solely to DVR, as the DSU for the VR program. However, personnel matters, such as disciplinary actions against a DVR employee and a DVR employees EEOC complaint, would typically be among those that would fall under the purview of the full-time director for the VR program, who is responsible for the day-to-day operation of the program (Section 101(a)(2)(B)(ii)(II) of the Rehabilitation Act). PED cannot be involved in these personnel matters to the extent that doing so interferes with DVR's non-delegable functions in 34 C.F.R. § 361.13(c) and the DVR director's ability to be responsible for the day-to-day operations of the VR program as required by Section 101(a)(2)(B)(ii)(II) of the Rehabilitation Act.

In State fiscal year (SFY) 2019, DVR and the New Mexico Commission for the Blind entered into a \$2.31 million contract with the central region educational cooperative (CREC5 #16-644-1000-0002), one of nine regional educational cooperatives under PED, to provide pre-employment transition services. The PED cabinet secretary and CREC executive director were instrumental in the development and scope of this contract and appeared to unduly direct the

expenditure of VR funds and the contract performance measures. The contract included \$1.85 million to hire staff to provide pre-employment transition services, support New Mexico's, Strategic Plan for Education, "Kids First, New Mexico Wins," and increase graduation rates and student preparedness for postsecondary education and careers. The contract performance measures were specific to special education program performance indicators, including State Performance Plan (SPP) Indicator 13, VR representation at IEP meetings, number of students referred for VR services, graduation rates (Indicator 1), post-school outcomes (Indicator 14), and a decrease in drop-out rates (Indicator 2), rather than contract performance measures specific to the provision of pre-employment transition services to students with disabilities who were potentially eligible and eligible for VR services.

DVR reported that in SFY 2020, it reduced the CREC5 contract by \$1 million and revised the contract to include contract performance requirements and measures, including the scope of pre-employment transition services to be provided and the number of students to be served. The overall number of CREC staff to be funded by DVR was also reduced. As a result, DVR hired VR program staff to provide direct pre-employment transition services to students with disabilities. The CREC5 contract will be further discussed in the fiscal focus area under Section 3.D.

#### Recommendations:

- Include DVR in the PED organizational structure chart and ensure that DVR is at a level and status to comply with the Federal requirements for a DSU of the VR program. Specifically, the organizational structure must ensure that—
  - a) The DVR administrator reports directly to the head of the DSA with no intervening organizational or administrative level; and
  - b) The DVR has a status equal to other major organizational units within PED, the DSA (Section 101(a)(2)(B)(ii)(IV) and 34 C.F.R. § 361.13(b)(1)(iv));
- Ensure DVR has sole responsibility for all non-delegable functions, including the expenditure of funds made available under the Rehabilitation Act consistent with the statutory and regulatory requirements in Section 101(a)(2)(B)(ii)(V) of the Rehabilitation Act and 34 C.F.R. §§ 361.13(b)(1)(v) and 361.13(c); and
- Ensure that DVR, taking into consideration the PED goals related to the OOS, complies with requirements of Section 101(a)(5) of the Rehabilitation Act and 34 C.F.R. § 361.36 are satisfied.

#### **Reporting Measurable Skill Gains (MSG)**

DVR does not have written policies or procedures specific to the tracking and reporting of MSG, including necessary supporting documentation, other than a case management system job aid (i.e., the AWARE Education Job Aid (updated August 21, 2019)), used to inform counselors on how to report MSG. The RSA team reviewed how the agency is identifying, documenting, and reporting enrollment in secondary and postsecondary education and MSG obtainment. RSA provided technical assistance related to the reporting requirements (data elements and supporting documentation) for performance measures, including MSG and post-exit performance

accountability measures, as well as considerations for necessary policy development and implementation. This will be further discussed in Section 2.D.

## **State Plan**

RSA provided technical assistance specific to the VR services portion of the PY 2020 Combined State Plan, to include recommendations for the development of PY 2022 State Plan goals, priorities and strategies. Ongoing technical assistance will be provided by RSA.

## **Draft Policies**

DVR's policies in the MOP were issued on August 1, 2012, and are not in compliance with the Rehabilitation Act, as amended by Title IV of WIOA on July 22, 2014, and implementing regulations issued on August 19, 2016. DVR reported that it is in the process of updating its policies in the MOP and submitted draft policies, including a revised MOP (developed January 2020), and pre-employment transition services policies (January 31, 2020). DVR also submitted a supported employment guidance memo issued to RSU staff in August 2020. RSA reviewed and provided technical assistance to DVR on all of these policies. Necessary revisions are further discussed in Finding 2.3.

RSA also provided technical assistance to DVR on the Area Office Process Model, which serves as a guide to assist employees to understand the operation and responsibilities of each DVR office (issued June 2019) and the Transition Guide (issued June 2018), as neither included a description of pre-employment transition services to students who are potentially eligible. At the time of the review, DVR was in the process of updating the Area Office Process Model to include feedback provided by RSA.

During the review, RSA identified the need for the development of, or revision to, existing policies and procedures governing the provision of services for individuals with disabilities, including pre-employment transition services provided to students with disabilities and supported employment services to individuals with most significant disabilities, including youth with most significant disabilities, in accordance with 34 C.F.R. § 361.50. Specifically, some policies require clarification in order to align with the requirements in 34 C.F.R. Parts 361 and 363. Furthermore, at the time of the review, DVR did not have written policies or procedures specific to the requirements for reporting MSG and other performance accountability measures, which may have contributed to the insufficient identification and reporting of MSG. The VR agency also did not have written policies or procedures to implement the requirements in Section 511 of the Rehabilitation Act, as amended by WIOA, or the implementing regulations in 34 C.F.R. part 397.

RSA provided technical assistance to DVR and clarified that when developing written policies for determining rates of payment for vendors (34 C.F.R. § 361.50) DVR may not establish dollar or time limits on the provision of a specific set of services, such as pre-employment transition services, or on the provision of services to an individual.

Furthermore, at the time of the review, internal controls were not developed or implemented to ensure the accurate reporting of MSG, as well as the maintenance of supporting documentation to substantiate the gains reported by DVR in the RSA-911. This is further discussed in Finding 2.1.

### **Planning for the Provision of Pre-Employment Transition Services**

RSA provided technical assistance to DVR on the development of its fiscal forecasting model and inclusion of the number of potentially eligible and eligible students with disabilities (currently served and projected to be served) in need of the required activities under pre-employment transition services, as well as the current and projected costs for required and pre-employment transition coordination activities, in order for DVR to reasonably identify the funds available and remaining to engage in authorized activities (34 C.F.R. § 361.48(a)(3)). It was clarified that DVR cannot expend any of its reserved funds toward the provision of authorized activities until this determination has been made and the necessary funds are made available.

### **D. Findings and Corrective Actions**

RSA's review of the performance of DVR in this focus area resulted in the identification of the following findings and the corresponding corrective actions to improve performance.

#### **2.1 Insufficient Internal Controls for Management of the Federal Award, Data Accuracy and Validity, and Supporting Documentation**

**Issue:** Is DVR maintaining effective internal controls over the Federal award to provide a reasonable assurance that DVR is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award in accordance with 2 C.F.R. § 200.303. Do DVR's internal controls and policies ensure data accuracy and validity, and that case files adhere to the record of service requirements at 34 C.F.R. § 361.47. Specifically, in fulfilling these requirements, do the internal controls ensure that DVR adheres to the requirements for processing referrals and applications pursuant to 34 C.F.R. § 361.41, eligibility determination in accordance with 34 C.F.R. § 361.42;, the development of the IPE pursuant to 34 C.F.R. § 361.45;, and the requirements for closing the record of services of an individual who has achieved an employment outcome pursuant to 34 C.F.R. § 361.56.

**Requirements:** Pursuant to 2 C.F.R. § 200.303, VR agencies are required to develop an internal controls process to provide reasonable assurances regarding the effectiveness and efficiency of operations, reliability of reporting for internal and external use; and to be implemented as a measure of checks and balances to ensure proper expenditures of funds, including the evaluation and monitoring of compliance with statutes, regulations and the terms and conditions of Federal awards. Furthermore, a State VR agency must assure, in the VR services portion of the Unified or Combined State Plan, that it will employ methods of administration that ensure the proper and efficient administration of the VR program.

Additionally, 2 C.F.R. § 200.303 requires a non-Federal entity to—

- Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should comply with guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States and the Internal Control Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO);
- Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards;
- Evaluate and monitor the non-Federal entity's compliance with statutes, regulations, and the terms and conditions of Federal awards; and
- Take prompt action when instances of non-compliance are identified, including noncompliance identified in audit findings.

An internal control deficiency would exist when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or correct processes that might lead to non-compliance with Federal and State requirements.

Pursuant to 34 C.F.R. § 361.47(a), VR agencies must maintain for each applicant and eligible individual a record of services that includes, to the extent pertinent, documentation including, but not limited to, the individual's application for VR services, the individual's IPE, and information related to closing the service record of an individual who achieves an employment outcome. Furthermore, VR agencies, in consultation with the SRC, if the State has such a Council, must determine the type of documentation that the VR agency must maintain for each applicant and eligible individual in order to meet these requirements in accordance with 34 C.F.R. § 361.47(b).

VR agencies must, in accordance with 34 C.F.R. § 361.41(a), establish and implement standards for the prompt and equitable handling of referrals of individuals for VR services, including referrals of individuals made through the one-stop service delivery systems under Section 121 of WIOA. The standards must include timelines for making good faith efforts to inform these individuals of application requirements and to gather information necessary to initiate an assessment for determining eligibility and priority for services. Further, once an individual has submitted an application for VR services, including applications made through common intake procedures in one-stop centers under Section 121 of WIOA, an eligibility determination must be made within 60 days (34 C.F.R. § 361.41(b)(1)), unless specific circumstances prohibit this in accordance with 34 C.F.R. § 361.41(b)(1)(I) and (ii). In fulfilling these requirements, the VR agency records the date it receives the application for VR services from the individual. Federal regulations in 34 C.F.R. § 361.45 outline the requirements for the development of the IPE and 34 C.F.R. § 361.46 outline the mandatory content of the IPE.

Pursuant to 34 C.F.R. § 361.56, the service records for individuals who have achieved an employment outcome may only be closed if an employment outcome described in the individual's IPE in accordance with 34 C.F.R. § 361.46(a)(1) has been achieved and is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities,

interests, and informed choice; the employment outcome is maintained for an appropriate period of time, but not less than 90 days to ensure stability of the employment outcome and the individual no longer needs VR services; the outcome is considered to be satisfactory and agreed to by the qualified rehabilitation counselor employed by the DSU and the individual who must also agree that the individual is performing well in the employment; and the individual has been informed of post-employment services through appropriate modes of communication.

Under 34 C.F.R. § 361.47(a)(15), prior to closing a service record, VR agencies must maintain documentation verifying that the provisions of 34 C.F.R. § 361.56 have been satisfied. More specifically, under 34 C.F.R. § 361.47(a)(9), VR agencies must maintain documentation verifying that an individual who obtains employment is compensated at or above minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by individuals without disabilities.

**Analysis:** As part of the review process, RSA analyzed documentation submitted by DVR as its written internal controls, including policies, processes, procedures and guidance issued to staff. Specifically, RSA reviewed DVR's PPI 04-02 (issued on April 19, 2017), Client Services – Independent Vocational Rehabilitation Counselor Procedures (issued October 7, 2009 and partially updated July 23, 2018); Area Office Process Model (version 1.3 (issued June 28, 2019)); case management system job aids (issued in 2017, 2018 and 2019); and its draft MOP developed January 15, 2020 to replace the last updated MOP dated August 1, 2012. During the review, DVR clarified that its case management system job aids are for instructional purposes and are not to be used as interim policy or guidance, as the agency updates its MOP. During the course of the review, RSA identified the following areas where insufficient internal control processes need to be strengthened, and sufficient internal control processes need to be developed and implemented.

### **Insufficient Internal Control Policies**

In order to facilitate formal and informal, on-going case reviews at three levels, including program manager/supervisory counselor reviews, statewide reviews conducted by the RSU, and other statewide reviews to determine compliance with State/Federal guidelines, DVR issued a revised PPI 04-02 on April 19, 2017. The PPI 04-02 provides an overview of twelve case review forms to be used during formal reviews. The current case status and previous case review history determine which forms are to be used. These forms include—

- Cover sheet;
- Preliminary assessment and eligibility;
- Eligibility determination extension/trial work experiences, and extended evaluation;
- Comprehensive assessment/IPE development;
- Service delivery;
- Supported employment;
- Self-employment plan;
- Closed successfully rehabilitated;
- Post-employment services; and

- Order of selection and order of selection optional.

These forms were developed to evaluate and assess DVR staff's understanding and implementation of agency policies and practices and to identify training needs and facilitate professional development in twelve specific VR service delivery areas. Some of the service delivery areas reflected in the PPI do not align with revisions in the 2014 WIOA amendments to the Rehabilitation Act, including, but not limited to, the removal of extended evaluation, the addition of the 90-day Federal standard for IPE development, and new requirements for the Supported Employment program. The PPI preliminary assessment includes definitions of "individuals with most significant" and "individuals with significant disabilities" that do not align with DVR policies (MOP 3.3.2.1.B or 3.3.2.2.B) or the regulatory definitions in 34 C.F.R. § 361.5(c)(29) or (30)), respectively). Additionally, the two to three-month IPE standard in the PPI preliminary form does not align with DVR policy (MOP 4.3 - no IPE standard), or the regulatory requirements in 34 C.F.R. § 361.45(e).

Section 116 of WIOA and the implementing joint regulations in 20 C.F.R. part 677 and 34 C.F.R. parts 361 and 463, RSA-TAC-17-01, Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III, and Title IV Core Programs (issued August 17, 2017) and RSA-911 MSG Reporting FAQs (issued August 2020), require the reporting of MSG, credential attainment, and post-exit measures. The PPI preliminary assessment includes one verification statement that MSG and credential attainment were added to the case record, as appropriate; however, there is no verification of supporting documentation for either, or the inclusion of post-exit measures and necessary supporting documentation. The PPI and its respective forms will need to be revised to align with the statutory and regulatory provisions and include verification of the type of documentation required in 34 C.F.R. § 361.47(a). DVR, in consultation with the SRC, must determine the type of documentation that the VR agency must maintain for each applicant and eligible individual in order to meet these requirements in accordance with 34 C.F.R. § 361.47(b).

The PPI preliminary assessment provided to RSA did not include the requirements for service record closure for those individuals who achieved an employment outcome in 34 C.F.R. § 361.56, including the verification that the individual-maintained employment for not less than 90 days to ensure stability of the employment outcome; and documentation substantiating that the individual was made aware of the availability of post-employment services prior to exit. Under 34 C.F.R. § 361.47(a)(15), prior to closing a service record, VR agencies must maintain documentation verifying that the provisions of 34 C.F.R. § 361.56 have been satisfied. More specifically, under 34 C.F.R. § 361.47(a)(9), VR agencies must maintain documentation verifying that an individual who obtains employment is compensated at or above minimum wage and that the individual's wage and level of benefits are not less than that customarily paid by the employer for the same or similar work performed by individuals without disabilities. The PPI forms will need to be revised to align with the regulatory requirements.

The PPI does not include any requirements for the number or frequency of formal or targeted statewide case reviews to be conducted by the RSU or DVR's central office. DVR communicated that it recently completed targeted case service record reviews of supported employment cases conducted over the last few years in order to identify the reasons for the small

number of participants in receipt of supported employment services and the decline in the number of participants who achieved supported employment in PYs 2017 and 2018. DVR reported finding that not all counselors were checking the supported employment box on IPEs that classifies the service record as a supported employment case. DVR identified the need to train its staff and revise supported employment policies to align with the WIOA amendments to the Rehabilitation Act. DVR issued supported employment procedure guidance to its RSU staff on August 24, 2020.

The PPI describes informal review activities, to assist in staff development, and the requirement that program managers or supervisory counselors conduct, at a minimum, 12 case reviews per year for each caseload. DVR reported that it is a general practice to review six active status and six closed status cases each year. In offices where there is a managerial vacancy and no supervisory counselor, DVR recommends that program managers and supervisory counselors review three cases per caseload each quarter. The reviewer (program manager or supervisory counselor) is responsible for developing positive comments, instructions, recommendations; and summarizing findings and respective corrective actions to be addressed by the VR counselors. The VR counselors are responsible for notifying the reviewer when the corrective actions have been completed. Per the PPI, case review data is recorded in the case review system (CRS) by caseload and corresponding fiscal year, and the review data is compiled quarterly; however, a case review summary or report was not submitted to RSA at the time of the review, and RSA was unable to substantiate whether the review data is recorded in the CRS or how that information is used to inform staff training.

DVR also submitted its Client Services – Independent VR Counselor Procedure (issued October 7, 2009, and partially revised July 23, 2018), as one of its internal controls. This procedure outlines the evaluation criteria for determining a VR counselor’s performance and level of independence (i.e., tier I, tier II, tier III and lead counselors); and includes references to case review compliance scores (per PPI 04-02) on the “preliminary assessment, trial work experience, and other than rehabilitated” case review forms, as well as ratings on customer service measures, including cases in overtime status, average number of days to eligibility determination and months to plan development. No eligibility determination or IPE development standards are included in this procedure. In addition, it does not include MSG, credential attainment or post-exit measures.

DVR submitted its current Area Office Process Model (issued June 2019) as a written internal control that includes roles and responsibilities assigned to various staff positions. Specifically, it includes the requirement that program managers conduct case reviews to assess and evaluate three specific points in the service delivery process (i.e., eligibility determinations, IPE development and case closure); however, the process does not include a description of the case review instruments, instructions or schedule to be used; the expected frequency or number of case reviews; DVR’s performance expectations; or how the results will inform training needs. Similarly, the Area Office Process Model also includes responsibilities for VR-counselor supervisors to, “demonstrate appropriate policy practices in relation to the MOP in order to achieve an average of 90 percent compliance on a case review as per policy.” The current MOP published on August 1, 2012, is not in full compliance with the Rehabilitation Act, as amended

by WIOA. As such, this procedure cannot be part of a multi-level process to monitor the implementation of DVR policies until such policies are compliant with the statutory and regulatory provisions.

Additionally, the area process model lacks how expectations will be implemented consistently in each area and across the State. Specifically, it does not operationalize how reviews and corrective actions will inform staff training, increase knowledge, improve performance; or how required hours spent on service delivery will be tracked and reported. It is not clear who is responsible for monitoring and evaluating required performance targets (i.e., 70 documented MSGs per rating period, 10 instances of credential attainment per annual reporting period, 12 successful placements per year for VR counselor-supervisors; and 50 instances of MSGs per annual rating period for VR counselors). This process does not include an IPE development standard, case closure requirements, or supporting documentation requirements; and it inaccurately states that pre-employment transition services may be provided to students and youth with disabilities when these services are only available to students with disabilities (34 C.F.R. § 361.48(a)).

