FISCAL YEAR 2010
MONITORING REPORT ON THE
VOCATIONAL REHABILITATION AND
INDEPENDENT LIVING PROGRAMS
IN THE STATE OF
NEW JERSEY

U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
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INTRODUCTION AND RSA REVIEW PROCESS

Introduction

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

To fulfill its monitoring responsibilities, RSA:

- reviews the state agency’s performance in assisting eligible individuals with disabilities to achieve high-quality employment and independent living outcomes;
- identifies strengths and challenges related to the agency’s performance, areas of consistently high or improved performance and those areas of performance in need of improvement;
- recommends strategies to improve performance;
- requires corrective actions in response to compliance findings; and
- provides technical assistance (TA) to the state agency to enable it to enhance its performance, meet its goals and fulfill its State Plan assurances.

Review Process

Pursuant to the Act, RSA reviewed the performance of the following programs administered by the New Jersey Division of Vocational Rehabilitation Services (DVRS), and the New Jersey Commission for the Blind and Visually Impaired (CBVI):

- VR program, established under Title I;
- SE program, established under Title VI, Part B;
- IL program authorized under Title VII, Part B; and
- The IL services program for older individuals who are blind (OIB), established under Title VII, Chapter 2.

Information Gathering and Review Process Activities

During FY 2010, RSA began its review by analyzing information from a variety of sources, including but not limited to, RSA’s various data collections, VR and IL State Plans and the State Rehabilitation Council (SRC) Annual Reports. After completing its internal review, the RSA review team:
engaged in numerous teleconferences and other information gathering activities with representatives of DVRS, CBVI, the SRC, the Statewide Independent Living Council (SILC), the Client Assistance Program (CAP) and other stakeholders to gain a greater understanding of the agency’s strengths and challenges related to the administration and performance of the VR, SE, IL and OIB programs; and

- conducted on-site monitoring activities with CBVI from March 15 through 19, 2010, and with DVRS April 12 through 16, 2010, during which it met with representatives of the Department of Labor and Workforce Development (DLWD), Department of Human Services (DHS), DVRS, the SRC, CAP, SILC and other stakeholders to further gather and analyze information and to provide technical assistance in areas already identified by the review team and DVRS.

Data Used During the Review

RSA’s review began in the fall of 2009, and ended in the summer of 2010. For the purpose of this review, RSA notes that its data collections are finalized and available at different times throughout the year. Consequently, the data collections for the VR and SE programs for the fiscal year that ended immediately preceding that in which the review began (i.e., FY 2009) were not yet available when the review process began. Therefore, this report regarding the VR and SE programs relies primarily on those data collections available for a completed fiscal year prior to the beginning of the review (i.e., FY 2008) as the sources of data describing the performance of DVRS and CBVI. However, when FY 2009 data became available toward the end of the review period, and if these data signaled a significantly different level of performance than the previous five year trend, RSA included the FY 2009 data in the report.

For the IL and OIB programs, FY 2009 data were used because information was finalized and available at the time of the review.

Results of Review Activities

At the conclusion of all monitoring activities, the RSA review team:

- identified performance areas for improvement and recommended that DVRS and CBVI undertake specific actions to improve its performance;
- identified compliance findings and required DVRS and CBVI to take corrective action; and
- in collaboration with DVRS and CBVI, determined whether RSA would provide technical assistance to improve the agency’s performance or correct compliance findings.

Review Team Participants

Members of RSA’s New Jersey review team included representatives from each of the five functional units within the State Monitoring and Program Improvement Division. The team included the following individuals: Jim Doyle, state liaison, and Tonya Stellar (Vocational Rehabilitation Program Unit); Joe Pepin (Data Collection and Analysis Unit); William Bethel and Tom Macy (Fiscal Unit); Terrence Martin (Technical Assistance Unit); and Felipe Lulli (Independent Living Unit).
PART I: REVIEW OF THE NEW JERSEY DVRS
EXECUTIVE SUMMARY

During fiscal year (FY) 2010, RSA reviewed the performance of the following programs authorized by the Act and administered by the New Jersey Division for Vocational Rehabilitation Services (DVRS):

- the VR program, established under Title I; and
- the SE program, established under Title VI, Part B.

New Jersey Administration of the VR and SE Programs

New Jersey has designated DVRS, the designated state unit (DSU), as the agency to provide VR and SE program services to all individuals with disabilities, except those who are blind and visually impaired. DVRS is located within the Department of Labor and Workforce Development (DLWD), the designated state agency (DSA).

DVRS Performance over the Past Five Years

Based on data provided by DVRS through various RSA reporting instruments, the agency’s employment rate decreased from 60.7 percent to 57.4 percent, during the period beginning in FY 2004 and ending in FY 2008. Over this same period, the number of applicants for VR services increased from 13,306 to 14,777, the number of individuals who received services under an individualized plan for employment (IPE) increased from 19,157 to 23,069, and the number of individuals the agency assisted to achieve employment increased from 3,901 to 4,385. The average hourly earnings of those individuals who achieved employment increased from $10.23 to $11.54 during the same period.

Additionally from FY 2004 to FY 2008, of those individuals who achieved an employment outcome, the number who achieved SE outcomes decreased from 491 to 337. The average hourly earnings for these individuals increased from $7.77 to $9.96.

The overall percentage of transition-age youths served increased from 27.68 percent in FY 2004, to 29.89 percent in FY 2008. The overall number of transition-age youths who achieved employment increased from 1,097 in FY 2004, to 1,318 in FY 2008.

Observations of the Agency and Stakeholders

Through the course of the review, agency personnel and representatives of stakeholders, such as the SRC, the SILC and the Client Assistance Program, shared information concerning the administration and performance of the DVRS VR and SE programs. During the review, they made the observations below.

- Partnerships and the implementation of transition services vary between the 605 school districts in New Jersey and could be strengthened through local educational agency
(LEA) agreements and regional cross-training between DVRS and Special Education agencies.

- The number of VR counselor vacancies continues to increase and results in higher caseloads per counselor, which inhibits the ability of VR counselors to maintain contact with individuals and provide quality services.
- Increased caseload size has contributed to low staff morale and high staff turnover.
- Community rehabilitation providers (CRP) utilized through the DVRS contract with the Division of Mental Health Services (DMHS), provide substandard services and assist individuals to achieve low quality outcomes compared to other SE providers that are paid on a fee-for-service basis.
- Although DVRS is able to access sufficient resources for individuals who are deaf and able to communicate through American Sign Language (ASL), there are limited resources that provide services for individuals who are deaf or hard of hearing and do not use ASL, particularly for the provision of assessments and placement services.
- DLWD often modifies the goals and priorities established through DVRS’ State Plan during the approval process.
- Along with DVRS’ staff vacancies, its organizational structure includes an excess number of managers, some of whom oversee only one or two supervisors in each office.
- The DSA, DLWD, exercises extensive fiscal control over the VR program, limiting the discretion of VR management in decisions related to the expenditure of resources.

Strengths and Challenges

Based on the observations from the agency and its stakeholders and other information gathered through the review process, RSA concluded that DVRS exhibited a variety of strengths that enhanced service delivery, and experienced a number of challenges that inhibited its ability to improve, the performance of its VR and SE programs.

Strengths

DVRS is able to provide individuals extensive assistive technology (AT) services through a contract with providers that include occupational therapy, ergonomic and vocational assessments, loaner equipment to ensure appropriateness of AT recommendations, and training provided to individuals in multiple locations within their community. This comprehensive system ensures that the most appropriate AT equipment is connected with the individuals and reduces the purchasing of superfluous or inappropriate technology.

DVRS continues to strengthen its partnership with the LEAs and through collaborative efforts, DVRS increased the total number of transition-age youths served by 28 percent from 1,779 in FY 2004 to 2,283 in FY 2008. In addition, DVRS increased the total number of transition-age youths who achieved employment from 1,097 in FY 2004 to 1,318 in FY 2008. DVRS continues to emphasize the importance of quality employment outcomes and increased the average wage earned by transition-age youths from $8.82 in FY 2004 to $9.84 in FY 2008, compared to the average wage of $9.41 for general agencies in FY 2008. In addition, DVRS increased the number of transition-age youths who achieved employment with medical benefits from 323 individuals in FY 2004 to 387 individuals in FY 2008, while assisting a larger
percentage of youth with achieving competitive employment with employer provided benefits, when compared to the average of general agencies.

DVRS has developed an initiative to increase employment opportunities within the federal government for individuals with disabilities. Recruiters from federal agencies are routinely invited to participate in a job fair for Schedule A applicants. During the last job fair, ten federal agencies participated and 95 individuals attended resulting in 61 interviews and ten individuals hired and several jobs pending.

DVRS has developed a quality assurance process to ensure that services are provided in accordance with federal and agency requirements. The developed process provides for reviews of service records at the supervisory and central office levels. In addition, DVRS central office staff conduct case reviews for the purpose of determining compliance with internal New Jersey government audit requirements. These audits are primarily designed to review the fiscal components of a case. DVRS monitors the quality of services provided by CRPs and other vendors through continuous interaction and discussion with CRPs by DVRS VR counselors and supervisors. DVRS is working closely with New Jersey APSE (Association of Persons in Supported Employment) and New Jersey ACCSES on developing a formal process to assess services provided and outcomes attained through individual CRPs.

**Challenges**

DVRS’ challenges include its inability to assist individuals with disabilities to achieve an employment wage commensurate to the average state wage, as demonstrated by Indicator 1.5 during the past five years from FY 2004 through FY 2008. DVRS’ inability to increase the wage of its consumers proportional to the average state wage may be due to the lack of provision of training or education for consumers leading to high paying positions or establishment of an expansive network of employers in fields of high technology or high skilled positions.

The need to make DVRS’ case management system compatible with the DLWD computer system has significantly limited its functionality and accessibility. As a result, the ability to produce reliable reports has been compromised and the system is not compatible with AT software used by employees who are blind.

The large number of vacancies throughout DVRS, particularly the 26 percent vacancy rate for VR counselors, increased caseload size and work duties assigned to staff, which in the course of time may be detrimental to the provision of quality VR services and achievement of employment outcomes.

In FY 2008, only one individual out of 337 individuals served by DVRS who achieved SE, had identified SE as the employment goal on their IPEs due to misidentification of SE within DVRS’ case management system. In addition, the quality of SE outcomes for individuals with mental health disabilities has declined through the use of a contract with DMHS. This contract with DHMS for the provision of SE services through 22 CRPs does not include the monitoring of services or the quality of employment outcomes.

DVRS developed a state educational agency agreement with the New Jersey Department of Education, as required by the Act. However, it has not developed or implemented any local
educational agency agreements within the state that would enable DVRS to customize services based on the needs of local school districts and the transition-age youths being served.

DVRS experienced several challenges in the fiscal administration of the VR, SE and IL programs. For example, DVRS did not maintain independent accounting of its Title I and Title VI-B funds by comingling the administration and expenditure of its VR and SE grants. Also, since DLWD centralized key functions that should be performed by DVRS staff, staff and stakeholders expressed concerns that DVRS does not have sufficient control to perform its required functions. Finally, DVRS did not submit required reports in a timely manner.

Acknowledgement

RSA wishes to express appreciation to the representatives of the DLWD, DVRS, SRC and the stakeholders who assisted the RSA monitoring team in the review of DVRS.
CHAPTER 1: VR AND SE PROGRAMS OF DVRS

VR and SE Program Systems

The following sections of this chapter describe the manner in which DVRS administers and operates the VR and SE programs through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance (QA) and planning.

Service Delivery

DVRS administers the VR and SE programs through 18 offices divided among three geographic regions in the northern, central and southern portions of the state. Fourteen of the 18 offices are collocated at One-Stop Career Centers. At these 14 offices, all DVRS staff are housed either under the same roof or within the same complex.

In FY 2001, DVRS was unable to provide the full range of services to all eligible individuals and in consultation with the SRC instituted an order of selection with three priority categories in accordance with the program regulations at 34 CFR 361.36. During the review, DVRS reported that all priority categories have been open since FY 2004.

DVRS provides transition services through all 18 local offices across the state, of which, 16 have an assigned lead-transition counselor (LTC) who serves as a liaison to DVRS’ central office. The LTCs submit monthly reports to the central office transition coordinator to measure and coordinate transition outreach. VR counselors are assigned to all 459 secondary schools and 68 charter schools located in 605 districts.

DVRS utilizes 109 approved community rehabilitation programs (CRP) to provide job coaching services for both individuals with an employment goal of SE and individuals who do not. During the review, DVRS indicated that approximately 21 percent of service dollars are used to provide job coaching services through both Titles I and VI, part B. DVRS primarily provides SE services to individuals with developmental or psychiatric disabilities, traumatic brain injury or autism.

DVRS provides four types of job coaching services, including pre-placement, time-limited job coaching, SE intensive job coaching and SE long-term follow-along. Pre-placement, time-limited and SE intensive job coaching are funded through fee-for-service contracts, while long-term supports are funded through $4.5 million in state appropriated funds. In addition, DVRS maintains a $1.5 million annual contract with DMHS for the provision of job coaching and long-term follow-along services through 22 CRPs for persons utilizing or in need of mental health services. These programs operate as supported employment programs under the contract and serve only DVRS eligible clients with the most significant psychiatric disabilities.

DVRS also accesses VR-related services from an additional 29 CRPs operating in 31 locations throughout New Jersey. These CRPs provide diagnostic vocational evaluation, work adjustment training and job placement on a fee for service basis.
Personnel

According to data provided by DVRS for FY 2009, the agency employed a staff of 273 persons, of which 128 were VR counselors, including 62 VR counselor 1 positions and 66 VR counselor 2 positions. The VR counselors were supervised by 12 supervisors and 12 managers. In addition, DVRS also employed five administrative aids. These individuals work closely with VR counselors and participate in career assessments, job clubs, resume development, and job seeking skills training. Approximately four to eight senior clerks were assigned to each office to provide support to VR counselors. Fifteen individuals provided bookkeeping and data support to the 18 offices.

New Jersey does not have a state established CSPD standard, and has adopted the educational requirements of a certified rehabilitation counselor as established by the Commission on Rehabilitation Counselor Certification (CRCC) for rehabilitation counselors. At the time of the review, 16 individuals did not meet the established standard and had developed a plan to meet the standard by FY 2013.

Twenty-eight persons were employed in the agency’s central office, which included management and program support staff. Two staff members in this office were assigned to work with the DLWD fiscal office. In addition, four clerical support staff were responsible for the processing of invoices, vouchers, purchase orders and the monitoring of expenditures. There were approximately 65 additional staff functioning in various support and specialist roles.

During FY 2010, a hiring freeze was in effect and staff were required to take ten furlough days during the year. DVRS planned to use funds provided under the American Recovery and Reinvestment Act (ARRA) to hire additional part-time VR counselor 1 staff.

Table 1.1
FY 2009 DVRS Personnel Data Demonstrating Job Categories and Number of Staff in Each Category

<table>
<thead>
<tr>
<th>Position</th>
<th>Number of Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>VR Counselor</td>
<td>128</td>
</tr>
<tr>
<td>VR counselor 1</td>
<td>62</td>
</tr>
<tr>
<td>VR counselor 2</td>
<td>66</td>
</tr>
<tr>
<td>Supervisor</td>
<td>12</td>
</tr>
<tr>
<td>Manager</td>
<td>12</td>
</tr>
<tr>
<td>Aide</td>
<td>5</td>
</tr>
<tr>
<td>Senior Clerk</td>
<td>8</td>
</tr>
<tr>
<td>Bookkeeping and data Support</td>
<td>15</td>
</tr>
<tr>
<td>Central Office Administration and Support</td>
<td>28</td>
</tr>
<tr>
<td>Various Support and Specialist</td>
<td>65</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>273</strong></td>
</tr>
</tbody>
</table>
Data and Case Management

DVRS purchased a case management software package during FY 2005, and subsequently contracted services to modify the programming language so that it was compatible with that used by its DSA, DLWD. Since this conversion, DVRS has been contracting with entities to improve the functionality and utilization of the system and to restore its original capacity. In addition, the current system is not accessible to staff with visual impairments.

DVRS generates basic reports used by management and field staff to inform planning and monitor performance. Through the case management system, DVRS is able to monitor case statuses, outcome information and activity due dates. DVRS cannot automatically prepare the RSA-911 and RSA-113 using the case management system. Instead, the necessary data are individually collected before manual entry into the reports.

Quality Assurance

DVRS engages in quality assurance activities to ensure that services are provided in accordance with federal and agency requirements. Supervisors review all eligibility determinations made and the individualized plans for employment (IPE) developed by senior counselors (VR counselor 1 positions). In addition, the supervisors review 25 percent of the cases assigned to less experienced staff in VR counselor 2 positions to assess the accuracy of eligibility determinations and the quality of the IPEs. As a fiscal control, all cost services are reviewed by a supervisor or fiscal clerk prior to their issuance regardless of whether the counselor is in a VR counselor 1 or VR counselor 2 position. Finally, supervisors review all closed cases for accuracy of eligibility determination, quality of IPE, and case documentation. Supervisors also conduct annual reviews of individuals in extended employment pursuant to the provisions stated at 34 CFR 361.55.

In addition to service record reviews conducted by supervisors at the field office level, DVRS also conducts reviews at the central office level for several reasons. The agency conducts “subject matter” reviews to research programmatic or service delivery issues. Such reviews are designed by state office personnel, and serve to provide information to management.

Central office personnel also engage in quality assurance reviews to assess compliance with federal requirements and agency policies and the quality of services provided. As late as FY 2008, a specific QA instrument was used to conduct reviews of selected cases on a scheduled basis. This methodology has been replaced by use of the case management system, which enables managers to conduct reviews on a random basis and allows for the reviews to be completed on a more fluid time schedule. Managers review approximately ten service records a week. The results of these reviews are not aggregated. However, trends are reported to management.

Finally, DVRS central office staff conduct case reviews for the purpose of determining Compliance with internal New Jersey government audit requirements. These audits are primarily designed to review the fiscal components of a case.

DVRS monitors the quality of services provided by CRPs and other vendors through continuous interaction and discussion with CRPs by DVRS VR counselors and supervisors. DVRS is
working closely with New Jersey APSE (Association of Persons in Supported Employment) and New Jersey ACCSES (Association for Choices in Community Supports and Employment Services) on developing a formal process to assess services provided and outcomes attained through individual CRPs.

Planning

DVRS conducts planning activities in collaboration with the SRC to conduct the comprehensive statewide needs assessment (CSNA), and develop the State Plan. DVRS conducts the CSNA on a triennial basis, and utilizes a survey based methodology, which was most recently submitted with its FY 2009 State Plan.

VR and SE Program Performance

The following table provides data on the performance of the VR and SE programs administered by DVRS in key areas from FY 2004 through FY 2008.

<table>
<thead>
<tr>
<th>New Jersey DVRS Program Highlights</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total funds expended on VR and SE</td>
<td>$60,139,679</td>
<td>$64,472,209</td>
<td>$50,372,229</td>
<td>$55,678,266</td>
<td>$64,145,993</td>
</tr>
<tr>
<td>Individuals whose cases were closed with employment outcomes</td>
<td>3,901</td>
<td>4,177</td>
<td>4,289</td>
<td>4,369</td>
<td>4,385</td>
</tr>
<tr>
<td>Individuals whose cases were closed without employment outcomes</td>
<td>2,527</td>
<td>2,720</td>
<td>2,771</td>
<td>2,370</td>
<td>3,252</td>
</tr>
<tr>
<td>Total number of individuals whose cases were closed after receiving services</td>
<td>6,428</td>
<td>6,897</td>
<td>7,060</td>
<td>6,739</td>
<td>7,637</td>
</tr>
<tr>
<td>Employment rate</td>
<td>60.69%</td>
<td>60.56%</td>
<td>60.75%</td>
<td>64.83%</td>
<td>57.42%</td>
</tr>
<tr>
<td>Individuals whose cases were closed with SE outcomes</td>
<td>491</td>
<td>482</td>
<td>559</td>
<td>1,233</td>
<td>337</td>
</tr>
<tr>
<td>New applicants per million state population</td>
<td>1,530</td>
<td>1,572</td>
<td>1,549</td>
<td>1,581</td>
<td>1,702</td>
</tr>
<tr>
<td>Average cost per employment outcome</td>
<td>$3,119</td>
<td>$3,109</td>
<td>$3,191</td>
<td>$3,435</td>
<td>$3,795</td>
</tr>
<tr>
<td>Average cost per unsuccessful employment outcome</td>
<td>$2,233</td>
<td>$2,179</td>
<td>$2,120</td>
<td>$2,394</td>
<td>$2,547</td>
</tr>
<tr>
<td>Average hourly earnings for competitive employment outcomes</td>
<td>$10.23</td>
<td>$10.33</td>
<td>$10.86</td>
<td>$11.44</td>
<td>$11.55</td>
</tr>
<tr>
<td>Average state hourly earnings</td>
<td>$22.75</td>
<td>$23.73</td>
<td>$24.54</td>
<td>$25.66</td>
<td>$26.36</td>
</tr>
<tr>
<td>Percent average hourly earnings for competitive employment outcomes to state average hourly earnings</td>
<td>45%</td>
<td>44%</td>
<td>44%</td>
<td>45%</td>
<td>44%</td>
</tr>
<tr>
<td>Average hours worked per week for competitive employment outcomes</td>
<td>31.8</td>
<td>31.7</td>
<td>31.9</td>
<td>31.7</td>
<td>31.3</td>
</tr>
<tr>
<td>Percent of transition-age served to total served</td>
<td>27.68%</td>
<td>27.59%</td>
<td>29.07%</td>
<td>29.26%</td>
<td>29.89%</td>
</tr>
<tr>
<td>Employment rate for transition population served</td>
<td>61.66%</td>
<td>63.48%</td>
<td>61.89%</td>
<td>66.63%</td>
<td>57.73%</td>
</tr>
<tr>
<td>Average time between application and closure (in months) for individuals with competitive employment outcomes</td>
<td>19.8</td>
<td>19.9</td>
<td>19.9</td>
<td>21.1</td>
<td>21.8</td>
</tr>
<tr>
<td>Performance on Standard 1</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
</tr>
<tr>
<td>Performance on Standard 2</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
</tr>
</tbody>
</table>

VR/SE Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that DVRS take specific steps to improve the agency’s performance associated with each of the observations.

1. Employment Outcomes

**Observation:** From FY 2004 through FY 2008, the number of individuals who received services and did not achieve an employment outcome increased. At the same time, the quality of employment outcomes decreased as measured by the wages earned by those individuals who did achieve employment outcomes. As a result, DVRS assisted fewer individuals with disabilities to achieve quality employment during this period.

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment outcomes</td>
<td>3,901</td>
<td>4,177</td>
<td>4,289</td>
<td>4,369</td>
<td>4,385</td>
<td>12.4%</td>
<td>4,339</td>
</tr>
<tr>
<td>Without employment outcomes</td>
<td>2,527</td>
<td>2,720</td>
<td>2,771</td>
<td>2,370</td>
<td>3,252</td>
<td>28.7%</td>
<td>3,086</td>
</tr>
<tr>
<td>Employment Rate</td>
<td>60.69%</td>
<td>60.56%</td>
<td>60.75%</td>
<td>64.83%</td>
<td>57.43%</td>
<td>-3.24%</td>
<td>58.44</td>
</tr>
</tbody>
</table>

- As demonstrated in Table 1.3 above, the number of individuals who exited the VR program after receiving services without employment increased 28.7 percent, from 2,527 in FY 2004, to 3,252 in FY 2008. Consequently, the employment rate declined from 60.69 percent to 57.43 percent from FY 2004 through FY 2008.
Table 1.4  
DVRS Closure Performance for FY 2004 through FY 2008

<table>
<thead>
<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent employment outcomes with the ratio of hourly earnings at a level to or exceeding indicator 1.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Agency</td>
<td>22.9%</td>
<td>23.2%</td>
<td>23.8%</td>
<td>22.4%</td>
<td>22.2%</td>
<td>-.7%</td>
</tr>
<tr>
<td>General Agencies</td>
<td>34.9%</td>
<td>31.4%</td>
<td>30.9%</td>
<td>33.9%</td>
<td>32.2%</td>
<td>-2.6%</td>
</tr>
<tr>
<td>Indicator 1.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ratio of average hourly VR wage to average state hourly wage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average hourly wage of competitively employed</td>
<td>$10.23</td>
<td>$10.33</td>
<td>$10.86</td>
<td>$11.44</td>
<td>$11.55</td>
<td>12.9%</td>
</tr>
<tr>
<td>State average hourly wage</td>
<td>$22.75</td>
<td>$23.73</td>
<td>$24.54</td>
<td>$25.66</td>
<td>$26.36</td>
<td>15.9%</td>
</tr>
<tr>
<td>RSA Minimum Performance Level: .52</td>
<td>.45</td>
<td>.44</td>
<td>.44</td>
<td>.45</td>
<td>.44</td>
<td>-2.6%</td>
</tr>
<tr>
<td>Met/Not Met</td>
<td>Not Met</td>
<td>Not Met</td>
<td>Not Met</td>
<td>Not Met</td>
<td>Not Met</td>
<td></td>
</tr>
</tbody>
</table>