Although the agency submitted program policy instructions to conduct formal, targeted and informal case reviews; independent VR counselor procedures; and an Area Office Process Model (under revision at the time of the review); the documents reviewed were insufficient and need to be revised to align with the relevant statutory and regulatory provisions, as discussed above. Written internal controls must include a process, outcome and evaluation. As such, DVR needs to implement a comprehensive system of internal controls with a monitoring component, to include case review policies and procedures and case service record review instruments to be used for formal, targeted and informal State/central office and local area quality assurance reviews; and identify staff training needs. Upon the identification of staff training needs, a process needs to be developed for how training will be provided, knowledge measured, and performance improvements evaluated.

Based on discussions with the DVR management staff and documentation submitted by DVR, RSA determined that DVR did not maintain a comprehensive system of effective internal controls with a monitoring component or sufficient policies and procedures to ensure consistency with application of Federal requirements in accordance with 2 C.F.R. § 200.303 during the period of time under review. As discussed above, DVR is currently in the process of revising its MOP and Area Office Process Model.

### **Data Integrity and Accurate Reporting**

In accordance with 34 C.F.R. § 361.40(a), VR agencies are required to submit reports, including reports required under Sections 13, 14, and 101(a)(10) of the Rehabilitation Act in a manner that provides a complete count of the applicants and eligible individuals receiving services, including students with disabilities receiving pre-employment transition services, and complies with any requirements necessary to ensure the accuracy and verification of those reports. The RSA-911 is used to describe the performance of the VR and Supported

Employment programs in the Annual Report to the Congress and the President, as required by Sections 13 and 101(a)(10) of the Rehabilitation Act.

DVR communicated that it was in the process of developing written data integrity and validation procedures and processes; however, for the period reviewed, DVR had not implemented formal written validation procedures as a part of its internal controls to safeguard data integrity and promote the timely resolution of data anomalies and inaccuracies or to ensure accurate reporting of data collected through the RSA-911.

DVR attributed the inaccuracy of its data to the case management system that was in place during the period of review. In PY 2017, DVR purchased a new case management system with built-in edit checks in an effort to minimize data integrity issues and now issues job aids to assist staff with reporting information and services in the case management system. Although DVR issued job aids to assist staff with the reporting of information and data in PYs 2017 through 2019, no other written internal controls were implemented during the period of review to ensure adherence to implementation procedures, or that all information documented aligned with and was consistent across the case service record file, DVR's case management system, and the RSA-911.

Furthermore, the lack of written data verification procedures also prevented DVR from verifying that all training, career and other services (purchased and provided directly by DVR staff), were coded at the time-of-service provision for participants in receipt of such services, in accordance with the RSA-911 instructions. In addition, DVR was not able to verify and accurately report the provision of pre-employment transition services provided to students with disabilities by VR counselors until it created pre-employment transition services case types in PY 2018 to capture pre-employment transition services provided directly by VR counselors. In PY 2019, DVR issued case type job aids to include a new case type that enabled DVR to collect data more accurately on pre-employment transition services provided to potentially eligible students through contracts. RSA and DVR discussed the small percentages of training services and career services reported as provided to participants, missing data, range values and anomalies, including the reporting of locker room, coatroom, and dressing room attendants, that should have been identified and corrected in order to ensure the validity and reliability of the data reported.

### **Measurable Skill Gains (MSG)**

Prior to the review, DVR submitted, and RSA reviewed, the agency's draft RSA-911 policies, and staff training materials specific to MSG. During the period of review, the current MOP did not include policies or procedures specific to MSG; however, DVR did submit training materials (dated January 15, 2020), that provided DVR staff with a comparison of prior standards and indicators under the Rehabilitation Act to the performance indicators under WIOA. The training materials provided an overview of the six WIOA primary indicators of performance (employed in the 2<sup>nd</sup> and 4<sup>th</sup> quarters after exit, median earnings in the 2<sup>nd</sup> quarter after exit, credential attainment, MSG and services to employers).

As discussed in Section 2.B. of this focus area, under VR services, the review of performance data highlighted inconsistencies between the amount of training services provided, students reported, and the number of measurable skill gains reported. DVR communicated system issues as the reason for discrepancies and failure to report information on the RSA-911. As a result, DVR did not submit accurate reports as required by 34 C.F.R. § 361.40. During the period under review, DVR had not developed or implemented written internal controls nor agency policies and procedures to ensure that the information reported for MSG was substantiated by supporting documentation included in the service record.

**Conclusion:** As a result of the analysis, RSA determined that DVR is not maintaining effective internal controls over the Federal award that would provide a reasonable assurance that DVR is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award in accordance with 2 C.F.R. § 200.303. Furthermore, RSA determined that DVR has not implemented internal controls, policies or procedures that ensure case files and supporting documentation adhere to the record of service requirements in 34 C.F.R. § 361.47; the timely development of the IPE pursuant to 34 C.F.R. § 361.45(e); adherence to the requirements for closing the record of services of an individual who has achieved an employment outcome pursuant to 34 C.F.R. § 361.56; and data verification, validation and the accurate reporting of services provided to reportable students and participants, as well as participants who achieved measurable skill gains as required in 34 C.F.R. § 361.40.

**Corrective Actions 2.1:** RSA requires that DVR—

- 2.1.1 Develop and implement a comprehensive system of effective internal controls and sufficient policies and procedures to ensure consistency with applicable Federal requirements in accordance with 2 C.F.R. § 200.303; the timely development of IPEs pursuant to 34 C.F.R. § 361.45(e); case closure requirements and maintenance of documentation requirements in compliance with 34 C.F.R. §§ 361.47(a) and 361.56;
- 2.1.2 Assess and revise the current PPI 04-02 and its services record case review forms to align with statutory and regulatory requirements, and develop service record review instruments for conducting formal, targeted and informal service record reviews at the State and local area levels that are led by central office, RSU, program managers, supervisors and peer reviewers and consistent with the statutory and regulatory provisions;
- 2.1.3 Evaluate the information saved in the CRS determine whether the data is being used to inform training at the State and local area levels. Develop mechanisms and a process to collect and aggregate the results of these reviews, and use the results to identify necessary program improvement and inform necessary staff training and evaluation;
- 2.1.4 Revise the Client Services – Independent VR Counselor Procedure and Area Office Process Model to align with the respective requirements in the Rehabilitation Act, as amended by WIOA, and implementing regulations (as discussed in the analysis section of this finding); and
- 2.1.5 Develop written data validation procedures to ensure the accuracy and validity of the data being collected and reported to RSA in compliance with 34 C.F.R. § 361.40, including MSG and services purchased and provided by DVR. These procedures must include—

- A description of the process for identifying and correcting errors or missing data (e.g., electronic data checks, regular data validation training or appropriate program staff (at least annually));
- A monitoring component (i.e., monitoring protocol) consistent with 2 C.F.R. § 200.328, to ensure that program staff are following the written data validation procedures and a process for taking appropriate corrective action(s), if those procedures are not followed;
- A regular review (e.g., at least quarterly) of program data for errors, missing data, range values and anomalies, and documentation that missing and erroneous data identified during the review process have been corrected; and
- A regular assessment of the effectiveness of the data validation process (e.g., at least annually), and allow for process revisions, as needed.

**VR Agency Response:** DVR Response to Section 2.1.1: The DVR accepts the recommendations of the RSA to develop and implement a comprehensive and effective system of internal controls and policies and procedures to establish and maintain compliance over the federal award as required under 2 C.F.R. § 200.303. Response in this section involves two separate units of the DVR including the Rehabilitation Services Unit (RSU), and the Administrative Services Unit (ASU). DVR submits the following response per unit.

RSU responds as follows: DVR previously requested, and RSA provided technical assistance on DVR's Manual of Operating (MOP) procedures which outlines the record of service requirements at 34 C.F.R. § 361.47. The draft MOP was submitted to RSA on multiple occasions for review and technical assistance to align with federal requirements. Dates of draft submissions to RSA for review include September 2018, December 2018, March 2020, December 2020 and January 2021.

Consistent with the technical assistance provided by RSA (as stated above), the current draft of the MOP addresses: referrals in compliance with 34 C.F.R. § 361.41; eligibility determination (MOP, Section 2.3.3) in compliance with 34 C.F.R. § 361.42; the IPE process (MOP, Section 1.2.4.2) in compliance with 34 C.F.R. § 361.45(e); and procedures for closed rehabilitated and other than rehabilitated closures (MOP Section 8.3.1) in compliance with 34 C.F.R. §§ 361.47 and 361.56. Additionally, DVR has revised and corrected PPI 21-02 and PPI 20-09 to ensure that participants are receiving minimum wage or higher to meet the criteria for competitive employment and case closure guidance on "other than rehabilitated closures" in compliance with 34 C.F.R. § 361.56.

ASU responds as follows: The DVR/ASU accepts RSA's recommendations to develop and implement a comprehensive and effective system of internal controls and policies and procedures to establish and maintain compliance over the federal award as required under 2 C.F.R. § 200.303.

DVR Response to Section 2.1.2: DVR/RSU accepts RSA's recommendations pursuant to this section and has or will take corrective action as follows. The DVR/RSU has taken corrective action by replacing PPI 04-02 with PPI 20-01. The DVR/RSU will evaluate case review forms and systems to ensure alignment with regulatory requirements. DVR currently has an established

case review system for conducting targeted and informal service review. Additionally, the RSU leadership team will evaluate the need for development of written internal controls and policy and procedures to utilize the case review system. RSU Program Managers will continue to access case records to monitor quality assurance and compliance. The RSU leadership team will evaluate options of securing a dedicated Internal Auditor to conduct formal case reviews as recommended by RSA. Additionally, DVR will review policy and properly identify procedures, processes and outcomes of case service review records while identifying responsible RSU staff to perform case service reviews from central office. Statewide peer review of cases will be incorporated upon evaluation of case review forms in compliance with statutory and regulatory provisions.

DVR Response to Section 2.1.3: The DVR/RSU accepts the recommendations of the RSA pursuant to this section and has or will take corrective action as follows. Currently, the DVR/RSU has an established case review system which is utilized to complete case review audits. The current system will be evaluated to assure compliance with statutory and regulatory requirements as recommend by RSA. Also, an approved and finalized MOP (addressed in DVR response to Section 2.1.1), will assist RSU in appropriately aligning the case review system with data. Case review forms, such as the MSG, Credential Attainment and post-secondary exit measures will be reviewed to identify areas of improvement and if necessary, revised and updated per RSA recommendations.

As stated in DVR Response Section 2.1.2, PPI 20-01 replaces PPI 04-02 and was implemented on July 14, 2020. The DVR's current case review system stores data, compliance ratings and reflects averages on those performance measures. The system extracts data and reports to be analyzed per established Regional Areas, caseload and by case review form. Updates to the system will be conducted upon completing the MOP to ensure the auditing system is in alignment with standards as identified in the monitoring report. The case review reports will continue to be utilized by Program Managers as an evaluative tool and in completing employee evaluations. The current policy and procedure will be evaluated to ensure guidance is provided to RSU staff on the use of the case review system. Upon review and if necessary, further guidance will be provided to RSU staff on areas of targeted training and independence level. Formal written instructions on the use of CRS reports will be developed and implemented by the DVR/RSU.

DVR Response to Section 2.1.4: The DVR/RSU accepts the recommendations of the RSA pursuant to this section and has or will take the following corrective action. RSA has provided technical assistance to RSU concerning establishing independent levels of Vocational Rehabilitation Counselors (VRCs). In response to the technical assistance provided, DVR/RSU is working with DVR Human Resources (HR) to revise policy and procedures addressing "Levels of Independence" for DVR VR counselors. Policy and procedure will be revised to align with VRC levels of independence positions and job duties and to align with the requirements of the Rehabilitation Act, as amended by WIOA. In addition to establishing levels of independence for VRCs, these actions will provide an upward career path for VRCs (identified as an operational or advanced) resulting in DVR providing a career path for VR counselors.

DVR/RSU disagrees with RSA's recommendations concerning the Area Office Process Models because the DVR/RSU does not utilize the models as a policy or procedure. The models are used by DVR staff as informational guidance and serve as a directory of contact information. The Area Process Models are presented as an on-boarding tool to familiarize new staff on the various positions in the RSU as well as general office protocols.

DVR/RSU utilizes formal PPI as the primary tool for process, outcome and evaluation of positions. Policy folders are established on DVR SharePoint and provides a centralized place for ease of access for RSU staff. Since monitoring, DVR/RSU has re-established the practice of developing, revising and training staff on PPI. PPI are developed to provide guidance and act as DRV/RSU's written internal controls for staff on areas regarding the delivery of services, agency business practice and includes definitions, guidance, documentation necessary and outcomes. DVR/RSU has taken corrective action by developing and/or revising thirteen (13) PPIs as recommended by RSA. The following PPI's have been revised and implemented (PPI 20-01 through 21-04 listed below):

- 20-01 Case/Caseload
- 20-02 Measurable Skills Gains
- 20-03 Supportive Employment Cases
- 20-04 Program Policy Instruction
- 20-05 Pre-Employment Transition Services
- 20-06 MOU with Commission for the Blind
- 20-07 MOU with Disability Determination Services Division (DDSD)
- 20-08 Supportive Employment Definitions and Flow Charts
- 20-09 Guidance on "Other Than Rehabilitated Closures"
- 21-01 Email and SMS Case Note Entry
- 21-02 Closure Procedures
- 21-03 Confidential Case Files
- 21-04 Job Placements

The DVR/RSU Field Operation Directors are currently reviewing each PPI instruction to ensure they align with RSA requirements. These actions are taken in addition to, the implementation of the draft MOP described in DVR Response Section 2.1.1.

DVR Response to Section 2.1.5: The DVR/RSU and Information Technology (IT) accept the recommendations of the RSA. The DVR/RSU and IT have taken corrective action as follows. The DVR AWARE Team runs monthly queries on missing education goals. Based on the results of the queries, the AWARE Team contacts counseling staff directly to obtain clarification to correct errors and collect missing data elements. Thorough testing is conducted in a test environment to ensure AWARE release adaptation is correct. The AWARE team contacts the SDU training manager with trends and areas of concern to provide training and instruction. AWARE Job Aids specific to data entry assistance is created to also address any areas of concern or correction. The DVR/RSU has 13 AWARE trainers (veteran counselors) who train all staff on new AWARE releases. DVR AWARE SharePoint contains "how to" instructions to aid staff with data entry. NMDVR has a support ticket application for AWARE support requests. Support

tickets are tracked in Ivanti which is the agencies ITSM platform. As part of DVR's commitment to provide accurate data, the Application Development Team is actively working on deploying a console application that will interface with AWARE, the console application will run biweekly allowing the AWARE Team to proactively address data anomalies and work with field staff to correct. In addition, DVR's Chief Information Officer is working to merge the training unit under the AWARE unit. This merger will allow both groups to function as one "team" rather than as two separate groups within the organization. Merging the two groups will lead to improved visibility, training, communication and allow the units to work in tandem to improve the overall function and accuracy of the agencies reporting mandates.

DVR/IT has taken several steps to improve the data analysis. DVR is working to develop an evaluation process in a written format for guidance. The Data Unit will provide quarterly data reports to RSU Field Operation Directors. The data unit reports missing data to RSU field staff by email communication. The Program Manager will review staff performance reports and submittal of monthly manager reports on caseload activity. Directions on regional and caseload reports have been provided to all RSU management staff. Any reporting discrepancies result in targeted training for the Area team. DVR/IT is in the process of developing written guidance to formalize the review of data from the AWARE to identify needs and implement training.

**RSA Response:** RSA appreciates the VR agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with DVR to determine if updated processes result in meeting Federal requirements and ongoing compliance. RSA appreciates DVR incorporating the technical assistance and feedback provided by RSA on DVR's policies and procedures, including pre-employment transition services-related policies on July 24, 2020, July 27, 2020, August 25, 2020, September 1, 2020 and February 10, 2021. As discussed on-site, the area process model that is currently used as an on-boarding tool to familiarize new staff on position responsibilities and general office protocols needs to be updated to reflect language in compliance with the regulatory and statutory requirements. The finding and required corrective actions remain unchanged. RSA will continue to provide necessary technical assistance to support DVR's implementation of revised policies, processes and internal controls.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 2.1.1: The DVR/RSU requested and received technical assistance from the RSA to assist in the development and review of the DVR's MOP. The DVR requests continued technical assistance from the RSA to review a completed and final version of the MOP. Additionally, the DVR/ASU requests technical assistance from the RSA to develop and review written internal controls and revise policies and procedures to ensure and maintain compliance with 2 C.F.R. § 200.303.

DVR Response to Request for Technical Assistance to Section 2.1.2: The DVR/RSU is not requesting technical assistance from the RSA pursuant to this section.

DVR Response to Request for Technical Assistance to Section 2.1.3: The DVR/RSU has requested and received technical assistance from the RSA pursuant to this section and is not requesting continued technical assistance.

DVR Response to Request for Technical Assistance to Section 2.1.4: The DVR has requested and received technical assistance from the RSA pursuant to this section. In response to the technical assistance received from the RSA, the DVR/RSU has developed and/or revised the listed thirteen (13) PPI which serve as written guidance and internal controls for staff. The DVR/RSU requests continued technical assistance from the RSA to review the listed PPI.

DVR Response to Request for Technical Assistance to Section 2.1.5: The DVR/RSU and IT are currently taking corrective measures and are not requesting technical assistance in regard to this section.

## **2.2 Non-Compliant SEA Agreement with the New Mexico PED**

**Issue:** Does DVR have an executed SEA agreement during the period of review that complies with Section 101(a)(11)(D) of the Rehabilitation Act, as amended by Title IV of WIOA and 34 C.F.R. § 361.22(b).

**Requirement:** In accordance with Section 101(a)(11)(D) of the Rehabilitation Act and 34 C.F.R. § 361.22(b), VR agencies are required to enter into formal interagency agreements with SEAs in order to facilitate the seamless transition of students with disabilities from the receipt of educational services, including pre-employment transition services, in school to the receipt of vocational rehabilitation services. Pursuant to Section 101(a)(11)(D) of the Rehabilitation Act, as amended by Title IV of WIOA, the formal interagency agreement must describe, at a minimum—

- Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including pre-employment transition services and other VR services;
- Transition planning by State VR agency and school personnel for students with disabilities that facilitates development and implementation of their individualized education programs (IEP) under Section 614(d) of the Individuals with Disabilities Education Act (IDEA);
- The roles and responsibilities, including financial responsibilities of each agency; and procedures for outreach to and identification of students with disabilities who need transition services;
- Coordination necessary to satisfy documentation requirements set forth in Section 511 of the Rehabilitation Act and 34 C.F.R. Part 397, with regard to students and youth with disabilities who are seeking subminimum wage employment; and
- An assurance that neither the SEA nor the LEA will enter into an agreement with an employer holding a Section 14(c) certificate under the Fair Labor Standards Act (FLSA) for the purpose of operating a program in which students or youth with disabilities are paid subminimum wage.