- As demonstrated in Table 1.4 above, DVRS failed to meet indicator 1.5, or the ratio of consumer average wage to the state average wage during the five-year period from FY 2004 to FY 2008. The ratio remained unchanged at .44 during this time, below the minimum required performance level of .53.
- The mean hourly earnings for persons who achieved competitive employment outcomes increased 12.9 percent from $10.23 in FY 2004, to $11.55 in FY 2008, while the average wages earned by those served by all general agencies and achieved competitive employment increased 14.5 percent during the same period. At the same time, the state average hourly earnings increased 15.9 percent from $22.75 in FY 2004, to $26.36 in FY 2008. The data demonstrate that the wages earned by individuals served by DVRS failed to keep pace with the increase in wages for the general population in New Jersey.
- The percentage of individuals who achieved employment outcomes with the ratio of hourly earnings at a level or exceeding indicator 1.5 for DVRS in FY 2008 was 22.2 percent, compared to the percentage for all general agencies of 32.2 percent.
Table 1.5
FY 2008 Standard Occupational Classification Codes for Individuals with Employment Outcomes

<table>
<thead>
<tr>
<th>Job Type</th>
<th>Number of Positions</th>
<th>Average Wage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office &amp; Admin Support</td>
<td>700</td>
<td>$11.82</td>
</tr>
<tr>
<td>Sales and Related Fields</td>
<td>549</td>
<td>$9.70</td>
</tr>
<tr>
<td>Transportation &amp; Material Moving</td>
<td>412</td>
<td>$12.14</td>
</tr>
<tr>
<td>Food Preparation &amp; Serving Related</td>
<td>365</td>
<td>$8.72</td>
</tr>
<tr>
<td>Building &amp; Grounds Cleaning &amp; Maintenance</td>
<td>349</td>
<td>$9.38</td>
</tr>
<tr>
<td>Total</td>
<td>2375</td>
<td>$10.55</td>
</tr>
</tbody>
</table>

- As demonstrated in Table 1.5 above, the average wage for the top five positions as determined by the Standard Occupational Classification codes account for 2,375 of 4,385, or 54 percent, of the total employment outcomes achieved in FY 2008 with an average wage of $10.55 per hour.

Table 1.6
DVRS Performance of Individuals Closed with Employment Who Received College or University Training Between FY 2004 through FY 2008

<table>
<thead>
<tr>
<th>Individuals Closed with Employment</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Received College or University Training</td>
<td>322</td>
<td>329</td>
<td>377</td>
<td>406</td>
<td>381</td>
</tr>
<tr>
<td>Average Hourly Wage</td>
<td>$12.55</td>
<td>$13.02</td>
<td>$13.46</td>
<td>$13.72</td>
<td>$14.86</td>
</tr>
<tr>
<td>Agency Total</td>
<td>3,901</td>
<td>4,177</td>
<td>4,289</td>
<td>4,369</td>
<td>4,385</td>
</tr>
<tr>
<td>Average Hourly Wage</td>
<td>$10.23</td>
<td>$10.33</td>
<td>$10.86</td>
<td>$11.44</td>
<td>$11.55</td>
</tr>
</tbody>
</table>

- In FY 2008, 381 out of 4,385 individuals whose cases were closed after they successfully achieved employment and received some level of college or university training earned an average hourly wage of $14.86, or $3.31 higher than individuals who did not receive any college or university training, as shown above in Table 1.6.
- From FY 2004 through FY 2008, the percentage of individuals DVRS assisted to obtain college or university training fluctuated between 8.3 percent and 10.0 percent, which is below the national average of 13.0 percent.

Recommendation 1: RSA recommends that DVRS:

1.1 develop measurable goals and strategies to improve the agency’s employment rate;
1.2 develop strategies to increase wage levels for the individuals served; and
1.3 explore relevant training and education to increase wages, and expand relationships with employers throughout the state.
2. Case Management System

**Observation:** The functional capacity of DVRS’ case management system has been diminished by the requirement to change the original programming language. As a result, DVRS staff are unable to use real-time, accurate case management reports to effectively manage the VR program.

- During FY 2005, DVRS purchased a case management system utilized by numerous VR agencies. DVRS researched systems and identified a fully developed system that would immediately meet its needs. When DVRS purchased the system, its DSA, DLWD required that the programming language of the system be changed to be compliant with DLWD’s existing system.
- The conversion of the programming language required DVRS to contract with programmers for approximately two years prior to system readiness and utilization by DVRS in January 2007. At the time of RSA’s review, the programmers were still implementing changes to the system. DVRS management and data staff informed RSA that the system had reached the capability to provide it with useable management and field office reports.
- DVRS staff informed RSA at the time of the review that it would not be able to extend its contract for support services related to the system beyond June 2010, due to budget constraints. Instead, the state information technology staff would assume the responsibility for the management of the DVRS case management system, although these staff did not have the same expertise and knowledge of the customized system that the contractors had obtained.
- DVRS reported the need for two additional system upgrades to include accessibility for staff and increased utilization through a web-based system. The current case management system is not accessible by staff who are blind or visually impaired and require screen reading software. Utilization of a web-based system would increase the capacity for staff to access the case management system at the individual’s home, workplace, school or other places in the community.
- The transition to a different programming language has created challenges and issues that DVRS has been unable to fully correct, including the ability for users to generate their own queries, and standard reports from the original system.
- Furthermore, staff communicated that reports generated as part of the original system were unavailable as a result of the conversion to the new programming language. The information technology staff had to build and replicate reports, creating great difficulties since the original programming code was not available.
- Modifying the system to be compatible with DLWD’s computer system also caused the menus and screens to become altered and less user friendly when compared to the original system.
- A regional manager showed RSA staff performance reports that were created using spreadsheet software because the current system did not produce the desired information. Another regional manager produced reports directly from the case management system that contained obvious errors including the number of employment outcomes for VR counselors in that office.
**Recommendation 2:** RSA recommends that DVRS:

2.1 evaluate whether it is more effective and efficient to complete the necessary modifications to the existing system or to purchase a new case management system that meets the agency’s needs, produces the desired reports and is accessible to all staff members. This evaluation should include the affect of both options on the agency’s staff and fiscal resources; and

2.2 take the actions necessary to complete the modifications to the existing system or purchase a new system based on the results of the evaluation conducted pursuant to Recommendation 2.1.

**3. Reporting and Evaluation of SE Services for Persons with Most Significant Disabilities.**

**Observation:** DVRS does not have a systematic approach or process to ensure the accurate coding, reporting and evaluation of supported employment services. As a result, DVRS management staff do not have accurate data or information to inform decisions regarding the need for or the effectiveness of supported employment services in New Jersey.

**Table 1.7**

**Breakdown of IPE Goals for Individuals Served Who Achieved SE Outcomes per the RSA-911 for FYs 2004 through 2008**

<table>
<thead>
<tr>
<th>Year</th>
<th>With SE Goal</th>
<th>Without SE Goal</th>
<th>Total SE Outcomes</th>
<th>General Agencies Total SE Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td>2004</td>
<td>426</td>
<td>86.8%</td>
<td>65</td>
<td>13.2%</td>
</tr>
<tr>
<td>2005</td>
<td>421</td>
<td>87.3%</td>
<td>61</td>
<td>12.7%</td>
</tr>
<tr>
<td>2006</td>
<td>482</td>
<td>86.2%</td>
<td>77</td>
<td>13.8%</td>
</tr>
<tr>
<td>2007</td>
<td>3</td>
<td>.2%</td>
<td>1,230</td>
<td>99.8%</td>
</tr>
<tr>
<td>2008</td>
<td>1</td>
<td>.3%</td>
<td>336</td>
<td>99.7%</td>
</tr>
<tr>
<td>Change from 2004 to 2008</td>
<td>-99.8%</td>
<td>-86.5%</td>
<td>416.9%</td>
<td>86.5%</td>
</tr>
</tbody>
</table>

- As demonstrated in Table 1.7 above, DVRS did not accurately identify individuals with SE goals and outcomes. As a result, discrepancies exist between the total number and percentage of individuals who identified an SE goal on their IPEs and achieved an SE outcome.
- As shown in Table 1.7, the overall number of individuals who achieved SE with an IPE goal of SE decreased significantly from 426 in FY 2004 to one in FY 2008, while the overall number of individuals who achieved SE without a SE IPE goal increased substantially from 65 in FY 2004 to 1,230 in FY 2007, further declining to 336 in FY 2008.
- Of the total number of individuals who achieved SE in FY 2008, only one individual, or .3 percent, had identified a goal of SE in his or her IPE, while 336 individuals, or 99.7 percent, did not specify a SE goal in their IPEs (see Table 1.7 above).
The overall total number of individuals who achieved SE decreased from 491 individuals in FY 2004 to 337 individuals in FY 2008, with a substantial decline from 1,233 individuals in FY 2007 to FY 2008, as demonstrated in Table 1.7 above.

During the review, DVRS staff indicated that cases are coded as SE cases at two points in the service delivery process, including IPE development and case closure. At the time an IPE is developed, the VR counselor is required to manually check a box on the IPE in the case management system when the client and counselor have identified an employment goal of SE and again when completing the case closure page used in the case management system.

Staff reported that the inaccuracy in reporting could be due to the default setting on the closure page, which reverts to “integrated setting without supports,” if the counselor does not change the setting to “employed in an integrated setting with supports.” VR field staff stated that the under-reporting of SE IPE goals and services at closure may be due to the default setting in the case management system and suggested that the SE information on the case closure page default to blank or with supports if the SE check box is highlighted on the IPE at the time the IPE is developed.

During the monitoring review, staff reported that SE services were provided through CRPs on a fee-for-service contract for 100 hours of intensive job coaching. In addition, DVRS implemented a $1.1 million SE contract with the New Jersey DMHS which includes twenty-two CRPs to offer SE services to persons with significant psychiatric disabilities.

Staff described a lack of monitoring and evaluation of SE contracts and stressed the need to develop milestone payments based on performance in order to increase the accountability of provider performance to ensure quality services. In addition, staff communicated that payment should only be processed when the service is received. Furthermore, staff requested the implementation of fiscal controls to ensure providers are not billing DVRS through both the SE contract and fee-for-service contracts.

Recommendation 3: RSA recommends that DVRS:
3.1 analyze the decline in the number of individuals who have SE goals on their IPEs and achieve SE to determine the reasons underlying the decline in these respective performance measures and develop strategies to address the reasons identified;
3.2 review and analyze the case management settings utilized to identify SE goals and SE services on an IPE and the case closure page and develop a systematic process to ensure accurate coding and reporting;
3.3 provide training to staff related to the definition of SE and SE services to include appropriate identification of SE goals on the IPE, coding of SE services on the IPE and the case closure page in the case management system;
3.4 review data and other information related to the DVRS’ current contracting methods to determine which method (fee-for-service or DMHS contracting) promotes greater performance and accountability of SE providers; and
3.5 develop fiscal controls and evaluation methods to ensure that providers are not billing DVRS through multiple contracts.