**Analysis:** The last SEA agreement between DVR and PED was executed in 2004, prior to the amendments to the Rehabilitation Act made in Title IV of WIOA. As such, there was no formal interagency agreement in effect during the period of review that complied with the minimum

requirements of a formal interagency agreement with a SEA pursuant to Section 101(a)(11)(D) of the Rehabilitation Act, as amended by Title IV of WIOA (effective July 22, 2014), and 34 C.F.R. § 361.22(b) (effective August 19, 2016).

RSA reviewed a memorandum titled Responsibilities Regarding Pre-Employment Transition Services issued by a PED acting deputy cabinet secretary, dated December 31, 2018, to special education bureau managing staff and DVR managing staff. DVR was not involved in the development of the memorandum and was unable to explain the issuance of a memorandum rather than the construction of a formal interagency agreement. Although the memorandum does not constitute an SEA agreement, it addressed aspects of the requirements of an SEA, but did not include the procedures for coordinating and satisfying documentation requirements specific to youth with disabilities seeking employment at subminimum wage in Section 511 of the Rehabilitation Act and in 34 C.F.R. § 361.22(b)(5).

Prior to the off-site review, the RSA team provided technical assistance specific to the requirements under 34 C.F.R. § 361.22(a) and (b) related to the coordination with education officials and clarified the formal interagency agreement requirements related to consultation and technical assistance to State and local educational agencies; outreach to students with disabilities in need of pre-employment transition services; transition planning; the roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services and pre-employment transition services; and the requirements related to Section 511. DVR submitted a revised FFY 2021 draft SEA agreement, which RSA reviewed and provided feedback to the VR agency in October 2020.

**Conclusion:** During the period of review (PYs 2017 through 2019), RSA determined that DVR did not have an updated executed formal interagency agreement with the New Mexico PED meeting all of the requirements in Section 101(a)(11)(D) of the Rehabilitation Act, as amended by WIOA, and 34 C.F.R. § 361.22(b). As such, DVR is not in compliance with the statutory and regulatory requirements.

**Corrective Actions 2.2:** RSA requires that DVR—

- 2.2.1 Submit a revised draft formal interagency agreement (SEA) between DVR and the New Mexico PED for RSA review that complies with the requirements in Section 101(a)(11)(D) of the Rehabilitation Act, as amended by WIOA, and the implementing regulations in 34 C.F.R. § 361.22(b); and
- 2.2.2 Execute an SEA that complies with the requirements in Section 101(a)(11)(D) of the Rehabilitation Act and the implementing regulations in 34 C.F.R. § 361.22(b).

**VR Agency Response:** DVR Response to Section 2.2.1: The DVR disagrees with the findings of the RSA that it did not have a SEA agreement for the coordination and provision of pre-employment transition services. In accordance with the monitoring process, the DVR submitted a memorandum entered into with the SEA (the New Mexico Public Education Department “PED”) in 2018 for the provision of pre-employment transition services. The 2018 memorandum encompassed many of the mandated provisions of a SEA agreement required by Section

101(a)(11)(D) of the Rehabilitation Act and 34 C.F.R. § 361.22(b). Additionally, the DVR has previously requested and received technical assistance from the RSA to review a formal Memorandum of Understanding (MOU/Agreement) between the PED and DVR for the provision and coordination of pre-employment transition services. Technical assistance was provided by RSA who reviewed multiple drafts of the MOU to ensure compliance with Section 101(a)(11)(D) of the Rehabilitation Act, as amended by WIOA and 34 C.F.R. § 361.22(b).

DVR Response to Section 2.2.2: The DVR accepts the recommendations of RSA to execute an agreement between the SEA and DVR. An attached copy of the Memorandum of Understanding executed on May 18, 2021 is submitted with DVR's Response.

**RSA Response:** As discussed during the FFY 2020 review, the formal interagency agreement between DVR and the SEA, the New Mexico Public Education Department, must include all of the required components pursuant to 34 C.F.R. § 361.22(b). During the period of time under review (PYs 2017 through 2019), DVR did not execute a formal interagency agreement in compliance with the regulatory requirements. On March 11, 2020, RSA reviewed and provided feedback on the memo referenced in this finding that was specific to the provision of pre-employment transition services (distributed December 31, 2018). At that time, RSA clarified the statutory and regulatory requirements, as well as the required components of a SEA agreement. RSA provided DVR with two examples of executed agreements from Maryland and Nevada, as well as the OSERS Dear Director letter that was jointly issued by OSERS to special education and VR program directors and a SEA review instrument (previously issued July 2019). RSA also provided additional technical assistance on a draft SEA agreement submitted during the monitoring review on July 24, 2020; October 16, 2020; October 23, 2020; January 16, 2021; and January 27, 2021. RSA shared an additional example of a compliant SEA agreement from the State of Montana on October 23, 2020, and again sent DVR the SEA review instrument and contact information for the National Technical Assistance Center on Transition: The Collaborative (NTACT:C) on January 6, 2021. The finding and the required corrective actions remain unchanged and as written.

RSA appreciates DVR's efforts to address this finding and the respective corrective actions. Once the corrective action plan is developed, RSA will review the formal interagency agreement referenced below under the agency's request for technical assistance to determine if it addressed the statutory and regulatory requirements, as well as the extensive feedback provided to DVR by RSA. RSA will continue to provide necessary technical assistance to support DVR's execution of a SEA agreement in accordance with 34 C.F.R. § 361.22(b).

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Sections 2.2.1 and 2.2.2: The DVR has entered into a formal agreement with the SEA. The DVR is not requesting technical assistance.

### **2.3 Non-Compliant or Absent Written Policies and Procedures Governing the Provision of VR Services, including Pre-Employment Transition Services and Supported Employment Services**

**Issue:** Does DVR have written policies and procedures for the provision of VR services, including pre-employment transition services and supported employment services that comply with the statutory requirements in the Rehabilitation Act, as amended by Title IV of WIOA, and implementing regulations in 2 C.F.R. part 200 and 34 C.F.R. parts 361, 363 and 397, including 34 C.F.R. § 361.50.

**Requirements:** In accordance with Sections 12(c) and 101(a)(6) of the Rehabilitation Act and 34 C.F.R. § 361.50, VR agencies are required to develop and maintain written policies covering the nature and scope of each of the vocational rehabilitation services specified in Section 103(a) of the Rehabilitation Act and 34 C.F.R. § 361.48, including pre-employment transition services as defined in Sections 7(30) and 113(b) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(42), and described in Section 113 of the Rehabilitation Act and 34 C.F.R. § 361.48(a); and supported employment services defined in Section 7(39) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(54), and described in Section 103(a)(16) of the Rehabilitation Act and 34 C.F.R. § 361.48(b)(13), as well as Sections 602 through 608 of the Rehabilitation Act and 34 C.F.R. part 363. In addition, written policies must also address the requirements in Section 511 of the Rehabilitation Act and 34 C.F.R. part 397.

Pursuant to the Federal regulations, written policies must ensure that the provision of VR services are based on the rehabilitation needs of each eligible individual with a disability, and that pre-employment transition services are based on the rehabilitation needs of each student with a disability who is potentially eligible or eligible for VR services. The provision of VR services to VR eligible individuals, including pre-employment transition services to students with disabilities, should be provided as identified in the IPE, and consistent with the individual's informed choice.

**Analysis:** As previously discussed in Sections B and C of this focus area, RSA reviewed DVR's existing policies in the MOP (issued on August 1, 2012), and the draft MOP policies (developed in January 2020). At the time of the review, the current policies published on the agency's website were not in compliance with the Rehabilitation Act, as amended by WIOA. RSA informed DVR that the MOP must be updated to align and comply with the requirements in the Rehabilitation Act, as amended by WIOA, including the implementing regulations in 34 C.F.R. parts 361, 363 and 397.

RSA provided technical assistance to DVR regarding its current and draft policies, and requested that DVR revise its policies to include—

- Referral-related policies that describe how referrals are accepted (phone, mail, online, etc.) and dated for tracking and reporting the timely processing of referrals in policy 2.1.4, in accordance with 34 C.F.R. § 361.41;
- Competitive integrated employment in policy 1.1, as emphasized by the WIOA amendments to the Rehabilitation Act, and pursuant to 34 C.F.R. § 361.5(c)(9);
- Documentation of informed choice through vocational guidance and counseling on all IPEs in policy 1.1.3, in accordance with 34 C.F.R. § 361.46;
- Definitions of participants and reportable individuals in policy 1.2.1;

- Post-employment services and the provision of such services prior to exit as reflected on amended IPEs in policies 1.4.32, 7.2 and 7.3 pursuant to 34 C.F.R. §§ 361.5(c)(41), 361.48(b)(15) and 361.56(d);
- The number of methods through which participants are notified prior to an impending closure, service record case closure, as well as timelines and documentation necessary for case closure in policies 3.2.6 and 3.2.7, in accordance with 34 C.F.R. §§ 361.47 and 361.56;
- The differentiation between “unable to locate” and “no longer interested in services” in policy 8.3.2; and
- An exception policy regarding length of time and cost of program (public, private or out-of-state) in policy 9.2.12.3, in accordance with 34 C.F.R. § 361.50.

RSA clarified that DVR must develop policies specific to measurable skill gains, credential attainment and post-exit measures, and the required supporting documentation to be collected during each stage of the VR process (34 C.F.R. § 361.47). RSA advised that policy Section 12 needs to include measurable skill gains, credential attainment and post-exit measures in the case documentation requirements.

During the review, DVR submitted its draft pre-employment transition services policies (developed January 31, 2020) for RSA review and feedback. RSA communicated that policies related to the provision of pre-employment transition services to students with disabilities should be included in the MOP as a services section and not as an attachment or appendix. DVR must align its definitions of “pre-employment transition services,” “student with a disability,” and “youth with a disability,” as well as the nature and scope of pre-employment transition services in policies 1.3.3 and 1.4.4, with Sections 7(30), (37), (42), and 113 of the Rehabilitation Act, as amended by WIOA, and its implementing regulations (34 C.F.R. §§ 361.5(c)(42), (51) and (58), and 361.48(a)(2)). Specifically, DVR must also remove references to youth with disabilities from pre-employment transition services-related policies; and include the student age-range for the receipt of pre-employment transition services, processes for documenting and reporting the provision of pre-employment transition services (direct and purchased) across case types, and staff time. Finally, RSA advised that DVR must revise its policy 3.3.4 (D) to specify that students already in receipt of pre-employment transition services at the time of assignment to order of selection priority category waiting lists, may continue to receive pre-employment transition services while assigned to a waiting list pursuant to 34 C.F.R. § 361.36(e)(3)(i).

With respect to DVR’s current and draft policies related to the supported employment program and supported employment services, RSA communicated that DVR’s policies must be revised to align with the statutory and regulatory requirements in Sections 7(38) and (39), 103(a)(16), and 602 through 608 of the Rehabilitation Act, as amended by WIOA and implementing regulations in 34 C.F.R. parts 361 and 363. In addition, DVR needs to include supported employment as a status in its policy discussion of service delivery statuses; and clarify that supported employment services are provided after a participant becomes employed in policy 5.1.1 and supported employment funds are Title VI funds, not Title IV funds as stated in policy 5.3. Additionally, DVR’s supported employment guidance memo to RSU staff (issued August 24, 2020), inaccurately states that supported employment services are available to youth with most

significant disabilities for a period of time up to 24 months, and that these services are only available to adults with most significant disabilities for 18 months. DVR must revise its policies and this timeframe to align with 34 C.F.R. § 361.5(c)(54)(iii). RSA also recommended that DVR consider including the scenarios for the achievement of a supported employment outcome and closure of the service record in Appendix H of the FFY 2018 RSA Monitoring and Technical Assistance Guide in the closure guidelines portion of DVR's supported employment policy section 5 to assist staff with case service record closure determinations.

**Conclusion:** During the period of review (PYs 2017 through 2019), RSA determined that DVR had not established written policies that met all of the requirements in Sections 7, 101(a)(6), 103(a), 113, 511 and 602 through 608 of the Rehabilitation Act and 34 C.F.R. §§ 361.5(c), 361.48(a) and (b), 361.50 and parts 361, 363 and 397. As such, DVR is not in compliance with statutory and regulatory provisions.

**Corrective Actions 2.3:** RSA requires that DVR—

- 2.3.1 Revise and submit for RSA's review all VR and Supported Employment program policies, including policies and procedures specific to the provision of pre-employment transition services, to ensure compliance with the statutory requirements in Sections 7, 101(a)(6), 103(a), 113, 511 and 602 through 608 of the Rehabilitation Act and implementing regulations in 34 C.F.R. §§ 361.5(c), 361.48(a) and (b), 361.50 and parts 361, 363 and 397;
- 2.3.2 Develop policies specific to measurable skill gains, credential attainment and post-exit measures, and the required supporting documentation to be collected during each stage of the VR process (34 C.F.R. § 361.47), and submit the policies to RSA for review; and
- 2.3.3 Finalize written policies and procedures to ensure ineligibility determinations are made in accordance with 34 C.F.R. § 361.43 and trial work experiences are provided pursuant to 34 C.F.R. § 361.42(e); written notification of impending service record closure in accordance with 34 C.F.R. § 361.47 and the availability of the client assistance program in 34 C.F.R. part 370; documentation of satisfaction and agreement of case closure pursuant to 34 C.F.R. § 361.56(c); an applicant or recipient of services has the opportunity to exercise his or her informed choice through the VR process pursuant to 34 C.F.R. § 361.52; uniform application of case closure procedures as required in 34 C.F.R. § 361.56; and the safeguarding of the confidentiality of all personal information, including photographs and lists of names, in accordance with 34 C.F.R. § 361.38.

**VR Agency Response:** DVR Response to Section 2.3.1: The DVR accepts the recommendations of the RSA and has requested and received technical assistance from RSA. In response to technical assistance provided by RSA, the Supported Employment PPI 20-03 has been revised and implemented by the DVR, and complies with Sections 7, 101(a)(6), 103(a), 113, 511 and 602 through 608 of the Rehabilitation Act and Federal regulations 34 C.F.R. §§ 361.5(c), 361.48(a)(b), 361.50 and parts 361, 363 and 397.

Additionally, in response to technical assistance provided by RSA, the MOP has been reviewed and revised to include a section (MOP 5.1.1) for delivery of service. Section 5.1.1 of the MOP has been revised to properly designate supported employment funds from IV to VI Title funds.

PPI 20-03, implemented on August 24, 2020, and the MOP have both been revised to correct the statement indicating that supported employment services are available to youth with most significant disabilities for a period up to 24 months, and that these services are only available to adults with most significant disabilities for 18 months. As stated in DVR Response to Section 2.1.1, the MOP is currently under revision to include specific provisions in compliance with Section 511 concerning limitations on subminimum wage pay. Finally, in response to technical assistance provide by RSA, scenarios have been added to the MOP in the Supported Employment Section (see DVR Response to Section 2.1.1, the DVR has requested continued technical assistance from the RSA to review a finalized and complete draft the MOP).

DVR Response to Section 2.3.2: The DVR accepts the recommendations of the RSA. DVR/RSU has requested and received technical assistance from the RSA to assist it to revise and review the DVR's MOP. In response to technical assistance from the RSA, the DVR includes Section 4.6 to the draft MOP dedicated to Measurable Skill Gains. Additionally, in response to technical assistance received by RSA, the DVR has developed PPI 20-02, which provides guidance to RSU staff concerning Measurable Skill Gains and implemented training to field staff in April 2021.

The DVR's AWARE Case Management software system provides a tracking mechanism for Measurable Skill Gains by entering data such as identified educational goals established in the Individualized Plan for Employment. Additionally, the AWARE system serves as case documentation in the case management system which tracks and uploads documentation throughout the life of the case when measurable gains are achieved.

DVR Response to Section 2.3.3: The DVR accepts the recommendations of the RSA. DVR/RSU has requested and received technical assistance from RSA to assist it to revise and review the DVR's MOP. In response to technical assistance from the RSA, the DVR has included Section 3.2.5.1.C to the MOP which addresses the necessity to detail the reasons determinations are made and to inform the participant regarding their rights and responsibilities including a description of the services available to the client from the Client Assistance Program (CAP) established pursuant to 34 C.F.R. part 370. Section 4 of "Clients Rights and Responsibilities reads, "the Client Assistance Program (CAP) the Disability Rights New Mexico is a program independent of the NMDVR and can provide you with information about your rights as an applicant or a client. CAP may also be able to assist you with the informal appeal process through the fair hearing if you wish to appeal a decision made by the NMDVR, CAP can be contacted at 3916 Juan Tabo N.E., Albuquerque, NM 87110, or by calling (505) 256-3100 or 1(800) 432-4682.

In response to technical assistance from the RSA, the DVR has revised Section 2.4 of the MOP, Trial Work Experience. The revision refers to case closure and instructs RSU staff that if a case is being closed due to the severity of the participants disability preventing successful achievement of an employment outcome, the DVR must present clear and convincing evidence to establish this is the case and must include documentation through trial work experiences into the case record. Additionally, a program must be developed in a Trial Work Experience prior to determining an individual is unable to benefit from VR services due to the severity of the disability and proceeding to closure.

The DVR/RSU and Information Technology (IT) disagree with RSA's determination that the DVR must establish written policy and procedure safeguarding the confidentiality of all personal information in accordance with 34 C.F.R. § 361.38. The DVR has an established PPI 21-03 and written policy and procedure protecting all personal and identifiable information that complies with 34 C.F.R. § 361.38. Additionally, the DVR/IT has deployed safeguards to the case management system consisting of a comprehensive portfolio of networking security technologies to provide advanced threat protection against cyber threats. This comprehensive suite consists of a broad set of technologies that function as a team-providing interoperability with the agency infrastructure and applications. The DVR has "Release of Information Forms" located on its SharePoint Data System for participant use.

**RSA Response:** RSA appreciates the detailed response and efforts to address this finding and respective corrective actions. Please ensure that supported employment services are available to individuals with disabilities, including youth with most significant disabilities, for a period not to exceed 24 months, unless under special circumstances agreed upon by the eligible individual and VR counselor in accordance with 34 C.F.R. § 361.5(c)(54). At the time of the review, DVR did not submit and as a result, RSA was not able to review agency executed policies specific to confidentiality. However, RSA appreciates that DVR issued Program Policy Instruction (PPI 21-03) on February 15, 2021, and the release of information form that was developed and issued after the review under the current interim director. Once the corrective action plan is developed, RSA will review the appendices submitted with DVR report responses to substantiate progress made to date, and it will work with DVR to determine if updated policies result in meeting Federal requirements and ensure ongoing compliance and the resolution of this finding and its respective corrective actions. RSA will provide technical assistance as needed.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 2.3.1: The DVR/RSU has requested and received technical assistance from the RSA to review DVR's MOP. The DVR requests continued technical assistance from the RSA to review a complete and finalized draft of the MOP.

DVR Response to Request for Technical Assistance to Section 2.3.2: The DVR/RSU requests technical assistance from the RSA to assist the DVR to develop and/or revise, and review policies and procedures related to credential attainment and post-secondary measures. The DVR/RSU requests continued technical assistance from the RSA to review a complete and finalized draft of the MOP.

DVR Response to Request for Technical Assistance to Section 2.3.3: The DVR/RSU is requesting technical assistance from the RSA to review a complete and finalized draft of the MOP. The DVR/RSU and IT are not requesting technical assistance regarding the remainder of this section.

## **2.4 Implementation of Pre-Employment Transition Services**

**Issue:** Did DVR maintain effective internal controls over the Federal award to provide pre-employment transition services in compliance with Federal statutes, regulations, and the terms and conditions of the award.

**Requirements:** A State VR agency must assure, in the VR services portion of the Unified or Combined State Plan, that it will employ methods of administration that ensure the proper and efficient administration of the VR program. These methods of administration (i.e., the agency’s internal controls) must include procedures to ensure accurate data collection and financial accountability (34 C.F.R. § 361.12).

“Internal controls” means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories—

- Effectiveness and efficiency of operations;
- Reliability of reporting for internal and external use; and
- Compliance with applicable laws and regulations (2 C.F.R. § 200.61).

In addition to the requirements in 2 C.F.R. § 200.303 discussed in Finding 2.2 (above) and in accordance with the Uniform Guidance (2 C.F.R. § 200.302(a)), a State’s financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the award, must be sufficient to permit the—

- Preparation of reports required by general and program-specific terms and conditions; and tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award; and
- Tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of Federal award.

Furthermore, provisions at 2 C.F.R. § 200.302(b)(4) require that the financial management system of each non-Federal entity must ensure—

Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.

In its guidance, *The Role of Internal Control, Documenting Internal Control, and Determining Allowability & Use of Funds*, the U.S. Department of Education made clear to grantees that internal controls represent those processes by which an organization assures operational objectives are achieved efficiently, effectively, and with reliable compliant reporting.

Therefore, an internal control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or correct processes that might lead to non-compliance with Federal and State requirements.

**Analysis:** RSA found several areas of concern related to internal controls pertaining to pre-employment transition services. These concerns are identified below.

### **Population to Receive Services**

The population to be served and the age range for students receiving pre-employment transition services varied from contract to contract. For example, the age ranges were described as: 14-21, 15-22, 14-21 unless young adults turn 22 after school year begins, 14-24, and 16-22. Some of the contracts interchangeably used the terms “student with a disability,” “transitioning youth,” “youth,” “young adult,” and “participant.” Specifically, the DVR contract with the Regents of the University of New Mexico (executed on October 18, 2018), was developed as a “Pre-Employment Transition Services – School to Work Transition (STW)” project, and was written to serve multiple populations, including “students with disabilities ages 16-22 years,” “students with disabilities ages 14-24 years,” as well as “transitioning youth” and “youth” with no age qualifiers.

Sections 7(37) and 7(42), respectively, of the Rehabilitation Act, as amended by WIOA, define a “student with a disability” and a “youth with a disability” and there is a specific set of services available only to students with disabilities that is not available to youth with disabilities. Although VR eligible students and youth with disabilities may receive transition services and individualized VR services under an approved IPE, pre-employment transition services are only available to individuals who meet the definition of a “student with a disability” in accordance with Section 7(37) of the Rehabilitation Act, as amended, and 34 C.F.R. § 361.5(c)(51), and who are potentially eligible or eligible for VR services. In accordance with the statutory and regulatory provisions, VR agencies are permitted to elect to use a lower minimum age for the receipt of pre-employment transition services; however, the maximum age cannot be older than 21 years of age, unless there is a State law that allows the State to provide IDEA services at a higher maximum age. Since DVR elected in the VR Services Portion of the New Mexico PY 2020 Combined State Plan to provide pre-employment transition services to students with disabilities from the ages of 14 through 21, any pre-employment transition services purchased or provided directly by DVR, may only be provided to individuals who meet the definition of a “student with a disability” and that specified age range. Any pre-employment transition services provided to individuals who do not meet the definition of a “student with a disability” could not be charged to the funds reserved for the provision of pre-employment transition services and could be questioned.

DVR must revise contract language and develop and implement internal control processes to ensure that pre-employment transition services are provided only to students with disabilities who meet the statutory and regulatory definitions, and age range specified in DVR’s VR services portion of the New Mexico PY 2020 Combined State Plan.

### **No Policy Governing Rates of Payment for Pre-Employment Transition Services Purchased through Contracts**

During off-site review discussions with DVR management and the review of DVR's policies regarding VR services, RSA learned that DVR did not have written policies governing the rate-setting methodology used to assign costs for pre-employment transition services purchased through contracts. Rather, DVR reported to RSA that it contacted several other VR State agencies to review costs incurred for the same or similar services after the New Mexico School for the Deaf and Rocky Mountain Youth Corps approached DVR with proposals based upon their knowledge and understanding of the VR program requirements under Section 113 of the Rehabilitation Act.

For the period of time under review, DVR did not submit to RSA any procedures or internal controls that ensured that the rates for purchased or contracted pre-employment transition services were reasonable and necessary consistent with Uniform Guidance. In the absence of a rate setting methodology and internal controls, DVR cannot ensure that the contract costs or expenditures meet DVR policy standards or that they are reasonable in accordance with Uniform Guidance. As a result, the cost for similar services specified in the contracts for pre-employment transition services are highly variable across the State.

The scope of services, number of students to be served and cost of contracts varied without a mechanism to determine what informed contract costs, how costs were determined, and if costs were reasonable. For example, DVR's contract with the Rocky Mountain Youth Corps contract provided eight "youth" a 30-hour, 10-month experience that included a work-based learning experience, job exploration counseling, counseling on enrollment opportunities in postsecondary educational programs at institutions of higher education (IHEs), and workplace readiness training for a total of \$54,000, while the contract with Mandy's Special Farm (executed May 15, 2019), was developed to provide 35 students with eight-week intensive summer programs, including workplace readiness training and a work-based learning experience for a total of \$150,000. Furthermore, the DVR contract with the School for the Deaf (executed June 7, 2019), was developed to provide an unspecified number of youth who were deaf and hard of hearing, who met the criteria for the NMSD's independent living skills summer housing program and were participating in the Assistance Dogs of the West canine-assisted leadership crew, with "deaf self-advocacy training/independent living skills development" during the "FFY 2019-2020" for a total of \$11,200.00, while the DVR contract with the Taos Ski Valley, Inc. (executed June 21, 2019), was developed to provide nine students with a 5-week intensive summer program, including job exploration counseling, workplace readiness training, counseling on enrollment opportunities in postsecondary educational programs at IHEs, and instruction in self-advocacy for a total of \$32,100.00.

RSA's review of the rates of payment for work-based learning experiences (e.g., paid internships and summer work experiences) varied by contract and ranged from—

- \$32,285 for eight "youth" to participate in a 300-hour, 10-month "intensive summer program" that included a work-based learning experience (i.e., an average of \$4,035.62 per student) under DVR's contract with the Rocky Mountain Youth Corps;
- \$12,000 for 10 "youth" to participate in a 120-hour work experience (i.e., an average of \$1,200 per student) under the Pueblo of Jemez contract (executed June 7, 2019);

- \$10,400 for 14 “transition-age youth” to participate in an 80-hour work experience (i.e., an average of \$800 per student) under the Mandy’s Special Farm contract; and
- \$800 stipends for “transition-age youth” and “youth” to participate in 80-hours of work experiences under contracts, including the East Las Vegas City Schools Public Schools, Farmington Municipal Schools, and Las Cruces Public Schools (all executed in June 2019).

The \$32,000 contract with Taos Ski Valley (executed June 21, 2019), was developed as an “intensive summer program” that included job exploration counseling and a paid, 32-hour work experience; however, the amount to be paid to the nine students to be served was not stipulated.

It appears that some of the payments to students for work experiences might be based on total costs divided by total hours for a wage of \$10 per hour; however, a rate for actual work per hour is not stipulated in any of the contracts or written policies. RSA clarified that payments to students should only be for actual hours worked and not solely for participation in a summer program or pre-employment transition services.

Federal regulations require DVR to establish procedures that enable it to administer the VR program in an efficient manner to ensure it can carry out all VR functions properly (34 C.F.R. § 361.12). Furthermore, Uniform Guidance provisions at 2 C.F.R. § 200.303(b) require DVR to establish internal controls that ensure the agency complies with all Federal requirements. DVR also must establish and maintain written policies that govern the rates of payment for all purchased VR services (34 C.F.R. § 361.50(c)(1)). The Federal cost principles require that costs be allowable, reasonable, and allocable to the program (2 C.F.R. §§ 200.403 through 200.405). To be allocable to a program, the cost must be relative to the benefit received (2 C.F.R. § 200.405(a)). Without written policies that sufficiently govern the rate-setting methodology DVR uses to assign costs for purchased VR services, or clear guidelines to determine authorized rates of payment for pre employment transition services, DVR cannot ensure that all expenditures incurred for the provision of purchased pre-employment transition services are allowable, reasonable, and allocable to the VR program. Therefore, DVR cannot assure that it is administering the VR program in a proper and efficient manner and ensuring financial accountability. For these reasons, DVR has not complied with the administration and internal control requirements set forth in 34 C.F.R. § 361.12 and 2 C.F.R. § 200.303(b), respectively.

In addition, some contracts included expenditures for equipment, supplies, and ongoing operational expenses that are not pre-employment transition services under Section 113 of the Rehabilitation Act and 34 C.F.R. § 361.48. However, it would be expected that reasonable fees for these services would take into account overhead and operational expenses so long as they are proportionally attributable to the services being provided consistent with Federal cost principles in the Uniform Guidance.

### **Differentiation and Reporting of Pre-Employment Transition Services**

Under 34 C.F.R. § 361.48(a), each State must ensure that the designated State unit, in collaboration with the local educational agencies involved, provide, or arrange for the provision

of, pre-employment transition services for all students with disabilities in need of such services, without regard to the type of disability, from Federal funds reserved in accordance with 34 C.F.R. § 361.65, and any funds made available from State, local, or private funding sources. Funds reserved and made available may be used for the required, authorized, and pre-employment transition coordination activities.

Pre-employment transition services are to be made available statewide to students with disabilities who are enrolled in an educational program and are potentially eligible or eligible for the VR program in accordance with Section 113 of the Rehabilitation Act, and its implementing regulations. Pre-employment transition services include five required activities in 34 C.F.R. § 361.48(a)(2), four pre-employment transition coordination activities in 34 C.F.R. § 361.48(a)(4), and nine authorized activities in 34 C.F.R. § 361.48(a)(3), if funds are available and remaining after the provision of required activities.

DVR is responsible for differentiating and reporting the provision of required, pre-employment transition coordination, and authorized activities on RSA reports, including the RSA-911 and SF-425. However, DVR did not submit a mechanism or internal control processes for ensuring that contracted pre-employment transition services provided met the statutory and regulatory requirements, differentiating and reporting the three distinct sets of required, pre-employment transition coordination, and authorized activities under pre-employment transition services.

During the period of performance under review (PYs 2017, 2018, and 2019), DVR's contracts for pre-employment transition services did not account for pre-employment transition services expenditures in a manner that permitted the reporting of actual services and costs incurred for each student served per student expenditures on the RSA-911. Specifically, several of DVR's pre-employment transition services contracts do not differentiate services provided as required, pre-employment transition coordination, authorized activities, or services beyond the scope of pre-employment transition services (e.g., case management activities and staff training not related to providing pre-employment transition services).

For example, the \$2.316 million contract with the Central Regional Education Cooperative (CREC), executed on June 27, 2018, funded three staff to serve as "formal representatives of DVR" at pre-employment transition services-related meetings for students with disabilities; attend IEP meetings when appropriate; maintain student-level case files on pre-employment transition services meetings, outcomes and student progress; report the number of meetings attended at each LEA, and coordinate the development and implementation of technical/professional training to DVR counselors and LEAs in each region; instruction in self-advocacy and work-based learning experiences; and staff travel.

RSA reviewed a detailed monthly report submitted by the CREC that listed all services provided and hours billed for the month (covering February 1, 2019 through February 28, 2019), and invoiced DVR \$4,010, without specifying the specific set of "pre-employment transition services" activities or VR services provided, the number of students in receipt of each activity or service, or a breakdown of time spent or cost of providing each required, pre-employment transition coordination or authorized activity. Rather, hours billed for "pre-employment

transition services” included a mixture of required, pre-employment transition coordination, authorized activities, and services beyond the scope of pre-employment transition, including—

- Self-advocacy instruction (e.g., instruction to 36 special education students during three different classes);
- Delivery of job readiness for life skills class at a high school (no names or number of students reported);
- Job exploration counseling (sometimes included first and last initial of students, printing copies, and “reviewed clusters guide to use with high school students”);
- Higher education counseling (did not always include first and last initial of students’ names, sometimes only included a high school);
- Provision of higher learning education counseling (i.e., “worked creating folders for students who have a chosen career goal”);
- Workforce readiness training for four students on team building exercises, resume building and meeting with 13 students for a classroom presentation);
- Specified and unspecified travel (e.g., to meet with special education staff, attend transition workgroups and IPEs). Travel did not always specify the reason for travel or if it was for contract staff or clients;
- Development of a work experience pilot (e.g., setting up pilot hours, meetings with stakeholders, research, job coaching development and student job coaching for a group of six unnamed seniors);
- Collaboration with other vocational transition specialists (VTS’) to develop pre-employment transition services;
- Coordination activities required to deliver pre-employment transition services, including launching and maintaining work-based learning programs, VTS supervision/development, program design/oversight, networking with stakeholders, research and data gathering;
- Networking meetings, events and coordination, scheduling activities necessary to deliver and enhance pre-employment transition services;
- Professional development trainings and supervision meetings for VTS’, and study activities necessary to deliver quality pre-employment transition services (e.g., “TAP Advanced Strategies for effective transition at cooperative education services (CES) in Albuquerque and definitions of IDEA transition and Indicator 13 compliance);
- Preparation and delivery of orientation materials to students and parents; and
- Time spent advising or assisting students, parents, and schools on the DVR referral process and Project SEARCH application, delivering IEP and diagnostic evaluation to schools, printing and submitting student IEPs and evaluations to DVR officers, printing referrals for specific schools.

As a result, DVR was unable to identify and track the amounts paid for required, pre-employment transition coordination services, or authorized activities, and pre-employment transition services provided for each student in receipt of such services, as required in the terms and conditions of the VR award, including requirements to report purchased services data by expenditures per service per individual on Federal reports such as the RSA-911. Furthermore, to

the extent that DVR does not have internal controls in place that enable it to differentiate between pre-employment transition services and other VR services and program activities, it cannot determine which expenditures are chargeable to the pre-employment transition reserve and any costs not chargeable to, but paid for with, the reserved funds could be questioned.

### **Provision of VR Services**

DVR has attributed VR services to the 15 percent reserve through the cost of salaries for individuals who provide job coaching services for students participating in work-based learning experiences, including three personnel to include one lead and two key staff through the CREC contract, a director under the Rocky Mountain Youth Corps contract; an instructor and interpreter under the New Mexico School for the Deaf; four staff members under the Mandy's Special Farm Contract; two staff under the Pueblo of Jemez contract; two hired staff under the East Las Vegas City schools' contract; three staff under the Farmington Municipal Schools contract; and a transition skills instructor under the Las Cruces Public Schools contract.

On February 27, 2020, the U.S. Department of Education published a notice of interpretation in the *Federal Register* announcing a change in policy with respect to additional VR services needed by eligible students with disabilities that may be paid for with Federal VR grant funds reserved for the provision of pre-employment transition services and the circumstances under which those funds may be used to pay for those additional VR services. In pertinent part, the notice made clear that VR agencies can use the reserved funds to pay for coaching services needed by students with disabilities with an approved IPE to participate in work-based learning experiences. However, the contracts do not stipulate that a student must be determined eligible for VR services and have an approved IPE before he or she receives job coaching services necessary to engage in a work-based learning experience. For the contracts and period of time under review, DVR was not able to confirm whether all students in receipt of job coaching services, or other individualized services, had an approved IPE.

To determine when Federal funds reserved for the provision of pre-employment transition services may be spent and reported as pre-employment transition services expenditures, VR agencies will need to analyze each cost to determine whether it – 1) fits within the scope of the itemized pre-employment transition services activities; and 2) was incurred solely for the benefit of a “student with a disability.”

## Administrative Costs

Although DVR reported that administrative costs are not charged to the funds reserved for the provision of pre-employment transition services, it does not have a method of tracking administrative costs to keep charges separate from the 15 percent reserve.

Section 110(d)(2) of the Rehabilitation Act prohibits administrative costs from being paid with funds reserved for the provision of pre-employment transition services. This means the VR agency may not use funds reserved for pre-employment transition services to pay for any of the activities identified in Section 7(1) of the Rehabilitation Act and 34 C.F.R. § 361.5(c)(2), which define the administrative costs under the vocational rehabilitation services section of the Unified or Combined State Plan. Management, supervisory, accounting and support staff functions are examples of activities generally considered administrative in nature. For example, financial management and accounting activities such as creating authorizations, processing and paying invoices, monitoring contracts, supervision of VR agency staff, and indirect costs would be considered administrative and may not be charged to funds reserved for the provision of pre-employment transition services.

Since administrative costs must not be charged to the 15 percent reserve pursuant to 34 C.F.R. § 361.65(a)(3)(ii)(B), the review team provided technical assistance on the need to track administrative costs so that none are inadvertently charged to the 15 percent reserve. DVR does not distinguish between the time charged for the provision of pre-employment transition services by its staff versus time used for administrative services when charging time to the reserve.