4. Attrition for Transition-Age Youths

Observation: From FY 2004 through FY 2008, more than one-third of the transition-age youths, whose eligibility was determined, exited the VR program before their IPEs were developed. As a result, fewer transition-age youths, who are in need of and eligible for services, received necessary services or achieved employment.
Table 1.8

DVRS Transition Cases Closed after Eligibility but before Development of the IEP for FY 2004 through FY 2008

<table>
<thead>
<tr>
<th>Closure Type</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>General Agencies 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exited without an employment outcome, after eligibility, but before an IPE was signed</td>
<td>1,274</td>
<td>1,360</td>
<td>1,401</td>
<td>1,138</td>
<td>1,586</td>
<td>27,092</td>
</tr>
<tr>
<td>Percent</td>
<td>35.1%</td>
<td>36%</td>
<td>35.5%</td>
<td>30.1%</td>
<td>34.4%</td>
<td>26.6%</td>
</tr>
<tr>
<td>Total Cases Closed</td>
<td>3,634</td>
<td>3,775</td>
<td>3,941</td>
<td>3,776</td>
<td>4,610</td>
<td>101,891</td>
</tr>
</tbody>
</table>

- From FY 2004 through FY 2008, the number of transition-age youths who exited the VR program after they had been determined eligible for VR services, but before their IPEs were developed, ranged from 1,138 transition-age youths or 30.1 percent of all transition cases closed in FY 2007, to 1,586 transition-age youths or 34.4 percent of all transition cases closed in FY 2008 (see Table 1.8 above).
- In FY 2008, a greater percentage of transition-age youths exited the VR service delivery system after their eligibility was determined but prior to the development of their IPE at 34.4 percent when compared to the average percentage of transition-age youths served by general agencies at 26.6 percent.
- According to Table 1.9 below, in FY 2008, the reason most often reported by DVRS for transition-age youths exiting the VR program after being determined eligible, but before the IPEs were developed, was failure to cooperate. During that year, DVRS reported that 671 transition-age youths withdrew from the VR service delivery system at this stage of the process for this reason, representing 42.3 percent of all transition-age youths whose cases were closed. In addition, DVRS reported that it closed the cases of 347 transition-age youths (21.9 percent), because the individuals could not be located. Furthermore, DVRS reported that it closed the cases of an additional 322 transition-age youths (20.3 percent from this stage) because the individuals refused services or further services. Finally DVRS, when reporting the reasons for case closure, indicated that 181 transition-age youths, or 11.4 percent of all cases closed, exited the program at this stage of the process in a non-specific category of “all other reasons.”
- As Table 1.9 demonstrates below, DVRS’ percentage of individuals that exited DVRS as failure to cooperate was significantly higher at 42.3 percent than the figure for all general VR agencies at 27.7 percent.
Table 1.9
DVRS Primary Reasons for Closure after Eligibility and before IPE for FY 2008

<table>
<thead>
<tr>
<th>Reason for Case Closure</th>
<th>Exited without an employment outcome, after eligibility, but before an IPE was signed</th>
<th>General Agencies exited without an employment outcome, after eligibility, but before an IPE was signed</th>
</tr>
</thead>
<tbody>
<tr>
<td>01: Unable to locate or contact</td>
<td>347</td>
<td>710</td>
</tr>
<tr>
<td>Percent</td>
<td>21.9%</td>
<td>15.4%</td>
</tr>
<tr>
<td>03: Refused services or further services</td>
<td>322</td>
<td>667</td>
</tr>
<tr>
<td>Percent</td>
<td>20.3%</td>
<td>14.5%</td>
</tr>
<tr>
<td>07: Failure to cooperate</td>
<td>671</td>
<td>1,275</td>
</tr>
<tr>
<td>Percent</td>
<td>42.3%</td>
<td>27.7%</td>
</tr>
<tr>
<td>13: All other reasons</td>
<td>181</td>
<td>442</td>
</tr>
<tr>
<td>Percent</td>
<td>11.4%</td>
<td>9.6%</td>
</tr>
<tr>
<td>Total</td>
<td>1,586</td>
<td>4,610</td>
</tr>
</tbody>
</table>

Recommendation 4: RSA recommends that DVRS:

4.1 conduct surveys of transition-age youths who exit the VR program after eligibility is determined, but before their IPEs are developed, to determine the reasons why these individuals are withdrawing from the program; and
4.2 based on the information obtained through this survey, develop goals with measurable targets to decrease the number of transition-age youths exiting the VR program at this stage of the process, and strategies to achieve these goals.

5. Revision of Policy Manual and Training on Policies and Procedures

Observation: DVRS is currently revising its policy and procedures manual due to the multiple policy memoranda that have been issued. As a result of necessary policy revision and consolidation, DVRS will need to develop and provide staff training to ensure consistent statewide interpretation and implementation of policies and procedures.

- In FY 2010, DVRS undertook the development of a revised policy and procedures manual (case services manual) in order to consolidate individual issuances of policy memoranda, update existing policies in accordance with federal regulations and agency initiatives, and include newly drafted policies such as confidentiality, college sponsorship and the criteria guiding family financial contribution. At the time of the on-site portion of the monitoring review, DVRS anticipated the completion of its draft case services manual by the end of FY 2010. DVRS invited comment through its website and public forums as required by federal regulations.
• Once finalized, DVRS will publish the manual on its website, for access by the public, and its intranet and case management system for use by its staff.
• DVRS would benefit from a plan to train agency staff on the interpretation and implementation of the policies and procedures contained in the revised manual.
• Stakeholders and staff reported the need for policy training in the following areas: utilization of trial work experiences (TWE) and extended evaluation (EE) periods; timeframes for processing referrals and the 90 day state established standard for IPE development.

**Recommendation 5:** RSA recommends that DVRS develop a plan for training on existing and revised policies and procedures for all staff involved in their implementation.

6. QA System – Service Record Review Process

**Observation:** DVRS had a QA system in place for the review of service records to ensure proper documentation and compliance with federal regulations. However, this process has not been maintained and is not presently conducted in such a manner as to ensure accuracy and compliance. As a result, DVRS management staff have not been able to use accurate information obtained through QA activities to effect improvements in the service delivery process.

• DVRS had a QA system that was administered by central office staff responsible for conducting service record reviews in each region on an annual basis since FY 2008.
• The central office staff reviewed a sample of service records in each region, and provided an analysis to the administrator.
• The service record review process in place at the time of the review was administered by supervisors, and only for VR counselors whom they supervise. No independent review was conducted.
• The process involved the review of the case management process by field staff, and served to assess timely movement and progress through the service delivery system, as opposed to assessment of the quality of service provision and adherence to established policy and procedure.
• Results of service record reviews conducted by the supervisors were not aggregated at the statewide level, and therefore the performance data were not available to provide management with an assessment of overall performance. In addition, data were not available to inform the design of training programs, or to serve as a means of evaluating training conducted by the training function.

**Recommendation 6:** RSA recommends that DVRS:

6.1 resume the QA process for the review of service records by staff not functioning as VR counselor supervisors;
6.2 review and refine instrumentation for conducting service record reviews; and
6.3 develop mechanisms to collect and aggregate the results of the review process and provide the results to the training function to inform the design and evaluation of training.
7. Development of Goals and Priorities

Observation: The State Plan does not include measureable goals that align with the reported needs of persons with disabilities. As a result, DVRS cannot use the State Plan as a guide for the management of the program, to communicate with its stakeholders, or as a tool to assess its progress in improving employment outcomes.

- The priorities DVRS communicated during the on-site monitoring and an SRC meeting, including serving more individuals who are Hispanic or Latino, enhancing information and referral services, increasing advocacy skills for its consumers and increasing services for individuals who are deaf or hard of hearing, were not reflected in the FY 2010 State Plan’s goals and priorities.
- DVRS identified goals and priorities in its FY 2010 State Plan that included being an active partner in the statewide workforce system, performing as an efficient service delivery system for individuals with disabilities and responding to the emerging needs of the disability community. DVRS did not identified goals that could be measured or used to improve the provision of VR services or increase the number of individuals who receive VR services within the disability community.
- While on-site, the SRC reported that DVRS has limited control over the development of its goals and priorities as DLWD often modifies the goals to align with its own strategic goals and priorities. This practice alters or minimizes the goals and priorities of DVRS, the SRC and stakeholders.

Recommendation 7: RSA recommends that DVRS:

7.1 identify goals that incorporate the needs of its stakeholders and the individuals served by DVRS; and

7.2 establish measurements and performance targets for each goal that enable the agency and its stakeholders to accurately assess progress.

VR/SE Program Compliance Findings and Corrective Actions

As a result of its review activities, RSA identified the following compliance findings and corrective actions that DVRS is required to undertake. DVRS must develop a corrective action plan for RSA’s review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and is available to provide technical assistance to assist the agency in the development of the plan and the implementation of the corrective actions. RSA reserves the right to pursue enforcement action, including the recovery of Title I VR funds, pursuant to 34 CFR 80.43 and 34 CFR Part 81 of the Education Department General Administrative Regulations (EDGAR).
1. Provision of Non-VR Services

Legal Requirements:

Section 111(a)(1) of the Act and 34 CFR 361.3 require that VR funds be used solely for the provision of VR services and the administration of the VR program.

The Education Department General Administrative Regulations (EDGAR) require that Federal grant funds be used for allowable costs under a program (34 CFR 80.22(a)(1)). To be allowable, a cost must be necessary and reasonable for the proper and efficient performance and administration of the Federal award (OMB Circular A-87, Attachment A, C.1.a.). The provision of VR services is described at section 103 of the Rehabilitation Act, 34 CFR 361.48, and 34 CFR 361.49; administrative costs, for purposes of the VR program, are defined at 34 CFR 361.5(b)(2). Furthermore, the VR agency must implement methods of administration that ensure financial accountability for the program (34 CFR 361.12).

Finding 1: During FYs 2008 through 2010, DVRS implemented the Promoting Self-Advocacy program, an initiative to increase services to transition-age youths. DVRS developed this program through the NJ Department of Education, to fund six Transition Specialists located at centers for independent living (CIL), at an annual cost of $55,000 per transition specialist, or $330,000 in total. According to the information provided to RSA during the monitoring process, DVRS covered approximately half the cost of the program using Title I VR funds, while the other half was covered by other Federal funds awarded by the U.S. Department of Education’s Office of Special Education Programs (OSEP). The program reportedly will not be continued in FY 2011.

After speaking with several of the transition specialist within the CILs and staff at the neighboring DVRS offices, RSA learned that: 1) DVRS did not track whether individuals with disabilities were referred to the VR program by the transition specialists or whether VR services were provided; and 2) the program’s curriculum, provided by the transition specialists, included IL -- not VR -- core services, such as self-advocacy, grooming, banking, social advocacy and integration, and self-determination.

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that Title I VR funds be expended solely for the provision of VR services and the administration of the VR program. VR services are those provided, pursuant to an individual’s approved IPE, that assist an eligible individual with disabilities to achieve or maintain an employment outcome (section 103(a) of the Rehabilitation Act and 34 CFR 361.48). VR funds also may be used to provide VR services to groups of individuals in order to assist groups of individuals in the receipt of VR services (section 103(b) of the Rehabilitation Act and 34 CFR 361.49). In expending the VR funds, DVRS is required to use those funds solely for allowable program costs (34 CFR 80.22(a)(1)). To be allowable, a cost must be necessary and reasonable for the proper and efficient performance and administration of the program (OMB Circular A-87, Attachment A, C.1.a.). As a VR grantee, DVRS must implement methods of administration to ensure financial accountability for the VR program (34 CFR 361.12).

In this case, DVRS did not track whether the individuals served under the Promoting Self-Advocacy transition program were consumers or applicants of the VR program, as required by
34 CFR 361.12. It is clear from the information RSA reviewed that the individuals were determined eligible for IL services, but not for VR services. Furthermore, the services provided under the Promoting Self-Advocacy program were IL -- not VR -- services. Although the Promoting Self-Advocacy program was funded to increase VR transition services to students with disabilities, the program, in effect, expanded the provision of IL services with the use of Title I funds. DVRS’ use of VR funds to pay for IL services fails to comply with the requirements of section 111(a)(1) of the Rehabilitation Act, 34 CFR 361.3, 34 CFR 361.12, and the cost principles set forth in OMB Circular A-87, Attachment A.

Corrective Action 1: DVRS must:

1.1 cease expending Title I VR funds for unallowable activities;
1.2 within 10 days of the receipt of the final monitoring report, submit an assurance to RSA that it will use Title I VR funds solely for the provision of VR services to eligible VR consumers and applicants and the administration of the VR program; and
1.3 implement methods of administration that ensure financial accountability for the VR program, as required by 34 CFR 361.12, so that DVRS can be sure that Title I funds are expended solely for allowable expenditures.

2. SRC Fails to Satisfy Composition Requirements

Legal Requirement:

According to section 101 (a)(21)(A) of the Rehabilitation Act, a VR agency must establish either an independent commission (paragraph (i)) or a SRC (paragraph (ii)). In addition, section 105(b)(6)(A) of the act establishes three-year terms for SRC members. As stated in the statutory requirements, no member (except for the representatives of the Client Assistance Program and of the American Indian VR Services projects established under Section 121 of the Rehabilitation Act) may serve more than two consecutive full terms (section 105(b)(6)(B) of the act) (See also 34 CFR 361.17(e)(1)). Furthermore, section 105(b)(7)(A) of the act requires any vacancy that occurs in the SRC membership to be filled in the same manner as the original appointment. However, the vacancy shall not affect the power of the remaining SRC members to execute their duties. Finally, “except as provided in paragraph (b)(3) of this section, the Council must be composed of at least 15 members, including…”

(iv) At least one qualified vocational rehabilitation counselor with knowledge of and experience with vocational rehabilitation programs who serves as an ex officio, nonvoting member of the Council if employed by the DSU;
(v) At least one representative of community rehabilitation program service providers;
(vi) Four representatives of business, industry, and labor;
(x) At least one representative of the State educational agency responsible for the public education of students with disabilities who are eligible to receive services under this part and part B of the Individuals with Disabilities Education Act; and
(xi) At least one representative of the State workforce investment board
Finding 2: According to information RSA learned from DVRS and the SRC chairperson while on-site, DVRS has failed to satisfy Federal requirements for the composition of its SRC, as set forth at section 105(b) of the Rehabilitation Act and 34 CFR 361.17, for the reasons described below.

A. Section 105(b)(3) of the Rehabilitation Act and 34 CFR 361.17(a)(1) require that members of the SRC be appointed by the Governor. The membership is to be comprised of representatives from certain constituent groups, as set forth at section 105(b)(1) of the Rehabilitation Act and 34 CFR 361.17(b). According to the information DVRS provided to RSA, several individuals who represent State agencies, some of which are required to be represented on the SRC, have been sitting on the council without having been appointed by the Governor. Specifically, RSA noted that staff from the Division of Mental Health Services, Commission for the Blind and Visually Impaired (CBVI), Division of Developmental Disabilities, and a representative from the state’s education agency have been serving on the SRC without having been appointed by the Governor as required by the Rehabilitation Act and its implementing regulations.

B. Section 105(b)(6)(B) of the Rehabilitation Act and 34 CFR 361.17(e)(1) prohibit, with only a few exceptions, an individual from serving more than two consecutive full terms on the SRC. In this case, several SRC members have been reappointed or are awaiting reappointment after having already served two consecutive full terms and following a brief absence from the council that lasted from a few months to a year. During the absence, the seats, for which the individuals have been reappointed or are awaiting reappointment, sat vacant. Because these individuals have been reappointed to or are awaiting reappointment to the same seats they vacated a short while before, coupled by the fact that the seats sat vacant during the absence, these reappointments constitute, in effect, a third consecutive term which is not permitted under the Rehabilitation Act or its implementing regulations.

C. In addition to the above-described prohibition against an individual serving more than two consecutive full terms, section 105(b)(6)(A) of the Rehabilitation Act and 34 CFR 361.17(e)(1) require that an individual’s term may not exceed three years. However, a State may appoint an individual to a term that is less than the three-year maximum allowed. DVRS informed RSA that the appointment cycle for SRC members follows a “1-2-3 rule.” Pursuant to this rule, an individual would be appointed for a one-year term, followed by reappointment for a two-year term, and concluded by reappointment for a three-year term. This means that an individual would be appointed for three full terms, despite the two consecutive term limit set forth in the Rehabilitation Act and its implementing regulations.

Although DVRS and its SRC reported there are no vacancies on the council, RSA noted that the following required positions are filled by individuals who either have not been appointed by the Governor or who have already served the maximum allowed two consecutive full terms (as described in more detail above):

- At least one qualified vocational rehabilitation counselor (VRC) (section 105(b)(1)(A)(iv) of the Rehabilitation Act and 34 CFR 361.17(b)(1)(iv)). Although DVRS is only required to have one VRC appointed to the SRC, DVRS has elected to
have two VRCs appointed to the council. One VRC served two consecutive three-year terms from 2002 through 2008 and was reappointed in 2009 for a third time. During the one-year absence from the council, this individual’s seat was vacant. The other VRC served two three-year terms from 1999 through 2005. After a one-year absence from the council in which the individual’s seat was vacant, the individual was reappointed for a third three-year term in 2006 and for a fourth three-year term in 2009. This VRC’s seat also was vacant during the one-year absence between the second and third reappointments. Between the two VRCs, the requirement that at least one qualified VRC be appointed to the SRC was satisfied during the years 1999 through 2008. There was a legitimate overlap during 2002 through 2005, when the one VRC was appointed for his/her first term and the other was serving his/her second term. Since 2008, DVRS’ SRC has failed to comply with this requirement because the individual(s) serving have already served the maximum allowed two consecutive full terms. During the time either was absent from the council, their seat was not filled by another appointment.

- At least one representative of CRP service providers (section 105(b)(1)(A)(v) of the Rehabilitation Act and 34 CFR 361.17(b)(1)(v)). The individual currently serving in this capacity on the SRC was appointed in 2002 for a three-year term and was reappointed for a second three-year term that concluded in 2008. After a one-year absence, during which the seat remained vacant, the individual was reappointed in 2009 for a third three-year term, despite the statutorily mandated limit of two consecutive full terms. Therefore, DVRS’ SRC has failed to comply with this requirement since 2008 because the individual serving has already served the maximum allowed two consecutive full terms.

- Four representatives of business, industry, and labor (section 105(b)(1)(A)(vi) of the Rehabilitation Act and 34 CFR 361.17(b)(1)(vi)). According to the information RSA learned during monitoring, DVRS’ SRC fails to comply with Federal requirements for three of the four of these representatives. One of the representatives served two consecutive three-year terms from 2002 through 2008 before being reappointed for a third three-year term in 2009. During the one-year absence, the seat remained vacant. Two of the other business, industry, and labor positions on the SRC have been vacant for many years. Therefore, DVRS’ SRC has failed to comply with this specific requirement for two of the seats for an undetermined period of time and the third seat since 2008.

- At least one representative of the State educational agency responsible for the public education of students with disabilities (section 105(b)(1)(A)(x) of the Rehabilitation Act and 34 CFR 361.17(b)(1)(x)). The representative has been serving without having been appointed by the Governor. Therefore, the DVRS’ SRC has failed to comply with this Federal requirement by having this required representative serve on the SRC without a Governor’s appointment.

- At least one representative of the State workforce investment board (section 105(b)(1)(A)(xi) of the Rehabilitation Act and 34 CFR 361.17(b)(1)(xi)). The representative was first appointed in 2000 for a three-year term and was reappointed for a second three-year term that concluded in 2006. The representative has since been reappointed for a third and fourth three-year term, with the last reappointment in 2009. DVRS’ SRC has failed to comply with this requirement since 2006 since the individual
serving in that capacity has been reappointed to serve two more terms despite having already served a maximum of two consecutive full terms.

Pursuant to section 105(b)(1)(A) of the Rehabilitation Act and 34 CFR 361.17(b)(1) of its implementing regulations, DVRS’ SRC must have a minimum of 15 required representatives in order to be a fully-constituted SRC. DVRS has elected, as it is permitted to do, to have more than the required number of representatives. Of DVRS’ SRC’s 28 members, seven of the fifteen required members do not satisfy the requirements of section 105(b) of the Rehabilitation Act and 34 CFR 361.17. Therefore, DVRS’ SRC has failed to satisfy the composition and appointment requirements, as required by section 105(b) of the Rehabilitation Act and 34 CFR 361.17.

Corrective Action 2: RSA requires that DVRS:

2.1 take the steps necessary to ensure the Governor appoints representatives to fill the SRC vacancies – at least those required by section 105(b) of the Rehabilitation Act and 34 CFR 361.17(b)(1); and

2.2 submit a written assurance within 10 days of the receipt of the final monitoring report that its SRC will be fully constituted with full membership through gubernatorial appointment in accordance with sections 105(b) of the Rehabilitation Act and 34 CFR 361.17 in a timely manner. DVRS also must assure that it will take every opportunity to assist the governor’s office in this effort to ensure the required appointments are made.

3. Appropriate use of Trial Work Experiences and Extended Evaluations

Legal Requirement:

34 CFR 361.42 Assessment for determining eligibility and priority for services:

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

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

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

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

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

(A) There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or
(B) There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual’s disability.

(iv) The designated State unit must provide appropriate support, including assistive technology devices and services and personal assistance services, to accommodate the rehabilitation needs of the individual during the trial work experiences.

(f) Extended evaluation for certain individuals with significant disabilities.

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

(2) During the extended evaluation period, vocational rehabilitation services must be provided in the most integrated setting possible, consistent with the informed choice and rehabilitation needs of the individual.

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

(4) During the extended evaluation period, the designated State unit provides only those services that are necessary to make the determination described in paragraph (e)(2)(iii) of this section and terminates extended evaluation services when the State unit is able to make the determinations.

Finding 3: In FY 2008, DVRS closed 180 individual’s cases because they were “too disabled to benefit” from VR services without having explored the individual’s ability to perform in trial work experiences or extended evaluation settings. When RSA reviewed the data on DVRS’ use of trial work experiences, RSA noted that DVRS averaged only 3 consumers per year in receipt of trial work experiences during FY 2004 through 2008, whereas other general and combined agencies nationwide averaged 120 consumers per year in trial work experiences during that same period. When RSA questioned staff about the lack of use of trial work experiences, many VR counselors indicated they had not been trained on the use of trial work experiences and extended evaluations and were unclear on when they were to be used.

Section 102(a)(2)(B) of the Rehabilitation Act and 34 CFR 361.42(e)(1) require DVRS to explore, through trial work experiences, an individual’s abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support a determination that the individual is too disabled to benefit from the receipt of VR services. Only after conducting such trial work experiences and finding clear and convincing evidence is DVRS permitted to close the individual’s case as being “too disabled to benefit” (Id.). Given that DVRS has utilized trial work experiences in an average of three cases a year, whereas it has closed 180 individuals as being too disabled to benefit, DVRS is not in compliance with section 102(a)(2)(B) of the Rehabilitation Act and 34 CFR 361.42(e)(1).

Corrective Action 3: DVRS must:

3.1 issue a program directive to ensure that all staff are familiar with the requirements of clear and convincing evidence through the use of TWE required to support a decision that
an individual is unable to benefit from VR services. In addition, the directive should be followed up with agency wide training on the effective use and requirements of EE and TWE; and

3.2 review all cases closed due to “disability too significant to benefit from VR services” following the implementation of training to ensure counselors followed all requirements in compliance with 34 CFR 361.42, assessment for determining eligibility and priority standards.

Technical Assistance and Continuing Education

This section of the chapter describes the technical assistance (TA) and continuing education provided by RSA to DVRS during the course of the review and the continuing education needs of the agency identified by its personnel and stakeholders. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix A of this report titled “DVRS Response.”

Technical Assistance Provided

During the review of the VR and SE programs, RSA provided technical assistance to DVRS regarding:

- federal requirements related to the processing of referrals and applications;
- federal requirements for a state-established timeline for the development of the IPE;
- improvements to the agency’s self-employment policies;
- procedures for the use of Title VI-B funds;
- federal requirements of an IHE agreement;
- effective development and use of strategic planning, including the necessary steps and components involved, and how to create measurable goals and objectives;
- integration of strategic planning with the development of a State Plan; and
- use of the RSA management information system to analyze data and to enter the agency’s State Plan;

Continuing Education

During the course of the review, DVRS and stakeholder representatives, including the SRC, requested that agency personnel receive continuing education in the areas of:

- federal regulations concerning the use of TWE and EE;
- development of measurable State Plan goals that reflect the agency’s vision;
- methods to obtain additional candidates for its SRC, particularly representatives of the state educational agency;
- requirements for closing a case because the individual is too significantly disabled to benefit from VR services; and
- federal requirements for the use of Title VI, part B funds.
RSA reviewed DVRS’ fiscal management of the vocational rehabilitation (VR) and Supported Employment (SE) programs. During the review process, RSA provided technical assistance to the state agency to improve its fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agency’s cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

**Fiscal Management**

The New Jersey Division of Vocational Rehabilitation Services (DVRS) is located within the Department of Labor and Workforce Development (NJDLWD). The Legislative Budget and Finance Officer, as the chief fiscal officer for the Legislature and the Legislative Services Commission, collects and presents fiscal information for the Legislature and its budget committees, reviews requests for appropriations, and determines approval for and the transfer of funds among State accounts. The Legislative Budget and Finance Office administer the fiscal note process, and staffs the Joint Budget Oversight Committee. The Office of the State Comptroller (“OSC”) is charged with, among other functions, “providing technical assistance and training” to government contracting units regarding best practices designed to prevent the misuse of public funds. N.J.S.A. 52:15C-15. In accordance with that mandate, OSC issues guidance to New Jersey government units concerning practices that will better ensure efficiency, transparency, and accountability in the award of contracts for services. Such service contracts, unlike contracts for goods, are oftentimes awarded on bases other than exclusively price, and as a result typically involve a less formulaic contract award process.