**Conclusion:** As described above, DVR does not maintain effective internal controls over the Federal award that provide reasonable assurances that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award, as required by 34 C.F.R. §§ 361.3(a) and 361.12, and 2 C.F.R. §§ 200.302 and 200.303. Specific internal control areas of deficiency include the population to be served, as required by 34 C.F.R. § 361.48(a), and written policies that govern the rates of payment for all purchased VR services, including pre-employment transition services, as required by 34 C.F.R. § 361.50(c)(1), and reporting of pre-employment transition services.

DVR did not satisfy the requirements in 34 C.F.R. §§ 361.3 and 361.12, and 2 C.F.R. § 200.302(a) and (b)(4) that require a State's financial management systems to be sufficient to permit the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal requirements, and that funds are spent solely on allowable VR activities, including pre-employment transition services. DVR does not have internal controls to ensure that funds reserved for the provision of pre-employment transition services are only used for the provision of such services to individuals who meet the definition of a "student with a disability;" nor does DVR have a mechanism to differentiate between required, pre-employment transition coordination or authorized activities under pre-employment transition services, which has an impact on DVR's ability to report expenditures for the purchase of each set of activities, and each student in receipt of a pre-employment transition service purchased

through contracts. DVR does not have a mechanism or written internal controls to ensure that administrative costs are not charged to the funds reserved for the provision of pre-employment transition services.

Collectively, these deficiencies suggest generalized, systemic deficiencies within the agency's control environment. The corrective action steps listed below will support DVR in developing its ability to correct processes that have led to the non-compliance findings noted above.

**Corrective Actions 2.4:** RSA requires that DVR—

- 2.4.1 Amend or revise contracts to ensure all pre-employment transition services are provided in accordance with Section 113 of the Rehabilitation Act and 34 C.F.R. § 361.48(a) of the regulations and develop appropriate internal controls to ensure pre-employment transition services are provided only to students with disabilities;
- 2.4.2 Revise written policies and procedures governing the manner in which DVR will set fees for purchased VR services, including pre-employment transition services, based on reasonable costs established by the agency, as required by 34 C.F.R. § 361.50(c)(1);
- 2.4.3 Develop and implement written internal controls and mechanisms to differentiate and track all services purchased and provided as required, pre-employment transition coordination and authorized activities; ensure that costs for these activities purchased through contracts are allocable and allowable under the reserve, in accordance with 2 C.F.R. § 200.405 and Sections 110(d)(2) and 113 of the Rehabilitation Act; and reconcile budgeted or projected costs with actual costs spent providing the services;
- 2.4.4 Include in contracts language specifying the manner in which contractors will record, track and report to DVR supporting documentation sufficient for the VR agency to meet its Federal reporting requirements on the SF-425, RSA-17 and RSA-911, including expenditures per service per student;
- 2.4.5 Develop a method of tracking actual administrative costs to keep charges separate from the 15 percent reserve in accordance with 34 C.F.R. § 361.65(a)(3)(ii)(B); and
- 2.4.6 Immediately cease using funds reserved for pre-employment transition services to pay for unallowable activities and submit documentation to RSA that indicates the date the payments were ceased and that no further payments will be made from reserved funds.

**VR Agency Response:** DVR Response to Section 2.4.1: The DVR accepts the recommendations of the RSA and has requested and received technical assistance from RSA pursuant to this section. DVR/RSU and ASU have amended two current contracts for Pre-Employment Transition Services which incorrectly identify students with a disability outside the ages of 14-21, (Amendments to Professional Services Contracts with Mandy's Farm and Rocky Mountain Youth Corp.). The DVR/ASU also notes that in response to an audit of these two contracts, it was determined that only one of the contractors actually provided pre-employment transition services to youth with a disability over the age of 21. Additionally, the DVR/RSU has taken several actions to accurately report students with disabilities receiving services. In July 2020, the DVR implemented a contract portal which identifies students by a statewide Student Teacher Accountability Reporting System (STARS) number utilized and maintained by the New Mexico Education Department to identify students with a disability age 14-21 by a unique identifier. The

portal also tracks the pre-employment transition service each student received by contractors. Finally, the portal tracks contractor attendance at Individualized Education Plan (IEP) meetings. Contractors were provided training in April 2020 and May 2020 to provide instruction on the use of the contract portal for reporting pre-employment transition services.

DVR Response to Section 2.4.2: The DVR/ASU disagrees with RSA's finding that it did not adhere to establishing reasonable costs required by 34 C.F.R. § 361.50(c)(1). DVR engaged in a process that a reasonable, prudent person would adhere to in establishing the reasonableness of cost by researching costs utilized by other state vocational rehabilitation programs. Nonetheless, the DVR/ASU accepts the recommendations of the RSA to develop, revise and implement written policies and procedures describing, in writing, the process by which DVR sets fees for all purchased vocational rehabilitation services, including pre-employment transition services costs as required by 34 C.F.R. § 361.50(c)(1).

DVR Response to Section 2.4.3: The DVR/ASU accepts the recommendations of the RSA to develop and implement written internal controls and mechanisms to differentiate and track all services purchased and provided as required, pre-employment transition coordination and authorized activities; ensure that costs for these activities purchased through contracts are allocable and allowable under the reserve, in accordance with 2 C.F.R. § 200.405 and Sections 110(d)(2) and 113 of the Rehabilitation Act; and reconcile budgeted or projected costs with actual costs spent providing the services. The DVR has requested and is currently receiving technical assistance from the RSA. In response to requested technical assistance, the DVR/ASU has engaged in an audit of DVR's current contracts for pre-employment transition services to ensure that costs for these activities are allocable and allowable under the pre-employment transition services federal funding reserve. The DVR/ASU intends to continue receiving technical assistance from the RSA to review developed and/or revised written internal controls and mechanisms to differentiate and track all service purchased in accordance with 2 C.F.R. § 200.405 and Section 110(d)(2) and 113 of the Rehabilitation Act and to ensure all costs for providing services reconcile with budgeted or projected costs with actual costs spent.

DVR Response to Section 2.4.4: The DVR accepts the recommendations of the RSA to include in contracts language that specifies the manner in which contractors will record, track and report requirements on the SF-425, RSA-17 and RSA-911, including expenditures per service per student. In response to technical assistance requested and received by the RSA, the DVR will amend pre-employment transition services contracts to ensure deliverables track and report the federal requirements (SF-425, RSA-17 and RSA-911).

The DVR/RSU has established the contracts portal, which tracks service per student and will develop written internal controls for contract monitoring. Finally, training has been and will continue to be provided to contractors on properly imputing data into the contract portal.

DVR/ASU has implemented invoice requirements to mandate that the provider itemize each invoice to reflect cost per deliverable, to identify potentially eligible and eligible students served, to itemize the activity provided and include an itemized cost per service.

DVR Response to Section 2.4.5: The DVR/ASU accepts the recommendations of the RSA to develop a method of tracking actual administrative costs to keep charges separate from the fifteen percent (15%) reserve for pre-employment transition services reserve in accordance with 34 C.F.R. § 361.65 (a)(3)(ii)(B).

The DVR/ASU currently engages in the following steps to ensure expenditures are segregated and charged to the appropriate funding source. When creating a requisition for an upcoming expenditure, the program fiscal office creates a requisition for an expenditure and determines the proper grant and funding stream the expenditure must be charged to. The requisition is then reviewed by their program supervisor who ensures that the requisition is correctly being charged to the proper grant and that a quote for the expenditure is correct. Once the requisition is approved by the program supervisor, ASU reviews and ensures that the proper accounts are used and that the proper documents are attached. This process is performed for all expenditures including contracts for goods or services. The DVR/ASU also performs a monthly reconciliation to ensure expenditures, revenues, match and transfers are properly charged to the appropriate funding source. The ASU reconciles each grant every 2 weeks to determine if expenditures and revenues reconcile to the general ledger. Once the ASU reconciles grant expenditures and revenues to the general ledger, the Chief Financial Officer (CFO) reviews the reconciliations and approves for reimbursement from the federal government. The ASU General Ledger staff performs multiple reconciliations of each funding source to ensure DVR's expenditures and revenue are properly charged to the correct grant, general fund, indirect cost other funding source. If a discrepancy is detected, staff will work with the program manager and staff monitoring grants to correct the issue.

DVR Response to Section 2.4.6: The DVR/ASU and RSU accept the recommendations of the RSA to immediately cease using funds reserved to pre-employment transition services to pay for unallowable activities. The DVR/ASU and RSU have requested and received technical assistance from the RSA in accordance with this section. In response to technical assistance received by the RSA, all pre-employment transition services contracts have been audited by the DVR. Four current contracts were identified by the DVR as contracts established for the provision of pre-employment transition services. On April 16, 2021, all four contracts were suspended. In addition to ceasing payment from reserved pre-employment transition funds, the ASU in meetings with the RSA have identified alternate VR funding sources to pay costs that are disallowable to the fifteen percent (15%) reserve that are allowable (for example administrative costs) from VR funding sources. The DVR/ASU will create detailed invoices which clearly separate and identify funding sources.

The DVR notes that each contract, subject to an audit by the DVR as described above, did in fact provide required and authorized pre-employment transition services charged to the fifteen percent (15%) reserve. Other allowable costs, which were not authorized under the 15% reserve but allowed under the VR grant, have been segregated from the 15% reserve and charged under the appropriate grant. As such, the DVR asserts that no substantial harm occurred to the federal grants awarded.

Additionally, the ASU currently engages in the following steps to ensure segregation of funds by federal source, federal award period, general funds, indirect cost revenue, reimbursements and

transfers. The “funds” are entered into the Share Grant Financial module by award and federal fiscal year and assigned an individual project code. This ensures the program does not over expend the federal award. Fiscal staff tracks and reconciles each fund monthly to ensure expenditures and revenues are appropriately allocated to the proper project code. When an invoice is received by the DVR/RSU, the invoice is reviewed by the program manager and the manager certifies that goods or services have been received/provided and that it is sufficient to pay the vendor. Once approved by the program manager, the documentation is then forwarded to the ASU. ASU then reviews the invoice and voucher to ensure the information is accurate and that the voucher attaches to the proper purchase order (PO) which attaches to the proper grant. Each expenditure is reviewed by the program fiscal officer, program manager and SU to ensure expenditures are appropriated changed to the correct funding source.

**RSA Response:** RSA appreciates DVR’s efforts to address the corrective action items. Once the corrective action plan is developed, RSA will work with DVR to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged. RSA will continue to provide technical assistance as requested.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 2.4.1: The DVR/RSU and ASU have requested and received technical assistance from the RSA concerning the recommended corrective action in this section. In response to technical assistance received from the RSA, DVR has conducted an audit of all current contracts for the provision of pre-employment transition services and amended such contracts to ensure compliance with Section 113 of the Rehabilitation Act and 34 C.F.R. § 361.48(a). In addition to ensuring current contract language accurately reflects the population of students with disabilities eligible for pre-employment transition services, the RSU and ASU will work together to develop appropriate written internal controls to ensure pre-employment transition services are only provided to students with disabilities. As stated above, the DVR has corrected contract language for the provision of pre-employment transition services. Contract templates will be developed by the DVR/ASU to ensure continued compliance. Technical Assistance is not requested in this area.

DVR Response to Request for Technical Assistance to Section 2.4.2: The DVR/ASU requests technical assistance from the RSA to review developed and/or revised written policies and procedures to ensure compliance with 34 C.F.R. § 361.50(c)(1).

DVR Response to Request for Technical Assistance to Section 2.4.3: The DVR/ASU requests technical assistance from the RSA to review written internal controls and mechanisms to differentiate and track all services purchased and provided as required including pre-employment transition services and other authorized vocational rehabilitation services to ensure all costs for activities purchased through contracts are allocable and allowable pursuant to 2 C.F.R. § 200.405 and Sections 110(d)(2) and 113 of the Rehabilitation Act. DVR/ASU requests technical assistance from the ASU to review written internal controls to ensure compliance with the law as stated above and to assure reconciliation of budgeted costs with actual costs spent.

DVR Response to Request for Technical Assistance to Section 2.4.4: DVR/RSU has requested and received technical assistance from the RSA to amend pre-employment transition contracts and include contracts language necessary to adhere to federal reporting. The DVR/RSU requests continued technical assistance to review and approve of standard contract language that meets federal reporting requirements. Additionally, DVR/ASU has requested and received technical assistance from RSA to properly itemize invoice services and costs. DVR/ASU requests continued technical assistance from the RSA to ensure written internal controls are developed and/or revised, implemented and monitored for continued compliance.

DVR Response to Request for Technical Assistance to Section 2.4.5: The DVR ASU requests technical assistance from the RSA to develop and review a written method of tracking administrative costs to keep these charges separate from the fifteen percent (15%) reserve to ensure compliance with 34 C.F.R. § 361.65(a)(3)(ii)(B).

DVR Response to Request for Technical Assistance to Section 2.4.6: The DVR has requested and received technical assistance from the RSA. Due to technical assistance received, the DVR/ASU has ceased using funds reserved for pre-employment transition services to pay for unallowable activities. Documentation to illustrate compliance was submitted. As the DVR has taken the recommended corrective action in this area, further technical assistance is not requested.

## **SECTION 3: FOCUS AREA – FINANCIAL MANAGEMENT OF THE STATE VOCATIONAL REHABILITATION SERVICES AND STATE SUPPORTED EMPLOYMENT SERVICES PROGRAMS**

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### **A. Purpose**

Through this focus area RSA assessed the financial management and fiscal accountability of the VR and Supported Employment programs to ensure that: funds were being used only for intended purposes; there were sound internal controls and reliable reporting systems; available resources were maximized for program needs; and funds supported the achievement of employment outcomes for individuals with disabilities, including those with the most significant disabilities, and the needs of students with disabilities for pre-employment transition services.

### **B. Scope of Financial Management Review**

During the review process, RSA reviewed the following area related to financial management and accountability:

#### **Vendor Contracts**

The RSA team reviewed three areas related to vendor contracts:

- Contract procurement;
- Supporting documentation for payments; and
- Contract monitoring.

This review area included contracts for the provision of pre-employment transition services. DVR has entered into contracts with several organizations, and of those, RSA reviewed the following:

- University of New Mexico Contract #19-6441000-0001
- Rocky Mountain Youth Corps Contract #19-644-1000-00041
- New Mexico School for the Deaf Contract #19-644-1000-0068
- Taos Ski Valley, Inc. Contract #19-644-1000-0067
- Central Region Educational Cooperative (CREC5) #16-644-1000-0002
- Bernalillo Public School Contract #19-644-1000-0069
- Mandy's Special Farm Contract #19-644-1000-0064
- Pueblo of Jemez Contract #19-644-1000-0066
- East Las Vegas City Schools Public Schools Contract #19-644-1000-0070
- Farmington Municipal Schools Contract #19-644-1000-0071
- Las Cruces Public Schools Contract #19-644-1000-0065

## **C. Technical Assistance and Recommendations**

### **Reasonable Costs**

DVR was advised of its responsibility to comply with the provisions of 2 C.F.R. § 200.404. RSA explained that reasonable costs may be determined from an itemized budget, an independent government cost estimate or similar cost projection model. The cost projections should be included with the contract proposal.

### **Procurement Method**

DVR was advised that the use of a formal, standardized, and documented procurement method provides levels of assurance of compliance with governing laws, regulations, and policies. RSA also advised that the legal exemption from the Request for Proposal (RFP) procurement method does not relieve the grantee from its responsibility to ensure that procurement transactions are fully compliant with all applicable Federal and State laws, regulations, and policies.

Despite the exemption from the State procurement code for the purchase of VR services, DVR may wish to consider procuring VR services by some other means designed to foster competition, provide fair and equal access to Federal funds, and to elicit responses from multiple eligible vendors. The grantee is not prohibited from developing a (non-RFP) customized solicitation instrument for use in procurement of VR services, such as requests for information, instructions to suppliers, schedules of requirements, vendor eligibility criteria, or similar documents.

### **Supporting Documentation for Payments**

At the October 6, 2020, RSA review meeting, DVR fiscal staff described the process for ensuring that services provided by vendors matched the services billed prior to approval or disbursement of payments. Based on the information provided, RSA deems the practice sound, thorough, and sufficient. However, RSA received no documentation that would have enabled RSA to conduct its own review and analysis, and thus determine compliance with all elements of the applicable Federal regulation and DVR's financial/accounting policies.

### **Contract Monitoring**

RSA advised DVR of its oversight responsibility of all Federally supported award activities. DVR must monitor contracted activities and costs under Federal awards to ensure compliance with applicable Federal requirements and to ensure performance expectations are being achieved. DVR's contract monitoring activities should be formalized, standardized, and documented.

### **Performance Measures**

Both the Federal regulations (2 C.F.R. § 200.328(a)) and DVR's contract policy require performance objectives and measures to be identified in the contract. While the contracts RSA reviewed did contain performance measures, RSA determined that most were not sufficient to effectively measure the provision of required pre-employment transition services. To be

effectively measurable and meaningful, a performance standard must contain a baseline and either an amount or a percentage of change or variance (increase/decrease) from the baseline. The following are a few examples of insufficient performance measures:

- Central Region Educational Cooperative (CREC5) #16-644-1000-0002 states, “DVR meets compliance with Section 113 of the WIOA by increasing the number of students served and increasing and the NMDVR attendance at IEP meetings.”
- Rocky Mountain Youth Corps Contract #19-644-1000-00041 states, “Members will create and maintain a professional resume.”
- New Mexico School for the Deaf Contract #19-644-1000-0068 states, “Increase graduation rates for students with disabilities, decrease dropout rates for students with disabilities, increase Post-School outcomes for students with disabilities, and Increase employment rates for students with disabilities.”

The performance objectives in the examples cited above are all missing a baseline against which a measurable change (increase/decrease) may be calculated or a projected number of students to be served and the number and type of pre-employment transition services to be provided. In addition, performance objectives should be specific to pre-employment transition services to students with disabilities, the requirements under the Rehabilitation Act, as amended, and its implementing regulations, not IDEA requirements (e.g., graduation rates, drop-out rates, Indicator 13).

Some satisfactory performance objectives may include—

- Increase job exploration counseling services for students with disabilities, from *16 students (baseline)* to *24 students (measurable increase)* by *(date)*; or
- Conduct 12 workplace readiness sessions *(baseline)* by *(date)* *(measurement is the actual number of sessions conducted by the stated date)*.

#### **D. Findings and Corrective Actions**

RSA’s review of DVR’s performance in this focus area resulted in the identification of the following findings and the corresponding corrective actions to improve performance.