On March 4, 2010, New Jersey issued guidance for awarding service contracts. Developed by OSC, the guide governs bodies in their efforts to competitively contract for services. This guidance is not intended to apply in those instances when service contracts are awarded solely on the basis of the lowest responsible bid. Derived from New Jersey, federal and model procurement provisions, as well as policy papers, this direction was condensed into the following six principles: (1) The pool of contractors solicited should be as expansive as possible; (2) Statements of work should be drafted in clear and unambiguous terms; (3) Proposals should be judged on the basis of predetermined, merit-based evaluative criteria, made known to vendors before proposals are submitted; (4) The evaluative criteria should be judged by a qualified evaluation committee; (5) The evaluation process should be explainable to evaluators and competing vendors, and capable of withstanding scrutiny under a protest challenge; and (6) The scoring process and award recommendations should be well-documented and retained. OSC recognizes that the practices described in the guidelines are optional for use by state government entities and recommends that the New Jersey legislature establish them as mandatory procedures through state law.
DVRS Fiscal Performance

The data in the following table are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of the agency’s fiscal management practices. Data related to the VR program matching requirements are taken from the fourth quarter of the respective fiscal year’s SF-269 report. The data pertaining to the VR program maintenance of effort requirements are derived from the final SF-269 report of the fiscal year (two years prior to the fiscal year to which they are compared). Fiscal data related to VR program administration, total expenditures, and administrative cost percentage are taken from the RSA-2.

Table 2.1
Vocational Rehabilitation Services - Fiscal Table

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
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<tr>
<td>Grant Amount</td>
<td>$41,725,897</td>
<td>$41,891,883</td>
<td>$41,924,081</td>
<td>$43,339,798</td>
<td>$43,697,706</td>
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<td>Federal Expenditures</td>
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<td>$41,891,883</td>
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<td>Required Match</td>
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<td>$11,337,956</td>
<td>$11,346,670</td>
<td>$11,608,039</td>
<td>$11,826,698</td>
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<tr>
<td>Actual Match</td>
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<td>$11,337,956</td>
<td>$11,346,670</td>
<td>$11,608,039</td>
<td>$11,826,698</td>
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<tr>
<td>Over (Under) Match</td>
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<td>$0</td>
<td>$0</td>
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<td>Carryover at 9/30 (year one)</td>
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<td>Program Income</td>
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<td>Administrative Costs</td>
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<td>*Total Expenditures</td>
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<td>Percent Admin Costs to Total Expenditures</td>
<td>8.51%</td>
<td>9.04%</td>
<td>7.66%</td>
<td>7.91%</td>
<td>6.01%</td>
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</table>

*Includes Supported Employment Program Expenditures

RSA Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that DVRS is required to undertake. DVRS must develop a corrective action plan for RSA’s review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist DVRS to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action as it deems appropriate, including the recovery of Title I VR, Title VI-B SE, and Title VII-B IL funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of EDGAR.
Improper Consolidation of Title I and VI-B Funds

Legal Requirements:

Section 625(b)(6)(A) of the Rehabilitation Act and 34 CFR 363.11(g)(1) of its implementing regulations require that Title VI-B Supported Employment program funds must be used solely to cover the costs of providing supported employment services authorized under the Rehabilitation Act for persons with most significant disabilities. In addition, the regulations at 34 CFR 363.11(g)(4) state, “the State will use funds provided under this part only to supplement, and not supplant, the funds provided under Title I of the Act, in providing supported employment services specified in the individualized written rehabilitation program.” (see also section 625(b)(6)(D) of the Rehabilitation Act).

Section 7(35) of the Rehabilitation Act, in pertinent part, states:

The term "supported employment" means competitive work in integrated work settings, or employment in integrated work settings in which individuals are working toward competitive work, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individuals, for individuals with the most significant disabilities--

(i) (I) for whom competitive employment has not traditionally occurred; or
   (II) for whom competitive employment has been interrupted or intermittent as a result of a significant disability; and
(ii) who, because of the nature and severity of their disability, need intensive supported employment services for the period, and any extension, described in paragraph (36)(C) and extended services after the transition described in paragraph (13)(C) in order to perform such work.

See also the definitions for “supported employment” at 34 CFR 361.5(b)(53) (for purposes of the VR program) and 34 CFR 363.6(c)(1) (for purposes of the Supported Employment program).

34 CFR 363.52(b) states:

(b) The State shall collect and report separately information for
   (1) Supported employment clients served under this program; and
   (2) Supported employment clients served under 34 CFR part 361.

34 CFR 80.20(a) states:

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

Finding 1: RSA finds that DVRS is not in compliance with 34 CFR 80.20(a), because the agency does not expend and account for its Title VI-B SE funds in such a manner that permits
the agency to trace the expenditure of SE funds to ensure they are spent solely on allowable SE program costs. As a result of its failure to properly administer the Title VI-B SE program, DVRS cannot ensure that Title VI-B SE funds are spent solely for the provision of SE services to individuals with the most significant disabilities, as required by section 625(b)(6)(A) of the Rehabilitation Act and 34 CFR 363.11(g)(1). Furthermore, DVRS cannot ensure that it is able to properly account for those individuals who are provided SE services under the title VI-B SE program versus those who are provided SE services under the Title I VR program, as required by 34 CFR 363.52(b).

During the on-site portion of the monitoring process, RSA reviewed the agency’s SE service delivery system for the provision of SE services to individuals with the most significant disabilities. As part of that review, RSA discussed with the DSA fiscal officer the requirements of 34 CFR part 363 and 34 CFR part 80 that SE funds must be kept separate from other funds and SE expenditures must be tracked separately from other expenditures. During that onsite meeting, the DSA fiscal officer informed RSA that the agency consolidates the Title VI-B SE funds it receives from RSA with its Title I VR funds. Despite the lack of separate accounting for Title VI-B SE funds, the DSA fiscal officer assured RSA that the agency believes that Title VI-B funds do not supplant Title I VR funds and are spent only on allowable SE services for persons with most significant disabilities, in accordance with the requirements of the Title VI-B SE program.

RSA also reviewed the agency’s policy manual governing the provision of SE services. DVRS defines supported employment in Part K of its policy and procedure manual as “competitive work in an integrated work setting or employment in integrated work settings in which individuals are working toward competitive work consistent with the strengths, resources, priorities, concerns, abilities capabilities, interests, and informed choice of the individuals with on-going support services for individuals with the most significant disabilities for whom competitive employment:

1. has not traditionally occurred; or
2. has been interrupted or intermittent as a result of significant disabilities; and
3. who, because of the nature and severity of their disability, need intensive supported employment services and extended services after transition in order to perform this work.”

Finally, in looking at DVRS’ provision of SE services, RSA also reviewed the agency’s RSA-911 reports. On its FY 2008 RSA-911, DVRS reported that two individuals who achieved supported employment outcomes received SE services through the use of Title VI-B SE funds and that 336 individuals who achieved supported employment received SE services funded through the use of non-SE funds. In looking at this information further, RSA reviewed other data provided by DVRS and found that only one individual – not the two who were reported -- who achieved an SE outcome had SE identified on his/her IPE. RSA also compared the SE outcomes reported by DVRS with the SE outcomes reported that year by other VR agencies. Nationally, General VR agencies reported an average of 238 SE outcomes, paid with Title VI-B SE funds, during FY 2008. General VR agencies of similar size to DVRS, nationally, reported an average of 140 SE outcomes paid with Title VI-B SE funds that same year.
Federal regulations require DVRS to establish procedures that enable it to administer the SE program in an efficient manner that ensures it can carry out all functions and account for the expenditure of SE funds properly (34 CFR 80.20(a)). These procedures must allow DVRS to trace all funds to such a degree to ensure that they are incurred for allowable costs (34 CFR 80.20(a)(2)). Furthermore, section 625(b)(6)(A) of the Rehabilitation Act and 34 CFR 363.11(g)(1) require DVRS, as a recipient of Title VI-B SE funds, to assure that Title VI-B SE funds are spent solely for the provision of SE services to individuals with the most significant disabilities. SE services, provided to eligible individuals, are limited to a period not to exceed 18 months (section 7(36) of the Rehabilitation Act and 34 CFR 363.6(c)(2)(iii)). In addition to reporting requirements applicable to all Federal grantees, DVRS also must collect and report information separately for those individuals receiving SE services under Title VI-B versus those receiving SE services under the Title I VR program (34 CFR 363.52(b)).

Given the agency’s admissions that it commingles Title VI-B SE funds with its Title I VR funds and it does not track Title VI-B funds separately, DVRS has failed to comply with 34 CFR 80.20(a), which requires it to administer the program and account for funds to such a degree that the expenditures can be traced to ensure allowability. As such, DVRS cannot ensure that Title VI-B SE funds have been expended solely for allowable activities – namely the provision of time-limited SE services for individuals with the most significant disabilities, as required by section 625(b)(6)(A) of the Rehabilitation Act and 34 CFR 363.11(g)(1). Finally, given DVRS’ failure to track the Title VI-B SE funds separately, DVRS cannot ensure that it is properly collecting and accurately reporting those individuals who receive SE services under Title VI-B versus those who receive SE services under Title I, as required by 34 CFR 363.52(b). Although DVRS’ definition of supported employment is consistent with the Federal definition for that term at section 7(35) of the Rehabilitation Act and 34 CFR 363.6(c)(1), DVRS provided no accounting or other documentation to RSA while onsite to demonstrate that it indeed spent Title VI-B SE funds solely on individuals eligible for SE services under that program as required or that it indeed reported individuals accurately in terms of receipt of SE services under the Title VI-B SE program versus receipt of SE services under the Title I VR program. As noted above, the agency’s own data for FY 2008 was inconsistent in that it reported 2 individuals as having achieved an SE outcome under the SE program in FY 2008, but also reported that only one individual’s IPE – not the 2 as reported -- listed SE as the outcome that year. In addition to these inconsistencies, DVRS’ data were significantly lower than the national averages of SE outcomes for General VR agencies of similar size to DVRS. For all of these reasons, DVRS has failed to comply with 34 CFR 363.11(g), 34 CFR 363.52(b), and 34 CFR 80.20(a).

**Corrective Action 1:** DVRS must:

1.1 cease commingling Title VI-B SE funds with Title I VR funds;
1.2 submit a written assurance within 10 days of the final monitoring report that DVRS will comply with 34 CFR 363.11(g), 34 CFR 363.52(b), and 34 CFR 80.20(a), especially in terms of accounting for and tracking Title VI-B SE funds separately so that DVRS can ensure that Title VI-B SE funds are spent solely on allowable expenditures under the SE program; DVRS also must assure that it will report separately those individuals served under the SE program versus those served under the VR program; DVRS also must assure that the agency provides SE services in accordance with its Federal requirements – namely that the time-limited services are provided only to those individuals with the most significant disabilities; and

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1.3 submit a plan, including a timeline, as to the procedures DVRS will implement to ensure that the Title VI part B SE funds are tracked and accounted for separately from Title I VR funds, as required by 34 CFR 363.11(g) and 34 CFR 80.20(a), and how it will ensure that the RSA-911 is completed accurately, as required by 34 CFR 363.52(b). This plan must describe the mechanisms that will be implemented to ensure that: 1) Title VI part B funds are tracked and accounted accurately; 2) supporting documentation is retained to ensure allowability of all expenditures under Title VI part B; and 3) the accuracy of information contained in financial and statistical reports is verified prior to submission to RSA.

2. Third-Party Arrangement – Department of Mental Health Services

Legal Requirements:

34 CFR 361.12 requires that:

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

34 CFR 361.13(c), in pertinent part, states that:

(c) Responsibility for administration. (1) At a minimum, the following activities are the responsibility of the designated State unit or the sole local agency under the supervision of the State unit:

(iv) The allocation and expenditure of vocational rehabilitation funds.

(2) The responsibility for the functions described in paragraph (c)(1) of this section may not be delegated to any other agency or individual.