##### **3.1 Insufficient Contract Procurement Standards**

**Issue:** Whether the costs of the contracted services were procured in a manner that is consistent and compliant with 2 C.F.R. §§ 200.300(b) and 200.403(c); Sections H and I of 2 C.F.R. § 200, Appendix II; and the State of New Mexico, Public Education Department, Division of Vocational Rehabilitation, Administrative – Contracts and Agreements Policy (DVR contract policy).

**Requirements:** Under 2 C.F.R. § 200.300(b), the non-Federal entity is responsible for complying with all requirements of the Federal award. 2 C.F.R. § 200.403(c) states that allowable costs must be consistent with policies and procedures that apply uniformly to both

Federally financed and other activities of the non-Federal entity. In addition, all costs under a Federal award are subject to 2 C.F.R. part 200.

Section H of Appendix II of 2 C.F.R. part 200 prohibits contracts from being awarded to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180 that implement Executive Orders 12549, "Debarment and Suspension." Section I of Appendix II of 2 C.F.R. part 200 requires that contractors who apply or bid on an award in excess of \$100,000 must provide an anti-lobbying certificate.

**Analysis:** When RSA asked DVR to provide the requests for proposals (RFPs) for the pre-employment transition services contracts under review, the VR agency stated the vendors were not solicited through the RFP process. Specifically, DVR shared that it did not need to use a RFP process for the \$2.3 million contract it entered into with the CREC since it is under the New Mexico Public Education Department (PED) and includes the 10 regional special education cooperatives that have access to nine of the ten school districts in the State of New Mexico. DVR communicated that the CREC, as an entity under PED, adheres to the same Federal and State procurement requirements that DVR does.

With respect to contracts into which DVR entered with other entities (e.g., Regents of the University of New Mexico, an AmeriCorps program, public schools and school districts, and non-profit organizations), DVR communicated that vendors approached DVR with proposals based on their knowledge and understanding of the VR program requirements under Section 113 of the Rehabilitation Act, as amended by WIOA. In response, DVR staff contacted a number of States offering similar services to determine proposed costs for programming. DVR did not procure services through the RFP process because of a statutory exemption found at NMAS 13-1-98 (Z), which reads: "The provisions of the Procurement Code shall not apply to purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973."

Regardless of this exemption allowed for under State law and the procurement method used, the VR agency is required to ensure that all pertinent Federal requirements are met. These requirements include, but are not limited to, ensuring that all costs charged to the Federal award are reasonable, necessary, allowable and allocable; that financial management and internal controls standards and requirements cited in 2 C.F.R. §§ 200.302 (a) and (b) and 200.303 are met; and that provisions cited in Appendix II to 2 C.F.R. part 200 are addressed.

For example, RSA asked DVR to provide copies of the anti-lobbying certificates for those contracts that met or exceeded the threshold, but none were provided. RSA also asked for documentation demonstrating compliance with the SAM registration and debarment/suspension check requirements. DVR provided documentation indicating that some SAM checks were conducted; however, the VR agency did not provide documentation substantiating that SAM checks were conducted on all vendors as required by Federal regulation.

**Conclusion:** As a result of the analysis, RSA determined that DVR did not ensure that all pertinent Federal requirements are met. These requirements include, but are not limited to, ensuring that all costs charged to the Federal award are reasonable, necessary, allowable and allocable; that financial management and internal controls standards and requirements cited in 2 C.F.R. §§ 200.302 (a) and (b) and 200.303 are met; and that provisions cited in Appendix II to 2 C.F.R. part 200 are addressed. For example, documentation to support required SAM checks and anti-lobbying certification requirements is noncompliant with Sections I and H of Appendix II of 2 C.F.R. part 200.

**Corrective Action 3.1:** RSA requires that DVR develop, implement, and monitor a procurement method, procedures and standards that ensure compliance with applicable Federal and State statutes, regulations, and policies. These include, but are not limited to, 2 C.F.R. §§ 200.300(b) and 200.403 through 200.405; and Sections H and I of Appendix II to 2 C.F.R. part 200.

**VR Agency Response:** DVR Response to Section 3.1: The DVR/ASU accepts the recommendations of RSA to develop, implement, and monitor a procurement method, procedures and standards that ensure compliance with applicable Federal and State statutes, regulations, and policies including but not limited to, 2 C.F.R. §§ 200.300(b) and 403 through 200.405; and Sections H and I of Appendix II to 2 C.F.R. part 200.

As indicated in DVR Responses above to Sections 2.4. 1-6, the DVR/RSU and ASU have requested and received technical assistance from RSA and have begun to correct fiscal management issues as identified by the RSA by auditing current contracts for the provision of pre-employment transitions services, amending those contracts, stopping payment of disallowable costs reserved to the 15% reserve for pre-employment transitions services and differentiating, identifying appropriate funding sources for all purchased services and requiring detailed itemized invoices from providers that appropriately segregate cost for services to ensure they are allocable, allowable, and charged to the appropriate grant or funding source.

**RSA Response:** RSA appreciates the agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with the agency to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged, and RSA will continue to provide technical assistance as requested.

**VR Agency Request for Technical Assistance:**

DVR's Response to Request for Technical Assistance to Section 3.1: The DVR requests continued technical assistance from the RSA to ensure a written procurement method and policies and procedures developed by the DVR comply with applicable federal and state statutes, regulations and policies as described in this section.

### 3.2 Reasonable Costs

**Issue:** Whether the costs of the contracted services are reasonable and compliant with 2 C.F.R. § 200.404.

**Requirements:** Federal regulations require that costs paid from a Federal award must be reasonable. Under a procurement transaction, the reasonable standard is determined during the procurement process prior to the award of the contract. A reasonable cost is one that, in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost (2 C.F.R. § 200.404(a) through (e)), consideration must be given to—

- (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award;
- (b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, State, local, tribal, and other laws and regulations; and terms and conditions of the Federal award;
- (c) Market prices for comparable goods or services for the geographic area;
- (d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, ... the public at large, and the Federal Government; and
- (e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

**Analysis:** Reasonableness of costs under a Federal award is determined by applying the standards found in 2 C.F.R. § 200.404(a) through (e) to each item of cost in a proposal. This requires vendors to submit an itemized budget, a project spending plan, or similar cost projection model. The contracting agency may also conduct an independent government cost estimate to aid in determining reasonableness of costs. The items of costs are negotiated and approved or denied by the contracting agency during the negotiation phase of the procurement process. In response to RSA's inquiry on how reasonableness of costs was determined, DVR stated it contacted several other States to review those States' incurred costs for the same or similar services. However, this represents a potentially flawed methodology if it fails to identify and correct for significant cost factors that may be present and readily available in one State but not present and readily available in New Mexico (or vice versa). Some of these factors include cost differentials based on locality (e.g., prevailing wage); cost-driven requirements and provisions unique to a particular State or subdivision within a State (e.g., procurements from a State schedule with steep discounts, where such a negotiated agreement and discounts would not apply to New Mexico); variances in credentialing criteria or other staff qualifications (e.g., requirement of a postsecondary degree or higher in one State that is not required in New Mexico for the same or similar job title or duties); services available at a significantly higher or lower cost (e.g., salaries/

wages and benefits subject to a collective bargaining agreement); and other factors that have a material impact on the final cost of services (e.g., distance, proximity, transportation, or shipping/ mailing costs).

**Conclusion:** As a result of the analysis, RSA determined that, absent the detailed, vendor-specific contract cost data, DVR cannot ensure that all expenditures incurred for the provision of purchased pre-employment transition services are reasonable. Consequently, DVR cannot assure that it is administering the VR program in a proper and efficient manner and ensuring financial accountability. DVR has not demonstrated compliance with 2 C.F.R. § 200.404.

**Corrective Action 3.2:** RSA requires that DVR develop, implement, and monitor policies and procedures, as well as written internal control processes, to ensure ongoing compliance with the reasonable costs requirements cited in 2 C.F.R. § 200.404.

**VR Agency Response:** DVR Response to Section 3.2: As stated in DVR Response to Section 2.4.2, the DVR disagrees with RSA's findings concerning whether it utilized a method required by 2 C.F.R. § 200.404 to ensure reasonable costs. (See Response to Section 2.4.2). However, the DVR/ASU accepts the recommendations of the DVR to develop, implement and monitor written policies and procedures, as well as written internal control processes, to ensure ongoing compliance with the reasonable costs requirements cited in 2 C.F.R. § 200.404.

**RSA Response:** RSA appreciates the agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with the agency to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged, and RSA will provide technical assistance as requested.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 3.2: The DVR requests technical assistance from the RSA to assist it to develop and review policies and procedures and written internal controls to ensure ongoing compliance with the reasonable costs requirements cited in 2 C.F.R. § 200.404. Upon review and RSA approval of policies, procedures and written internal controls, the DVR will implement and monitor policies, procedures and internal controls, as necessary.

### **3.3 Lack of Supporting Documentation for Payments**

**Issue:** Whether DVR can demonstrate that payments made to vendors are for pre-employment transition services provided within the scope of the contract requirements of 2 C.F.R. § 200.328(a) and of Section 4.7 of DVR's contract policy.

**Requirements:** A State VR agency must assure, in the VR services portion of the Unified or Combined State Plan, that it will employ methods of administration that ensure the proper and efficient administration of the VR program. These methods of administration (i.e., the agency's internal controls) must include procedures to ensure accurate data collection and financial accountability (34 C.F.R. § 361.12).

“Internal controls” means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations;
- Reliability of reporting for internal and external use; and
- Compliance with applicable laws and regulations (2 C.F.R. § 200.61).

In accordance with the Uniform Guidance, 2 C.F.R. § 200.303, among other things, a non-Federal entity must—

- Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States and the Internal Control Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO);
- Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards;
- Evaluate and monitor the non-Federal entity’s compliance with statutes, regulations and the terms and conditions of Federal awards; and
- Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

Additionally, 2 C.F.R. § 200.302(a) requires that a State’s financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the award, must be sufficient to permit the—

- Preparation of reports required by general and program specific terms and conditions; and
- Tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

**Analysis:** During the October 6, 2020, review session, DVR fiscal staff stated that contract invoices are reviewed by program and finance staff every month, with a signature indicating review and approval for payment. Fundamentally, this is consistent with the Federal requirements, with Section 6.1 of the contract policy, and with New Mexico Statute § 13.1.158, “Payments for purchases.” However, RSA’s review of invoices under Central Region Educational Cooperative (CREC5) #16-644-1000-0002 disclosed a lack of significant details such as service provision dates and number of students with disabilities served. Costs were aggregated at the project description level with no further breakdown, such as number of hours worked, or number of students served. No supplemental documentation was provided to validate that all costs were reasonable/necessary and within the scope of the agreement and in support of the deliverables.

RSA reviewed invoices 18190018 and 18190049 (for July 1 – September 30, 2018, and for October 1 – October 31, 2018, respectively). The invoices showed only summary level amounts for services provided. For example, invoice 18190018 showed \$72,997.24 for “DVR Initiative Coordination,” and \$20,016.25 for “VTS IEP Attendance.” There was no indication of the dates these services were provided, nor the number of students or attendees to whom the services were provided. No other detailed descriptive information was provided sufficient to make a valid determination that the costs were reasonable/necessary, allocable, and allowable. The total invoiced amount for July – September 2018 was \$320,266.18, and the total amount invoiced for October 2018 was \$212,535.77.

The July through September and the October invoices respectively show \$19,748.85 and \$13,983.75 for what is described as “VTS Documentation.” Absent a full description of what these activities or services entail, these costs seem excessive for what appear to be creating and/or saving documents and there is not enough information to determine whether the costs are allowable to be charged to the funds reserved for the provision of pre-employment transition services, or otherwise paid by the VR program. The invoices also showed \$89,810.05 and \$45,676.95 respectively for “VTS Networking” with no further details provided. Networking is not discussed in either the scope of work or the deliverables, yet these costs represent six percent of the total contract amount of \$2,316,000.00.

**Conclusion:** Federal regulations require DVR to establish procedures that enable it to administer the VR program in an efficient manner to ensure it can carry out all VR functions properly (34 C.F.R. § 361.12). Furthermore, Uniform Guidance provisions at 2 C.F.R. § 200.303(b) require DVR to establish internal controls that ensure the agency complies with all Federal requirements. The Federal cost principles require that costs be allowable, reasonable, and allocable to the program (2 C.F.R. §§ 200.403 through 200.405). To be allocable to a program, the cost must be relative to the benefit received (2 C.F.R. § 200.405(a)). DVR cannot ensure that all contract expenditures incurred are allowable, reasonable, and allocable to the VR program, and that only allowable pre-employment transition services are charged to the funds reserved for the provision of such services. Therefore, DVR cannot assure that it is administering the VR program in a proper and efficient manner and ensuring financial accountability. For these reasons, DVR has not complied with the VR administration and internal control requirements set forth at 34 C.F.R. § 361.12 and 2 C.F.R. § 200.303(b), respectively.

**Corrective Action 3.3:** RSA requires that DVR develop, implement, and monitor written policies and procedures to ensure all future contracts funded all or in part from Federal awards—

- a) Include language necessary to ensure that VR program funds, including funds reserved for pre-employment transition services, are used only for allowable activities; and
- b) Require that contractor invoices and supporting documentation describe billed goods/services at a level of detail sufficient to make a valid determination that the costs are reasonable and allowable.

**VR Agency Response:** DVR Response to Section 3.3 (a) and (b): The DVR/ASU accept the recommendations of the RSA and will develop, implement, and monitor written policies and procedures to ensure all future contracts funded all or in part from federal awards include

language necessary to ensure that VR program funds, including funds reserved for pre-employment transition services, are used only for allowable activities. The DVR/ASU will also require that contractor invoices and supporting documentation describe billed goods/services at a level of detail sufficient to make a valid determination that the costs are reasonable and allowable.

**RSA Response:** RSA appreciates the agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with the agency to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged, and RSA will provide technical assistance as requested.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 3.3 (a) and (b): The DVR/ASU requests technical assistance from the RSA to assist the DVR to develop and review written policies and procedures to ensure all future contracts funded all or in part from federal awards include language that funding is used only for allowable activities and to ensure that contractor invoices and supporting documentation for billed goods/services are at a level of detail sufficient to make a valid determination that the costs are reasonable and allowable.

### **3.4 Insufficient Contract Monitoring**

**Issue:** Whether DVR conducted contract monitoring activities sufficient to meet the requirements of 2 C.F.R. § 200.328(a) and of Section 4.7 of DVR's contract policy.

**Requirements:** Federal regulations state that the non-Federal entity is responsible for oversight of the operations of the Federal award supported activities (2 C.F.R. § 200.328(a)). The non-Federal entity must monitor its contracted activities under Federal awards to ensure compliance with applicable Federal requirements and that performance expectations are achieved. Monitoring by the non-Federal entity must cover each program, function, or activity.

Section 4.7 of the State of New Mexico, Public Education Department, Division of Vocational Rehabilitation, Administrative – Contracts and Agreements Policy (contract policy) states that the Program Managers and designated Contract Monitors must ensure that contracts and agreements under their programs are well managed. The policy defines contract monitoring as a structured review that determines if service delivery is consistent with contract provisions and submitted reports. Monitoring compares actual service delivery to the description of performance objectives and measures identified in the contract. Program monitoring may include any or all of the following:

- Reviewing the service provisions of the contract to determine what the contractor is to provide and the desired quality;
- Reviewing the contractor's reports and other materials to determine if services are being provided;

- Interviewing direct delivery staff and others to determine if the services are being performed according to the contract; and
- Conducting on-site reviews, when appropriate, to check the nature and quality of the services being provided.

**Analysis:** RSA requested copies of monitoring reports for all the contracts under review but did not receive any documentation. DVR indicated it conducted monitoring activities both in person and over the phone. The monitoring reports would have shown the degree to which the grantee and the vendors have complied with the stated requirements; in their absence, the agency is unable to provide documentation showing that any monitoring occurred.

Additionally, DVR was unable to provide independent government cost estimates, itemized budgets, spending plans, cost-benefit analysis, or similar cost information sufficient to make a valid determination of cost-effectiveness of each of the contracts. In the absence of any detailed cost information, it is difficult, if not impossible, to conduct effective and meaningful fiscal monitoring of any of the contracts.

**Conclusion:** RSA was not provided with monitoring reports to review for compliance with the requirements cited in 2 C.F.R. § 200.328(a) and of Section 4.7 of DVR's contract policy. Consequently, RSA was unable to determine whether the agency complied with the stated requirements.

**Corrective Actions 3.4:** RSA requires that DVR develop, implement, and monitor policies and procedures that incorporate the standards described in 2 C.F.R. § 200.328 and in DVR's contract monitoring policy. A monitoring component must include not only written processes, but also--

- A process used to *evaluate* and *monitor* the agency's own compliance with the requirements; and
- A process to take action when noncompliance is identified. This should include remedies to correct noncompliance, such as updated processes, staff training, returning of Federal funds, etc.

**VR Agency Response:** DVR Response to Section 3.4: The DVR accepts the recommendations of the RSA pursuant to this section. DVR/RSU will develop review and/or revise written policies and procedures to incorporate the standards described in 2 C.F.R. § 200.328 and implement and monitor the provisions described in DVR's contract monitoring policy. The DVR/RSU and ASU will develop, implement and monitor a process to take corrective action when noncompliance is identified during the contract monitoring process that will include remedies to correct noncompliance, such as updated processes, staff training and/or returning of federal funds.

**RSA Response:** RSA appreciates the agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with the agency to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged, and RSA will provide technical assistance as requested.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 3.4: The DVR/RSU requests technical assistance from RSA to assist in the development or revision and review of policies and procedures to ensure compliance with 2 C.F.R. § 200.328 and DVR contract monitoring policies and to assist the DVR/RSU and ASU to develop a written process to take corrective action if noncompliance is identified. DVR/ASU and RSU will implement, and monitor policies and procedures reviewed and approved of by the RSA.

### **3.5 Internal Control Policies and Procedures**

**Issue:** Whether DVR maintained effective internal controls regarding contract procurement, management, and oversight of the Federal award. Additionally, whether the controls are sufficient to provide reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award (34 C.F.R. § 361.12 and 2 C.F.R. § 200.302 and 200.303).

**Requirements:** Federal award recipients are required to establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should follow guidance from “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States (also known as the “Green Book”).

Provisions at 2 C.F.R. §§ 200.302(b)(4) and 200.303 require the effective control over, and accountability for, all funds, property, and other assets to adequately safeguard all assets and assure that they are used solely for authorized purposes.

**Analysis:** RSA asked DVR for a copy of its internal controls document, its risk management policy, and its finance/accounting policy to ensure that these standards were in place. RSA did not receive any of the three documents requested. DVR provided copies of its procurement policy, the procurement code, the contracts and agreements policy, and the contract monitoring policy. It is worth noting that some internal controls standards are incorporated in the documents provided. For example, the contract monitoring policy establishes roles and responsibilities and includes approval hierarchies and segregation of duties.

Internal controls are established and followed to provide reasonable assurances of an organization’s effectiveness, efficiency of operations, reliability of reporting (internal and external), and compliance with applicable laws and regulation. The absence of an internal controls’ guidance document prevents RSA from testing, measuring, and assessing the extent of compliance with the stated requirements.

Specific internal control areas of deficiency include documentation of control activities to ensure contract costs are reasonable; that payments are made based upon written processes and procedures; and that procurement standards exist and are compliant with applicable Federal and State laws, regulations, and policies.

While these control deficiencies suggest elevated risk to DVR's effectiveness and efficiency of operations, the risk will be greatly reduced by developing and implementing internal controls that meet the requirements cited at 2 C.F.R. § 200.303. Specific internal control areas of deficiency include contract management, adherence to State procurement policies, and monitoring and oversight of grant-supported activities.

**Conclusion:** DVR has not demonstrated effective internal controls over contracts issued under the Federal award sufficient to provide reasonable assurances that the contracts are managed in compliance with Federal statutes, regulations, and the terms and conditions of the award. Lack of formal documented internal controls guidance leads RSA to conclude that DVR has not complied with the VR program provisions and internal control requirements set forth at 34 C.F.R. §§ 361.3(a) and 361.12, and 2 C.F.R. § 200.302(a) and (b)(4).

**Corrective Actions 3.5:** RSA requires that DVR, following the issuance of the final review report, develop and submit to RSA for review with the first quarterly corrective action plan update, written internal controls governing oversight of grant-supported activities, particularly with respect to contract monitoring, determining rates of payment, and procuring contracted services in a manner that is consistent and compliant with 2 C.F.R. §§ 200.300(b) and 403(c); Sections H and I of Appendix II to 2 C.F.R. part 200.

**VR Agency Response:** DVR Response to Section 3.5: The DVR/ASU accepts the recommendations of the RSA to develop and submit to RSA for review written internal controls governing oversight of grant-supported activities, particularly with respect to contract monitoring, determining the rates of payment, and procuring contracted services in a manner that is consistent and compliant with 2 C.F.R. § 200.300(b) and 403(c), Sections H and I of Appendix II to 2 C.F.R. part 200. As described in DVR responses submitted to each section above, DVR has accepted many of the recommendations of the RSA. DVR has requested and received technical assistance leading to correction in many sections or are in the process of correction while receiving continued technical assistance from the RSA.

**RSA Response:** RSA appreciates the agency's efforts in working toward addressing the corrective action items. Once the corrective action plan is developed, RSA will work with the agency to determine if updated processes result in meeting Federal requirements and ongoing compliance. The finding and the required corrective action items remain unchanged, and RSA will provide technical assistance as requested.

**VR Agency Request for Technical Assistance:** DVR Response to Request for Technical Assistance to Section 3.5: The DVR requests technical assistance from the RSA as described in its response to each section above.

## APPENDIX A: STATE VOCATIONAL REHABILITATION SERVICES AND STATE SUPPORTED EMPLOYMENT SERVICES PROGRAMS PERFORMANCE TABLES

**Table 1— NM-G VR Agency Profile (PYs 2017, 2018, 2019)**

<b>VR Agency Profile Data</b>	<b>PY 17 Number/Percentage</b>	<b>PY 18 Number/Percentage</b>	<b>PY 19 Number/Percentage</b>
Employment Rate	40.7%	33.0%	29.0%
Number of Participants Exiting in Competitive Integrated Employment or Supported Employment	949	789	475
Measurable Skill Gains Performance Indicator	12.9%	18.7%	49.7%
Percentage of Participants Eligible for Measurable Skill Gains	17.5%	23.6%	27.2%
Percentage of Timely Eligibility Determinations	99.5%	99.4%	89.4%
Percentage of Eligibility Determination Extensions	8%	8.1%	8.2%
Percentage of Timely IPE Development	77.0%	77.7%	79.8%
Number of Applicants	4,301	3,151	2,402
Number of Individuals Determined Eligible	4,134	2,834	2,295
Number of Individuals with an IPE and No VR Services Provided	22	5	17
Number of Participants (with an IPE and VR Services Provided)	2,901	1,362	1,238

**Table 3— NM-G Number and Percentage of Participants Served by Primary Disability Type (PYs 2017, 2018, 2019)**

<b>Primary Disability Type by Group</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Visual	59	0.8%	46	0.7%	37	0.7%
Auditory or Communicative	974	13.2%	698	10.9%	517	9.8%
Physical	1,826	24.8%	1,602	25.0%	1,309	24.8%
Cognitive	2,065	28.0%	1,919	29.9%	1,704	32.2%
Psychological or Psychosocial	2,447	33.2%	2,154	33.6%	1,721	32.5%

<b>Detailed Primary Disability Type</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Blindness	20	0.3%	20	0.3%	18	0.3%
Other Visual Impairments	39	0.5%	26	0.4%	19	0.4%
Deafness, Primary Communication Visual	165	2.2%	143	2.2%	118	2.2%
Deafness, Primary Communication Auditory	123	1.7%	82	1.3%	55	1.0%

<b>Detailed Primary Disability Type</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Hearing Loss, Primary Communication Visual	47	0.6%	29	0.5%	19	0.4%
Hearing Loss, Primary Communication Auditory	478	6.5%	310	4.8%	204	3.9%
Other Hearing Impairments (Tinnitus, Meniere's Disease, hyperacusis, etc.)	28	0.4%	23	0.4%	17	0.3%
Deaf-Blindness	10	0.1%	8	0.1%	9	0.2%
Communicative Impairments (expressive/receptive)	122	1.7%	103	1.6%	95	1.8%
Mobility Orthopedic/Neurological Impairments	479	6.5%	419	6.5%	335	6.3%
Manipulation/Dexterity Orthopedic/Neurological Impairments	145	2.0%	125	1.9%	104	2.0%
Both Mobility and Manipulation/Dexterity Orthopedic/Neurological Impairments	225	3.1%	177	2.8%	144	2.7%
Other Orthopedic Impairments (e.g., limited range of motion)	184	2.5%	166	2.6%	114	2.2%
Respiratory Impairments	36	0.5%	29	0.5%	23	0.4%
General Physical Debilitation (e.g., fatigue, weakness, pain, etc.)	205	2.8%	182	2.8%	139	2.6%
Other Physical Impairments (not listed above)	550	7.5%	504	7.9%	450	8.5%
Cognitive Impairments (e.g., impairments involving learning, thinking, processing information and concentration)	2,065	28.0%	1,919	29.9%	1,704	32.2%
Psychosocial Impairments (e.g., interpersonal and behavioral impairments, difficulty coping)	1,564	21.2%	1,380	21.5%	1,077	20.4%
Other Mental Impairments	883	12.0%	774	12.1%	644	12.2%

**Table 4— NM-G Number and Percentage of Individuals Exiting at Various Stages of the VR Process (PYs 2017, 2018, 2019)**

	<b>PY 17</b>	<b>PY 18</b>	<b>PY 19</b>
Number of Individuals Who Exited the VR Program	3,856	3,501	2,982

<b>Exit Type</b>	<b>PY 17 Number of Individuals</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Individuals</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Individuals</b>	<b>PY 19 Percent</b>
Individual exited as an applicant, prior to eligibility determination or trial work experience	327	8.5%	256	7.3%	213	7.14%
Individual exited during or after a trial work experience	2	0.1%	-	0.0%	-	0.00%
Individual exited after eligibility, but from an order of selection waiting list	-	0.0%	361	10.3%	493	16.5%
Individual exited after eligibility, but prior to a signed IPE	1,183	30.7%	456	13 %	490	16.4%
Individual exited after an IPE without an employment outcome	1,380	35.8%	1,626	46.4%	1,139	38.2%
Individual exited after an IPE in noncompetitive and/or nonintegrated employment	-	0.0%	-	0.0%	2	0.1%
Individual exited after an IPE in competitive and integrated employment or supported employment	949	24.6%	789	22.5%	475	15.9%
Individual exited as an applicant after being determined ineligible for VR services	15	0.4%	13	0.4%	-	0.0%
Potentially eligible individual exited after receiving pre-employment transition services and has not applied for VR services	-	0.0%	-	0.0%	172	5.8%

<b>Supported Employment</b>	<b>PY 17 Number of Participants</b>	<b>PY 18 Number of Participants</b>	<b>PY 19 Number of Participants</b>
Number of Participants Who Exited with a Supported Employment Outcome in Competitive Integrated Employment	19	1	1
Number of Participants Who Exited with a Supported Employment Outcome in Noncompetitive and/or Nonintegrated Employment	-	-	-

**Table 5— NM-G Number and Percentage of Individuals Exiting by Reason during the VR Process (PYs 2017-2018)**

<b>Reason for Exit</b>	<b>PY 17 Number of Individuals</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Individuals</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Individuals</b>	<b>PY 19 Percent</b>
Individual is No Longer Available for Services Due to Residence in an Institutional Setting Other Than a Prison or Jail	6	0.2%	4	0.1%	2	0.1%
Health/Medical	-	0.0%	-	0.0%	4	0.1%
Death of Individual	18	0.5%	12	0.3%	26	0.9%
Reserve Forces Called to Active Duty	-	0.0%	-	0.0%	-	0.0%
Foster Care	-	0.0%	-	0.0%	-	0.0%
Ineligible after determine eligible	-	0.0%	-	0.0%	-	0.0%
Criminal Offender	36	0.9%	18	0.5%	8	0.3%
No Disabling Condition	-	0.0%	-	0.0%	1	0.0%
No Impediment to Employment	16	0.4%	13	0.4%	5	0.2%
Does Not Require VR Service	55	1.4%	26	0.7%	24	0.8%
Disability Too Significant to Benefit from Service	69	1.8%	45	1.3%	39	1.3%
No Long-Term Source of Extended Services Available	-	0.0%	-	0.0%	-	0.0%
Transferred to Another Agency	13	0.3%	8	0.2%	9	0.3%
Achieved Competitive Integrated Employment Outcome	949	24.6%	789	22.5%	475	15.9%
Extended Employment	-	0.0%	2	0.1%	3	0.1%
Extended Services Not Available	1	0.0%	2	0.1%	-	0.0%
Unable to Locate or Contact	1,340	34.8%	1,526	43.6%	1,311	44.0%
No Longer Interested in Receiving Services or Further Services	909	23.6%	644	18.4%	592	19.9%
All Other Reasons	444	11.5%	412	11.8%	483	16.2%
Number of Individuals Who Exited the VR Program		3,856		3,501		2,982

**Table 6— NM-G VR Services Provided to Participants (PYs 2017, 2018, 2019)**

	<b>PY 17</b>	<b>PY 18</b>	<b>PY 19</b>
Total Number of Participants Who Received VR Services	7,368	6,419	5,288

<b>Training Services Provided to Participants</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Graduate Degree Training	58	0.8%	63	1.0%	44	0.8%
Bachelor Degree Training	348	4.7%	332	5.2%	278	5.3%
Junior or Community College Training	527	7.1%	443	6.9%	274	5.2%
Occupational or Vocational Training	486	6.6%	357	5.6%	192	3.6%
On-the-Job Training	77	1.0%	82	1.3%	73	1.4%
Apprenticeship Training	4	0.1%	3	0.0%	2	0.0%
Basic Academic Remedial or Literacy Training	19	0.3%	17	0.3%	8	0.2%
Job Readiness Training	29	0.4%	8	0.1%	5	0.1%
Disability Related Skills Training	13	0.2%	17	0.3%	10	0.2%
Miscellaneous Training	224	3.0%	173	2.7%	91	1.7%
Randolph-Sheppard Entrepreneurial Training	-	0.0%	-	0.0%	-	0.0%
Customized Training	6	0.1%	3	0.0%	1	0.0%

<b>Career Services Provided to Participants</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Assessment	873	11.8%	381	5.9%	336	6.4%
Diagnosis and Treatment of Impairment	236	3.2%	155	2.4%	83	1.6%
Vocational Rehabilitation Counseling and Guidance	6,131	83.2%	6,063	94.5%	4,945	93.5%
Job Search Assistance	559	7.6%	172	2.7%	33	0.6%
Job Placement Assistance	632	8.6%	622	9.7%	388	7.3%
Short-Term Job Supports	253	3.4%	160	2.5%	101	1.9%
Supported Employment Services	82	1.1%	122	1.9%	139	2.6%
Information and Referral Services	2,032	27.6%	2,128	33.2%	1,676	31.7%
Benefits Counseling	-	0.0%	-	0.0%	-	0.0%
Customized Employment Services	1	0.0%	-	0.0%	-	0.0%
Extended Services (for youth with the most significant disabilities)	1	0.0%	-	0.0%	-	0.0%

Other Services Provided to Participants	PY 17 Number of Participants	PY 17 Percent	PY 18 Number of Participants	PY 18 Percent	PY 19 Number of Participants	PY 19 Percent
Transportation	641	8.7%	483	7.5%	290	5.5%
Maintenance	656	8.9%	438	6.8%	280	5.3%
Rehabilitation Technology	478	6.5%	193	3.0%	121	2.3%
Personal Attendant Services	5	0.1%	2	0.0%	2	0.0%
Technical Assistance Services	42	0.6%	33	0.5%	30	0.6%
Reader Services	-	0.0%	-	0.0%	-	0.0%
Interpreter Services	99	1.3%	58	0.9%	45	0.9%
Other Services	720	9.8%	566	8.8%	350	6.6%

**Table 7— NM-G Number of Measurable Skill Gains Earned, Number of Participants Who Earned Measurable Skill Gains, and Types of Measurable Skill Gains (PYs 2017, 2018, 2019)**

Number of Measurable Skill Gains Earned and Number of Participants Earning Measurable Skill Gains	PY 17	PY 18	PY 19
Measurable Skill Gains Earned	166	284	728
Participants Who Earned a Measurable Skill Gains	166	282	714

Number of Measurable Skill Gains Types	PY 17	PY 18	PY 19
Educational Functioning Level	7	5	7
Secondary Diploma	68	92	142
Postsecondary Transcript/Report Card	41	107	433
Training Milestone	2	2	4
Skills Progression	48	78	142

**Table 8— NM-G Median Hourly Earnings, Median Hours Worked per Week, Sources of Support and Medical Insurance Coverage for Participants Who Exited with Competitive Integrated Employment or Supported Employment (PYs 2017, 2018, 2019)**

Median Hourly Earnings and Hours Worked per Week at Exit	PY 17	PY 18	PY 19
Number of Participants Who Exited in Competitive and Integrated Employment or Supported Employment	949	789	475
Median Hourly Earnings at Exit	\$10.05	\$10.15	\$11.00
Median Hours Worked per Week at Exit	32	30	30

Primary Source of Support at Exit	PY 17 Number of Participants	PY 17 Percent	PY 18 Number of Participants	PY 18 Percent	PY 19 Number of Participants	PY 19 Percent
Personal Income	710	74.8%	556	70.5%	316	66.5%
Family and Friends	35	3.7%	32	4.1%	19	4.0%
Public Support	193	20.3%	194	24.6%	136	28.6%
Other Sources	11	1.2%	7	0.9%	4	0.8%

<b>Public Support at Exit</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Social Security Disability Insurance (SSDI) at Exit	156	16.4%	158	20.0%	95	20.0%
Supplemental Security Income (SSI) for the Aged, Blind, or Disabled at Exit	185	19.5%	183	23.2%	106	22.3%
Temporary Assistance for Needy Families (TANF) at Exit	13	1.4%	5	0.6%	2	0.4%
General Assistance (State or local government) at Exit	18	1.9%	7	0.9%	6	1.3%
Veterans' Disability Benefits at Exit	2	0.2%	4	0.5%	4	0.8%
Workers' Compensation at Exit	2	0.2%	1	0.1%	1	0.2%
Other Public Support at Exit	120	12.6%	116	14.7%	69	14.5%

<b>Medical Insurance Coverage at Exit</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Percent</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Percent</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Percent</b>
Medicaid at Exit	454	47.8%	474	60.1%	265	55.8%
Medicare at Exit	173	18.2%	112	14.2%	72	15.2%
State or Federal Affordable Care Act Exchange at Exit	-	0.0%	-	0.0%	-	0.0%
Public Insurance from Other Sources at Exit	73	7.7%	39	4.9%	18	3.8%
Private Insurance Through Employer at Exit	216	22.8%	151	19.1%	95	20.0%
Not Yet Eligible for Private Insurance Through Employer at Exit	29	3.1%	14	1.8%	10	2.1%
Private Insurance Through Other Means at Exit	53	5.6%	35	4.4%	36	7.6%

**Table 9— NM-G Standard Occupational Classification (SOC) Titles (Major Groups): Percentages of Employment Outcomes and Median Hourly Earnings for Participants Who Exited with Competitive Integrated Employment or Supported Employment (PYs 2017, 2018, 2019)**

<b>PY 17 SOC Title</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Median Hourly Earnings</b>
Office and Administrative Support Occupations	142	\$10.0
Personal Care and Service Occupations	141	\$ 9.0
Transportation and Material Moving Occupations	78	\$14.0
Food Preparation and Serving Related Occupations	78	\$9.0
Building and Grounds Cleaning and Maintenance Occupations	73	\$9.0
Sales and Related Occupations	65	\$ 9.2
Education, Training, and Library Occupations	61	\$15.0
Installation, Maintenance, and Repair Occupations	47	\$12.0
Management Occupations	35	\$14.4
Constructive and Extraction Occupations	33	\$13.0
Production Occupations	30	\$11.0
Healthcare Practitioners and Technical Occupations	30	\$15.0
Healthcare Support Occupations	28	\$11.0
Community and Social Services Occupations	22	\$14.0
Arts, Design, Entertainment, Sports, and Media Occupations	19	\$12.0
Protective Service Occupations	18	\$10.0
Computer and Mathematical Occupations	14	\$14.5
Business and Financial Operations Occupations	14	\$12.1