34 CFR 361.28 provide that:

(a) The designated State unit may enter into a third-party cooperative arrangement for providing or administering [VR] services with another State agency or a local public agency that is furnishing part or all of the non-Federal share, if the designated State unit ensures that—

(1) The services provided by the cooperating agency are not the customary or typical services provided by that agency but are new services that have a [VR] focus or existing services that have been modified, adapted, expanded, or reconfigured to have a [VR] focus;

(2) The services provided by the cooperating agency are only available to applicants for, or recipients of, services from the designated State unit;

(3) Program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the designated State unit; and

(4) All State plan requirements, including a State's order of selection, will apply to all services provided under the cooperative program.
(b) If a third party cooperative agreement does not comply with the statewideness requirement in §361.25, the State unit must obtain a waiver of statewideness, in accordance with §361.26.

34 CFR 80.20(a), in pertinent part, requires that:

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

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(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.40(a) requires that:

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

Finding 2: For the past 20 years, the New Jersey Division of Mental Health Services (DMHS), a public agency, has collaborated with DVRS to provide SE services. For many of those years, DVRS has entered into a contract with DMHS to operate the Supported Employment Program. The contract between DVRS and DMHS furnishes funds to provide SE services throughout the state under the VR program.

Pursuant to its contract with DVRS, DMHS subcontracts with 20 non-profit organizations selected by DMHS that have been providing SE services on behalf of DMHS for purposes of its contract with DVRS. Except for the non-profit providers in Hudson and Mercer County, who receive 100 percent and 75 percent, respectively, of their funds under the agreement, the remaining 18 non-profit providers receive 40 percent of their funding from this agreement. In addition to selecting these 20 SE providers, and negotiating annual contracts with each of them, DMHS controls and monitors the flow of funds to each organization in accordance with the terms of the contracts it has with each service provider. The DMHS contracts with the providers also require each provider to submit fiscal and program reports on a quarterly basis to DMHS.

According to the contracts RSA reviewed while onsite and the information RSA learned from DVRS staff about this arrangement with DMHS, DVRS played an integral role in the original selection of the subcontractors. However, it does not exercise supervision over the money allocated to each provider; DMHS makes these decisions. Furthermore, RSA’s sample review of four of these subcontracts revealed that the contracts lack language or conditions that specify:

- the type of services to be provided to VR consumers or applicants under the agreement;
- that the VR services provided under the agreement must be new or different services not traditionally offered by the providers;
- that the services under the agreement must be provided only to VR consumers or applicants;
• the VR funds received under the contract must be spent solely on allowable VR expenditures incurred under the contract;
• DVRS is responsible for supervisory administration of the staff providing those services and the expenditure of those funds by the subcontractors; and
• DVRS is responsible for not only supervising, but also monitoring those activities performed under the contract with VR funds.

During onsite monitoring, RSA discussed with DVRS the authority under which DVRS entered into the contract with DMHS to fund SE projects with the 20 non-profit providers. DVRS informed RSA these agreements have not been formally labeled a third-party cooperative arrangement, but DVRS uses the non-Federal funds it receives from DMHS pursuant to these contracts toward satisfying its match requirement under the VR program. For example, in FY 2009, the contract between DVRS and DMHS to provide SE services throughout the State totaled $1,580,519. Pursuant to its contract with DVRS, DMHS paid $500,000 (31.64 percent) of the total expenditures with state funds to cover the non-Federal share under the contract; DVRS furnished the balance of $1,080,519 (68.36 percent) with federal VR funds. The face sheet of the contract confirmed this information: $1,080,519 reported as federal funds and $500,000 as state funds. The contract does not specify the method of payment; however, a transmittal letter, which is not part of the contract, instructs DMHS to request monthly (12 percent of the agreement) or quarterly (29 percent of the agreement) of the contract award for operating expenses. As a result of this arrangement, DVRS pays DMHS the Federal VR share of the costs and DMHS, in turn, awards the total contract amount, including the Federal share and the non-Federal share, to the 20 non-profit providers via subcontracts with each of them.

The contract between DVRS and DMHS for the Supported Employment Program raises several legal concerns, especially in regard to the authority for the contract and the limited role that DVRS plays in this arrangement. Although DVRS does not label these agreements as third-party cooperative arrangements, DVRS informed RSA, and the contract face sheet confirmed, that it used the $500,000 in non-Federal funds furnished by DMHS in FY 2009 to meet its non-federal matching requirement under the VR program. A third-party cooperative arrangement is the typical mechanism a State VR agency uses to obtain non-Federal expenditures from another public agency toward satisfying its own match requirement under the VR program. As such, the contract would need to satisfy the requirements at 34 CFR 361.28. In particular, the contract would be required to be a third-party cooperative arrangement which is established between DVRS and another public agency that would provide VR services as well as contribute non-Federal funds toward DVRS’ match requirement under the VR program. The services must not be the typical services generally provided by that cooperating agency (34 CFR 361.28(a)(1)). The services must be provided solely to DVRS consumers and applicants (34 CFR 361.28(a)(2)). DVRS must retain supervisory control over the staff providing the services and the expenditures under the agreement (34 CFR 361.28(a)(3)). The cooperating agency must adhere to all VR requirements, including order of selection, if applicable (34 CFR 361.28(a)(4)). Finally, the cooperating agency must provide the services in all areas of the State; if not, DVRS must seek a waiver of statewideness from RSA (34 CFR 361.28(b)).

In this case, the 20 private non-profit service providers would not be eligible to enter into a third-party cooperative arrangement with DVRS, pursuant to 34 CFR 361.28(a). On the other hand, DMHS is a public agency and would be eligible to enter into a third-party cooperative arrangement with DVRS (34 CFR 361.28(a)). As the public cooperating agency, DMHS is
required to provide the services specified in the third-party cooperative arrangement or, at a minimum, arrange for another entity to provide the services on its behalf (Id.). Although DMHS is not providing the services directly, it has procured those services, via contracts, from 20 non-profits to provide the services on its behalf.

Regardless of whether DVRS provides services directly or pursuant to a third-party cooperative arrangement, DVRS must retain sole responsibility for the allocation and expenditure of VR funds (34 CFR 361.13(c)(1)(iv)). This requirement is reiterated in the context of a third-party cooperative arrangement at 34 CFR 361.28(a)(3), which requires that DVRS retain administrative supervisory responsibilities over the staff providing the services and the expenditures incurred under that arrangement. In this case, DVRS furnishes the Federal VR share portion of the contract to DMHS, which, in turn, allocates the entire contract amount (Federal VR share plus non-Federal share) to the 20 non-profits. According to the information RSA was provided, DVRS was involved in the determination of which non-profits originally were awarded subcontracts, but does not determine how much each entity receives. Instead, these decisions are determined solely by DMHS through its procurement process. Furthermore, while DVRS exercises supervisory responsibility over the subcontractor staff providing the services, it does not exercise such responsibility over the expenditures incurred by the 20 subcontractors, as required by 34 CFR 361.28(a)(3). At a minimum, DVRS must retain these responsibilities in order for the agreement with DMHS to be a valid third-party cooperative arrangement for the purpose of generating non-Federal match for the VR program. DVRS could accomplish this by becoming a party to the contracts DMHS has with each of the providers, with the terms of the contract outlining the responsibilities that DVRS must retain in order to ensure compliance with Federal requirements.

In addition, 34 CFR 361.28(a)(1) requires that the cooperating agency provide new or modified VR services that are not those typically provided by that entity. In this case, the 20 non-profits are not providing new or different VR services. According to the information that RSA reviewed while onsite, the services provided by these non-profits through the third-party cooperative arrangement between DVRS and DMHS are the same services that the 20 non-profits provide to other DVRS consumers pursuant to fee-for-service contracts with DVRS. These fee-for-service contracts have been implemented separate from the third-party cooperative arrangement between DVRS and DMHS. To comply with 34 CFR 361.28(a)(1), the services provided pursuant to the third-party cooperative arrangement must be new VR services or VR services that have been modified so that they are not the typical services provided by that vendor.

For the foregoing reasons, DVRS has failed to satisfy the requirements of 34 CFR 361.13(c)(1)(iv) and 34 CFR 361.28 with regard to the contract with DMHS. In failing to comply with the requirements governing third-party cooperative arrangements, especially as those requirements relate to the responsibility for the allocation and expenditure of VR funds, DVRS also has failed to comply with 34 CFR 361.12 and 34 CFR 80.20(a). As a recipient of Federal VR funds, DVRS must administer the VR program, and all of its activities, in a manner that ensures the proper and efficient expenditure and accounting of VR funds. By not retaining responsibility for the allocation and expenditure of funds under the third-party cooperative arrangement, DVRS cannot ensure that the funds are being spent solely on allowable VR costs. Given the deficiencies of the third-party cooperative arrangement, DVRS may not use non-Federal funds provided by DMHS under the contracts -- as a third-party cooperative arrangement -- for match purposes under the VR program until the deficiencies are corrected.
Federal regulations also require that the services provided under a third-party cooperative arrangement must be provided solely to VR consumers or applicants (34 CFR 361.28(a)(2)). Although DVRS has provided information indicating that only individuals who are applicants for or receiving VR services are being served through the arrangement with DMHS, As stated above, the contracts RSA reviewed contained no provisions that limited the services to DVRS VR consumers and applicants. Finally, there was no indication that DVRS monitors the expenditures incurred by the service providers under the contract with DMHS or their level of performance, as it would be required to do pursuant to 34 CFR 80.40(a). RSA will need further information to determine the level of DVRS’ compliance with these requirements.

Corrective Action 2: DVRS must:

2.1 Submit an assurance within 10 days of the final monitoring report that DVRS will comply with the requirements for a third-party cooperative arrangement (34 CFR 361.28); that DVRS will retain responsibility for the allocation and expenditure of VR funds and the other non-delegable functions, as required by 34 CFR 361.13(c); that DVRS will monitor all grant-supported activities, including the Supported Employment Program, as required by 34 CFR 80.40(a); and that DVRS will administer the VR program in a proper and efficient manner that ensures VR funds are spent solely on allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

2.2 Revise the contract with DMHS, as the agency indicated it would do, that authorizes and implements the third-party cooperative arrangement between DVRS and DMHS to operate the Supported Employment Program to correct deficiencies in accordance with the requirements of 34 CFR 361.13(c)(1)(iv), 34 CFR 361.28, and 34 CFR 80.40(a). In particular, DVRS must ensure that:
   A. it retains responsibility for the allocation and expenditure of VR funds, as required by 34 CFR 361.13(c)(1)(iv);
   B. it retains supervisory control over the DMHS and non-profits’ expenditures incurred pursuant to the third-party cooperative arrangement, as required by 34 CFR 361.28(a)(3);
   C. the services provided pursuant to the third-party cooperative arrangement are new or modified VR services, not typically provided by the non-profits, as required by 34 CFR 361.28(a)(1);
   D. the services provided pursuant to the third-party cooperative arrangement are provided solely to VR consumers and applicants, as required by 34 CFR 361.28(a)(2); and
   E. it is responsible for monitoring all grant supported activities, including the Supported Employment Program, as required by 34 CFR 80.40(a).

2.3 Submit a spreadsheet that contains:
   A. the amount of non-federal match provided by DMHS pursuant to the third-party cooperative arrangement for FFY’s 2005-2009;
   B. the amount of Federal VR funds provided to the 20 non-profit agencies by DVRS under the contract for FFY’s 2005-2009; and
   C. the total number of individuals served pursuant to the third-party cooperative arrangement between DVRS and DMHS, as well as the number of those individuals who were applicants or consumers of the VR program; and
2.4 Cease utilizing non-Federal expenditures incurred by DMHS under the third-party cooperative arrangement to meet its non-Federal share requirement under the VR program until the deficiencies of the third-party cooperative arrangement have been corrected.

3. Submission of Required Reports

Legal Requirements:

34 CFR 361.12 states:
The State plan must assure that the State agency, and the designated State unit if applicable, employs methods of administration found necessary by the Secretary for the proper and efficient administration of the plan and for carrying out all functions for which the State is responsible under the plan and this part. These methods must include procedures to ensure accurate data collection and financial accountability.

34 CFR 364.36 states:
The State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will submit reports that the Secretary determines to be appropriate.

34 CFR 80.20(a) states:
(a) A State must expend and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:
   (1) permit preparation of reports required by this part and the statutes authorizing the grant, and
   (2) permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

34 CFR 80.41(b), in pertinent part, states:
(b) Financial Status Report—
   (1) Form. Grantees will use Standard Form 269 or 269A, Financial Status Report, to report the status of funds for all nonconstruction grants and for construction grants when required in accordance with §80.41(e)(2)(iii).