<b>PY 18 SOC Title</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Median Hourly Earnings</b>
Office and Administrative Support Occupations	110	\$10.5
Transportation and Material Moving Occupations	86	\$11.3
Building and Grounds Cleaning and Maintenance Occupations	74	\$ 9.3
Personal Care and Service Occupations	72	\$9.2
Food Preparation and Serving Related Occupations	71	\$9.0
Sales and Related Occupations	59	\$9.8
Healthcare Support Occupations	43	\$10.0
Education, Training, and Library Occupations	40	\$14.0
Installation, Maintenance, and Repair Occupations	39	\$11.0
Production Occupations	31	\$9.3
Constructive and Extraction Occupations	27	\$12.4
Community and Social Services Occupations	24	\$15.0
Management Occupations	23	\$12.9
Healthcare Practitioners and Technical Occupations	21	\$23.7
Protective Service Occupations	20	\$11.4
Business and Financial Operations Occupations	17	\$15.0
Arts, Design, Entertainment, Sports, and Media Occupations	15	\$13.2
Computer and Mathematical Occupations	9	\$17.0
Farming, Fishing, and Forestry Occupations	8	\$10.0
Legal Occupations	6	\$17.5

<b>PY 19 SOC Title</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Median Hourly Earnings</b>
Office and Administrative Support Occupations	53	\$11.5
Food Preparation and Serving Related Occupations	51	\$9.5
Building and Grounds Cleaning and Maintenance Occupations	51	\$10.1
Personal Care and Service Occupations	48	\$10.0
Sales and Related Occupations	36	\$10.6
Installation, Maintenance, and Repair Occupations	31	\$12
Education, Training, and Library Occupations	28	\$15.3
Healthcare Support Occupations	25	\$12.5
Transportation and Material Moving Occupations	24	\$15.0
Production Occupations	17	\$10.1
Community and Social Services Occupations	16	\$15.3
Constructive and Extraction Occupations	15	\$13.8
Healthcare Practitioners and Technical Occupations	14	\$25.0
Management Occupations	12	\$19.3
Arts, Design, Entertainment, Sports, and Media Occupations	12	\$10.0
Protective Service Occupations	10	\$12.0
Architecture and Engineering Occupations	9	\$17.0
Business and Financial Operations Occupations	7	\$20.0
Computer and Mathematical Occupations	7	\$12.0
Farming, Fishing, and Forestry Occupations	3	\$10.0
Legal Occupations	3	\$14.4

**Table 10— NM-G Number of Participants Who Exited with Competitive Integrated Employment or Supported Employment by the Most Frequent SOC Title (PYs 2017, 2018, 2019)**

<b>No.</b>	<b>PY 17 SOC Title</b>	<b>PY 17 Number of Participants</b>	<b>PY 17 Median Hourly Earnings</b>
1	Locker Room, Coatroom, and Dressing Room Attendants	57	\$9.0
2	Janitors and Cleaners, Except Maids and Housekeeping Cleaners	46	\$8.8
3	Heavy and Tractor-Trailer Truck Drivers	39	\$16.0
4	Food Preparation and Serving Related Workers, All Other	35	\$9.0
5	Stock Clerks and Order Fillers	33	\$9.0
6	Barbers	33	\$10.0
7	Office Clerks, General	29	\$10.0
8	Sales and Related Workers, All Other	20	\$8.9
9	Customer Service Representatives	19	\$11.0
10	Cashiers	17	\$9.0

<b>No.</b>	<b>PY 18 SOC Title</b>	<b>PY 18 Number of Participants</b>	<b>PY 18 Median Hourly Earnings</b>
1	Janitors and Cleaners, Except Maids and Housekeeping Cleaners	38	\$9.2
2	Retail Salespersons	27	\$ 9.0
3	Stock Clerks and Order Fillers	26	\$ 9.1
4	Barbers	24	\$10.0
5	Home Health Aides	22	\$9.5
6	Customer Service Representatives	21	\$11.0
7	Office Clerks, General	19	\$10.6
8	Heavy and Tractor-Trailer Truck Drivers	19	\$15.0
9	Food Preparation and Serving Related Workers, All Other	13	\$8.8
10	Sales and Related Workers, All Other	13	\$ 11.0

<b>No.</b>	<b>PY 19 SOC Title</b>	<b>PY 19 Number of Participants</b>	<b>PY 19 Median Hourly Earnings</b>
1	Janitors and Cleaners, Except Maids and Housekeeping Cleaners	28	\$10.0
2	Dining Room and Cafeteria Attendants and Bartender Helpers	13	\$9.2
3	Barbers	12	\$11.0
4	Customer Service Representatives	12	\$12.0
5	Heavy and Tractor-Trailer Truck Drivers	12	\$16.0
6	Food Preparation Workers	11	\$10.3
7	Retail Salespersons	11	\$11.0
8	Cashiers	9	\$10.0
9	Sales and Related Workers, All Other	9	\$9.0
10	Stock Clerks and Order Fillers	9	\$10.4

**Table 11— NM-G Number of Students with Disabilities Reported, and the Number and Percentage of Students with Disabilities Who Received Pre-Employment Transition Services (PYs 2017, 2018, 2019)**

<b>Students with Disabilities</b>	<b>PY 17 Number/Percentage of Students</b>	<b>PY 18 Number/Percentage of Students</b>	<b>PY 19 Number/Percentage of Students</b>
Total Students with Disabilities Reported	4,364	7,032	6,136
Students with Disabilities Reported with 504 Accommodation	17	60	106
Students with Disabilities Reported with IEP	3,059	5,635	5,135
Students with Disabilities Reported without 504 Accommodation or IEP	1,446	1,473	895
Total Students with Disabilities Who Received a Pre-Employment Transition Service	420	496	570
Potentially Eligible Students with Disabilities Who Received a Pre-Employment Transition Service	0	0	200
Students with Disabilities, Who Applied for VR Services, and Received a Pre-Employment Transition Service	420	496	370
Percentage of Students with Disabilities Reported Who Received a Pre-Employment Transition Service	9.6%	7.1%	9.3%

**Table 12— NM-G Number and Percentage of Required Pre-Employment Transition Services Provided (PYs 2017, 2018, 2019)**

<b>Pre-Employment Transition Services</b>	<b>PY 17 Number of Pre- Employment Transition Services Provided</b>	<b>PY 17 Percent of Total Pre- Employment Transition Services Provided</b>	<b>PY 18 Number of Pre- Employment Transition Services Provided</b>	<b>PY 18 Percent of Total Pre- Employment Transition Services Provided</b>	<b>PY 19 Number of Pre- Employment Transition Services Provided</b>	<b>PY 19 Percent of Total Pre- Employment Transition Services Provided</b>
Total Pre-Employment Transition Services Provided	2,999		4,441			8,735
Job Exploration Counseling	737	24.5%	1,161	26.1%	2,209	25.3%
Work-Based Learning Experiences	884	29.5%	1,262	28.4%	1,780	20.4%
Counseling on Enrollment Opportunities	577	19.3%	870	19.6%	1,554	17.8%
Workplace Readiness Training	801	26.7%	1,148	25.9%	1,788	20.5%
Instruction in Self-Advocacy	0	0.0%	0	0.0%	1,404	16.1%

## APPENDIX B: FISCAL DATA TABLES

**Fiscal Table 1— New Mexico-General (NM-G) VR Resources and Expenditures—FFYs 2017–2019\***

VR Resources and Expenditures	2017	2018	2019*
Total program expenditures	\$25,858,097	\$26,565,875	\$21,498,626
Federal expenditures	20,343,987	\$20,907,342	\$15,721,920
State agency expenditures (4 <sup>th</sup> quarter)	\$5,514,110	\$5,658,533	\$5,776,706
State agency expenditures (latest/final)	\$5,514,110	\$5,658,533	\$5,776,706
Federal formula award amount	\$20,268,751	\$20,907,351	\$21,343,980
Reserve amount required for pre-employment transition services (15 percent)	\$3,051,598	\$3,136,103	\$3,201,597
Amount expended on pre-employment transition services	\$78,259	\$970,305	\$2,822,563
Percentage expended on pre-employment transition services	0.38%	4.64%	13.22%
MOE penalty from prior year	\$0	\$0	\$0
Federal award amount relinquished during reallocation	\$0	\$0	\$0
Federal award amount received during reallocation	\$104,979	\$0	\$0
Federal funds transferred from State VR agency	\$0	\$0	\$0
Federal funds transferred to State VR agency	\$0	\$0	\$0
Federal award amount (net)	\$20,373,730	\$20,907,351	\$21,343,980
Federal award funds deobligated	\$ 29,743	\$0	\$0
Federal award funds used	\$20,343,987	\$20,907,351	\$21,343,980
Percent of formula award amount used	100.4%	100.0%	100.0%
Federal award funds matched but not used	\$0	\$0	\$-1

\* Indicates the award is currently in an open status. Therefore, data is either not currently available or not final.

**Fiscal Table 1 New Mexico-General - VR Resources and Expenditures—Descriptions, Sources and Formulas**

VR Resources and Expenditures	Source/Formula
Total program expenditures	The sum of the Federal and non-Federal expenditures. <b>Source/Formula:</b> MTAG Appendix F--Table V.1: Federal expenditures plus State expenditures (latest/final)
Federal expenditures	The cumulative amount of disbursements from Federal funds. <b>Source/Formula:</b> SF-425 line 10e from latest/final report
State expenditures (4 <sup>th</sup> quarter)	The cumulative amount of disbursements and unliquidated obligations from State funds through September 30 <sup>th</sup> of the award period. <b>Source/Formula:</b> SF-425 line 10j from 4 <sup>th</sup> quarter report
State expenditures (latest/final)	The cumulative amount of disbursements and unliquidated obligations from State funds as reported on the agency's latest or final SF-425 report. Final reports do not include unliquidated obligations. <b>Source/Formula:</b> SF-425 line 10j from latest/final report
Federal formula award amount	The amount of the Federal funds available to the agency based on the formula mandated in the Rehabilitation Act. <b>Formula/Source:</b> Federal formula award calculation

VR Resources and Expenditures	Source/Formula
Reserve amount required for pre-employment transition services	The amount of Federal funds required to be reserved and expended (15 percent) for the provision of pre-employment transition services. <b>Formula/Source:</b> (((((SF-425 line 10j lesser of the 4th quarter or latest/final) divided by .213) multiplied by .787) multiplied by .15) or (4th quarter grant award amount multiplied by .15)) whichever is less
Amount expended on pre-employment transition services	The amount of Federal funds the agency spent on the provision of pre-employment transition services. <b>Formula/Source:</b> SF-425 line 12b from latest/final report
Percentage expended on pre-employment transition services	The percent of Federal funds the agency spent on the provision of pre-employment transition services. <b>Formula/Source:</b> Amount expended on pre-employment transition services divided by (((SF-425 line 10j lesser of the 4 <sup>th</sup> quarter or latest/final) divided by .213) multiplied by .787) or (4 <sup>th</sup> quarter grant award amount) whichever is less)
MOE penalty from prior year	The amount of the Maintenance of Effort (MOE) deficit from the previous FFY which resulted in a MOE penalty against the current FFY. <b>Source/Formula:</b> MTAG Appendix F--Table V.2: MOE difference from prior year
Federal award amount relinquished during reallocation	Amount of Federal award voluntarily relinquished through the reallocation process. <b>Formula/Source:</b> RSA-692
Federal award received during reallocation	Amount of funds received through the reallocation process. <b>Source/Formula:</b> RSA-692
Federal funds transferred from State VR agency	Amount of award funds transferred from State VR agencies (Blind to General or General to Blind). <b>Formula/Source:</b> Agency transfer request documentation
Federal funds transferred to State VR agency	Amount of award funds transferred to State VR agencies (Blind to General or General to Blind). <b>Formula/Source:</b> Agency transfer request documentation
Federal award amount (net)	Federal award amount available after accounting for adjustments to award (e.g., MOE penalties, relinquishment, reallocation and transfers). <b>Formula/Source:</b> Federal formula award calculation, RSA-692, agency documentation, SF-425: Federal formula calculation minus MOE penalty minus funds relinquished in reallocation plus funds received in reallocation plus funds transferred from agency minus funds transferred to agency
Federal award funds deobligated	Federal award funds deobligated at the request of the agency or as part of the award closeout process. These funds may include matched or unmatched Federal funds. <b>Source/Formula:</b> Agency deobligation request documentation, G5 closeout reports
Federal award funds used	Amount of Federal award funds expended. <b>Source/Formula:</b> Federal formula calculation, RSA-692, agency documentation, SF-425 lesser of the 4 <sup>th</sup> quarter or latest/final: Federal award amount (net) (calculation above) minus Federal award funds deobligated
Percent Federal formula award used	Percent of Federal formula award funds used. <b>Source/Formula:</b> Federal award funds used (calculation above) divided by Federal formula award amount
Federal award funds matched but not used	This represents unused Federal award funds for which the agency provided match. <b>Source/Formula:</b> MTAG Appendix F—Table V.2 Federal award funds matched (actual) minus Table V.1 Federal award funds used

**Fiscal Table 2—New Mexico-General (NM-G) Non-Federal Share and Maintenance of Effort—FFYs 2017–2019\***

<b>Non-Federal Share (Match) and Maintenance of Effort (MOE)</b>	<b>2017</b>	<b>2018</b>	<b>2019*</b>
Match required per net award amount	\$5,514,110	\$5,658,533	\$5,776,706
Match provided (actual)	\$5,658,533	\$5,658,533	\$5,776,706
Match difference**	\$0	\$0	\$0
Federal funds matched (actual)	\$20,373,730	\$20,907,350	\$21,343,979
Percent Federal funds matched	100.0%	100.0%	100.0%
MOE required	\$5,531,211	\$5,514,110	\$5,514,110
MOE: Establishment/construction expenditures	\$0	\$0	\$0
MOE actual	\$5,514,110	\$5,658,533	\$5,776,706
MOE difference**	\$17,101	\$-144,423	\$-262,596

\* Indicates the award is currently in an open status. Therefore, data is either not currently available or not final.

\*\* A positive amount indicates a deficit. A negative amount indicates a surplus.

**Fiscal Table 2—New Mexico-General - Non-Federal Share and Maintenance of Effort—Descriptions, Sources and Formulas**

<b>Non-Federal Share (Match) and Maintenance of Effort (MOE)</b>	<b>Source/Formula</b>
Match required per net award amount	Non-Federal funds required based upon the net amount of the Federal award. <b>Source/Formula:</b> (MTAG Appendix F—Table V.1 Federal award amount net divided by 0.787) multiplied by 0.213
Match provided (actual)	Amount of match (non-Federal share) provided, by the agency. <b>Source/Formula:</b> SF-425 line 10j lesser of the 4 <sup>th</sup> quarter or latest/final
Match difference**	The difference between match required to access the net Federal award funds and the actual amount of match provided by agency. <b>Source/Formula:</b> SF-425 lesser of the 4 <sup>th</sup> quarter or latest/final: ((Federal formula award amount divided by 0.787) multiplied by 0.213) minus SF-425 line 10j
Federal funds matched (actual)	Total amount of Federal funds the agency was able to match based upon the non-Federal share reported. The maximum amount of Federal funds the agency can access is limited to the Federal grant award amount. <b>Source/Formula:</b> (Match provided actual divided by .213) multiplied by .787
Percent of Federal funds matched	Percent of Federal funds matched. <b>Source/Formula:</b> Federal funds matched divided by Federal award amount net
Maintenance of Effort (MOE) required	Maintenance of effort (MOE) is the level of non-Federal expenditures, minus establishment/construction expenditures for CRPs, established by the State’s non-Federal expenditures two years prior, i.e., Recipient Share of Expenditures. <b>Source/Formula:</b> SF-425 4 <sup>th</sup> quarter or latest/final report: line 10j minus line 12a
MOE: Establishment / construction expenditures	Non-Federal share of expenditures for construction of facilities for community rehabilitation program (CRP) purposes and the establishment of facilities for community rehabilitation purposes. <b>Source/Formula:</b> SF-425 latest/final report: line 12a
MOE actual	Non-Federal share provided by agency minus establishment/construction expenditures for CRPs. <b>Source/Formula:</b> SF-425: Match provided actual minus establishment/construction expenditures.

<b>Non-Federal Share (Match) and Maintenance of Effort (MOE)</b>	<b>Source/Formula</b>
MOE difference**	The difference between MOE required and the actual MOE provided. <b>Source/Formula:</b> MOE required minus MOE actual

\*\* A positive amount indicates a deficit. A negative amount indicates a surplus.

**Fiscal Table 3—New Mexico-General (NM-G) Program Income and 4<sup>th</sup> Quarter Data—FFYs 2017–2019\***

<b>Program Income and Carryover</b>	<b>2017</b>	<b>2018</b>	<b>2019*</b>
Program income received	\$1,441,865	\$1,042,557	\$607,834
Program income disbursed	\$1,441,865	\$1,042,557	\$607,834
Program income transferred	\$952,573	\$1,042,557	\$607,834
Program income used for VR program	\$489,292	\$0	\$0
Federal grant amount matched (4 <sup>th</sup> quarter)	\$20,373,730	\$20,623,717	\$21,343,979
Federal expenditures (4 <sup>th</sup> quarter)	\$17,896,630	\$18,140,840	\$15,721,920
Federal unliquidated obligations (4 <sup>th</sup> quarter)	\$1,124,014	\$304,577	\$258,996

\* Indicates the award is currently in an open status. Therefore, data is either not currently available or not final.

**Fiscal Table 3—New Mexico-General - Program Income and 4<sup>th</sup> Quarter Data—Descriptions, Sources and Formulas**

<b>Program Income and Carryover</b>	<b>Source/Formula</b>
Program income received	Total amount of Federal program income received by the grantee. <b>Source/Formula:</b> SF-425 latest/final line 10l
Program income disbursed	Amount of Federal program income disbursed, including transfers. <b>Source/Formula:</b> SF-425 latest/final: line 10m plus line 10n
Program income transferred	Amount of Federal program income transferred to other allowable programs. <b>Source/Formula:</b> SF-425 latest/final: line 12e plus line 12f plus line 12g plus line 12h
Program income used for VR program	Amount of Federal program income utilized for the VR program. <b>Source/Formula:</b> SF-425 latest/final: Program income expended minus program income transferred
Federal grant amount matched (4 <sup>th</sup> quarter)	Federal funds an agency is able to draw down based upon on reported non-Federal reported on the 4 <sup>th</sup> quarter SF-425 for the FFY of appropriation, not to exceed net award amount. <b>Source/Formula:</b> MTAG Appendix F—Table V.2 Federal funds matched actual
Federal expenditures (4 <sup>th</sup> quarter)	Federal funds expended as reported on the 4 <sup>th</sup> quarter SF-425 for the FFY of appropriation. This does not include unliquidated obligations. <b>Source/Formula:</b> SF-425 4 <sup>th</sup> quarter: line 10e
Federal unliquidated obligations (4 <sup>th</sup> quarter)	Federal funds obligated but not liquidated as reported on the 4 <sup>th</sup> quarter SF-425 for the FFY of appropriation. <b>Source/Formula:</b> SF-425 4 <sup>th</sup> quarter: line 10f