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   (1) Frequency. The Federal agency may prescribe the frequency of the report for each project or program. However, the report will not be required more frequently than quarterly. If the Federal agency does not specify the frequency of the report, it will be submitted annually. A final report will be required upon expiration or termination of grant support.

   (2) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.
Finding 3: DVRS is not in compliance with 34 CFR 80.41(b), because DVRS has failed to submit required financial and statistical reports in a timely manner for the Title I VR, Title VI-B SE, and Title VII-B IL programs. In failing to submit these reports as required, DVRS has failed to comply with 34 CFR 361.12 and 34 CFR 80.20(a), as applicable, which require the agency to administer its programs in a proper and efficient manner that ensures it complies with Federal requirements, including those for reporting.

Federal regulations require that all recipients of Federal funds must accurately report the results of all Federally-assisted activities (34 CFR 80.20(a)). Financial reporting requirements are set forth at 34 CFR 80.41(b). DVRS, as a recipient of Federal funds, must comply with the requirements of 34 CFR part 80, including the reporting requirements (34 CFR 361.12 and 34 CFR 361.12(a)(5), 34 CFR 363.5(a)(4), 34 CFR 364.36). RSA requires that agencies submit IL program “Financial Status Reports” under parts B and C of chapter 1 of title VII of the Act.

RSA requires that agencies submit VR program “Financial Status Reports,” SF-269s (which have recently been replaced by SF-425s), on a quarterly basis (34 CFR 80.41(b)(3)). The VR SF-269 is due 30 days after the end of each reporting quarter (ending dates 12/31, 3/31, 6/30, and 9/30) (34 CFR 80.41(b)(4)). For the IL-part B and SE programs, RSA requires DVRS to submit SF-269s on an annual basis (34 CFR 80.41(b)(3)). These annual submissions are due 90 days after the end of the grant year (34 CFR 80.41(b)(4)).

During the review, RSA informed DVRS management that the following SF-269s have not been submitted by the time of the on-site visit:

- SF-269s for the VR program for FY 2009, Quarters 4 and 5, due 10/30/09 and 1/30/10, respectively;
- SF-269s for the IL-Part B program for FY 2007, FY 2008, and FY 2009, due 12/30/07, 12/30/08, and 12/30/09, respectively; and
- SF-269s for the SE program for FY 2008 and FY 2009, due 12/30/08, and 12/30/09, respectively.

RSA utilizes financial reports, such as the SF-269, as the basis for establishing national data trends and norms from which to compare agencies. Therefore, DVRS’ failure to submit reports impacts RSA’s ability to develop accurate databases from which to conduct program analyses and develop reports, as required by sections 12 and 13 of the Rehabilitation Act. By failing to submit reports for certain years for the VR, SE, and IL-part B programs, DVRS has failed to comply with the requirements of 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.41.

Corrective Action 3: DVRS must:

3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the timeliness of future financial and statistical reports submitted on behalf of the VR, SE, and IL-part B programs;
3.2 submit all missing SF-269s, including final reports; and
3.3 submit a plan, including timelines, describing the steps DVRS will implement to ensure timeliness of the financial and statistical reports, as required by 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.41(b).
4. Unallowable VR Expenditures – Disability Program Navigators

Legal Requirements:

Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3 require that allowable expenditures made with Title I VR funds must be for providing VR services to eligible consumers or administering the VR program.

34 CFR 361.12 requires that:

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

34 CFR 80.20(a), in pertinent part, requires that:

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

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(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

20 CFR 662.280 states:

Does title I [of the Workforce Investment Act (WIA)] require One-Stop partners to use their funds for individuals who are not eligible for the partner's program or for services that are not authorized under the partner's program?

Answer: No, the requirements of the partner's program continue to apply. [WIA] intends to create a seamless service delivery system for individuals seeking workforce development services by linking the One-Stop partners in the One-Stop delivery system. While the overall effect is to provide universal access to core services, the resources of each partner may only be used to provide services that are authorized and provided under the partner's program to individuals who are eligible under such program. (WIA sec. 121(b)(1).) (emphasis added)

Section 121(b)(1)(A) of WIA states:

(b) One-Stop Partners.--

(1)Required partners.--
(A) In general.—Each entity that carries out a program or activities described in subparagraph (B) shall—
    (i) make available to participants, through a one-stop delivery system, the services described in section 134(d)(2) that are applicable to such program or activities; and
    (ii) participate in the operation of such system consistent with the terms of the memorandum described in subsection (c), and with the requirements of the Federal law in which the program or activities are authorized.

2 CFR part 225 (formerly known as OMB Circular A-87), Appendix A, paragraph C, in pertinent part, states:

C.1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
   a. Be necessary and reasonable for proper and efficient performance and administration of Federal Awards…
   b. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.”

DOL’s “Resource Sharing for Workforce Investment Act One-Stop Centers: Methodologies for Paying or Funding Each Partner Program’s Fair Share of Allocable One-Stop Costs,” 66 Fed. Reg. 29637, 29643 (May 31, 2001), in pertinent part, states:

Any methodology used must:
1) Result in an equitable distribution of costs and not result in any partner paying a disproportionate share of the shared One-Stop costs;
2) Not result in any partner paying a disproportionate share of the common costs;
3) Correspond to the types of costs being allocated;
4) Be efficient to use; and,
5) Be consistently applied over time. (emphasis added)

RSA Information Memorandum 02-13, p.59 and 62 (February 28, 2002) states:

VR Cost Allocation Methods Must:
1) Result in an equitable distribution of the shared costs;
2) Correspond to the types of costs being allocated;
3) Be efficient to use and consistently applied;
4) Be consistent with generally accepted accounting principles (GAAP);
5) Meet OMB and EDGAR requirements; and,
6) Be accepted by each partners independent auditors to pass A-133 audits.

It is not sufficient to inspect the information supporting the agency’s financial contribution to the One-Stop or the State’s system without reviewing documents supporting the allocation principles used for all partners.

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The pivotal point in cost-sharing or allocation is whether a benefit is received by the One-Stop partner, or specifically by the VR agency. Care should be taken when evaluating costs determined to be of benefit to the VR agency by the local boards or other partners whose perceptions of receiving a benefit may be broader than is appropriate.

Finding 4: DVRS is not in compliance with 34 CFR 361.3, 34 CFR 361.12, 34 CFR 80.20(a), and the Federal cost principles at 2 CFR part 225, Appendix A, because the agency has expended VR funds for unallowable activities in the one-stop centers.

During State fiscal year 2009 (July 1, 2009 through June 30, 2010), DVRS entered into a series of contracts with the Division of One-Stop Coordination and Support (DOSCS), another division within the New Jersey Department of Labor and Workforce Development (NJDLWD), to fund 8 of the needed 13 Disability Program Navigators (DPNs) at the one-stop centers. Because each of the contracts contained similar language, only one – Camden County for the funding of one DPN – will be used to illustrate the areas of non-compliance in this finding for all of the contracts.

In May 2009, DVRS and DOSCS entered into a Notice of Obligation (NOO) in which DVRS allocates $70,125 to Camden County to fund one DPN position at its local one-stop center. DVRS used Federal VR funds to cover this obligation. According to the NOO, the purpose of the DPN Initiative is “to establish a system of universal access for those with disabilities in the One-Stop Career Centers (OSCC)” (DPN Overview section of the NOO). The DPN Overview section, incorporated into the NOO, further explained the role of the DPN and how the funding from DVRS would be used:

The current DPN grant, supplemented by the existing memorandum of understanding (MOU) between OSPS and DVRS, will afford the opportunity to combine DPN efforts with the Temporary Assistance to Needy Families (TANF) program and DVRS to meet the needs of additional customers with disabilities through the DVRS TANF Project, by providing employment assistance to those TANF customers with qualifying disabilities and in need of job readiness skills.

These 13 newly created Navigator positions will not only seek to assist clients with disability-related issues and facilitate the use of assistive tech, but also evaluate TANF customers who have been unable to sustain permanent, long-term employment as a result of disabilities or learning impairments. Any newly identified customers will be referred to DVRS for additional assessment and job readiness skills.

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

In the NOO just described, DVRS is providing Camden County $70,125 to fund one DPN position. However, the DPN is expected to provide services that are not limited to DVRS consumers and applicants. The DPN would benefit all individuals with disabilities that enter the one-stop system, many of whom are not DVRS consumers or applicants and/or would not be eligible for VR services. In fact, one key responsibility of the DPN, according to the DPN Overview section of the NOO, is to benefit TANF customers. There was no specific reference to serving DVRS consumers. Therefore, the VR expenditures incurred in funding the DPN position would not be an allowable expenditure for services provided under or the administration of the VR program, as would be required by 34 CFR 361.3. As such, these expenditures also would not be allowable under or allocable to the VR program in accordance with the Federal cost principles (2 CFR part 225, Appendix A, paragraph C).

As the DSU for the VR program, DVRS also is a required partner in the workforce development system, pursuant to section 121(b)(1)(B)(iv) of WIA. As a required workforce partner, DVRS must carry out certain functions in a manner that is consistent with the requirements of the VR program and Title I of WIA, including providing core services at the one-stop centers, using a portion of its program funds to provide the core services, and entering into a Memorandum of Understanding with the local workforce investment board that describes DVRS’ role in the one-stop centers (34 CFR 361.23). Despite the requirement that DVRS must participate in the funding and delivery of core services in the one-stop centers, DOL’s regulations governing the one-stop system (20 CFR 662.280) and DOL’s published guidance on cost-allocation at the one-stop centers (66 Fed. Reg. 29637 (May 31, 2001)) make it clear that the cost-sharing must be consistent with the VR program’s requirements and must be proportional to the benefit received by the VR program at the one-stop center (see also RSA-IM-02-13). In particular, 20 CFR 662.280 states: “…[T]he resources of each partner may only be used to provide services that are authorized and provided under the partner’s program to individuals who are eligible under such program.” These requirements are consistent with the Federal cost principles set forth at 2 CFR part 225, Appendix A, paragraph C, in that they all require that no program bear a disproportionate share of the costs due to the inability of another program to pay its fair share.

The pivotal point in determining whether the cost-sharing allocation is appropriate is determining whether the program received a benefit from its participation in the one-stop centers. Cost allocation methodologies must result in an equitable distribution of the shared costs, correspond to the types of costs being allocated, be efficient to use, and be consistently applied. RSA did not find, nor was it provided, documentation to support that DVRS’ use of VR funds to cover the costs of 8 of 13 DPN positions (62 percent of the positions) was reconciled to ensure that each one-stop partner, including DVRS – as the DSU for the VR program, pays an equitable allocation of the shared costs at the one-stop centers so that no partner bears a disproportionate share of the costs. Given all of the above, RSA is concerned that DVRS is paying more than its fair share of the shared costs of the DPN positions, as prohibited by the Federal cost principles at 2 CFR part 225, Appendix A, paragraph C. Paying an excess of the shared costs would not be allowable under the VR program, pursuant to 34 CFR 361.3. If DVRS is using VR funds to pay more than its fair share of the one-stop costs, DVRS would not be able to ensure that it is administering the VR program in such a manner that ensures the proper accounting of all VR funds, as required by 34 CFR 361.12 and 34 CFR 80.20(a). RSA will need further information.
to determine the extent of compliance with these requirements in terms of DVRS’ funding of 8 of the 13 DPN positions.

**Corrective Action 4:** DVRS must:

4.1 cease using VR funds for costs that are not allowable under the VR program, including costs associated with the funding of DPN positions in the one-stop centers;

4.2 submit a written assurance within 10 days of the issuance of the final monitoring report that DVRS will use Title I VR funds solely for the provision of VR services or the administration of the VR program, as required by 34 CFR 361.3; DVRS also must assure that it will administer the VR program in a proper and efficient manner that ensures the proper usage and accounting of VR funds for allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a); finally, DVRS also must assure VR funds used toward paying DVRS’ share of the one-stop costs are proportional to the benefit received by the VR program and are consistent with regulatory requirements and DOL’s and RSA’s guidance on this matter;

4.3 work with NJDLWD and the one-stop partners to establish policies and procedures for the development of a method or methods to determine DVRS’ appropriate share of one-stop center operating costs that are consistent with requirements of the VR program regulations, EDGAR, OMB cost principles, and WIA. These cost sharing methodologies must ensure that:

A. the costs allocated to DVRS are allowable under the VR program;

B. the computational methodology of allocating costs, as well as the basis used for their distribution, are equitable to the VR program;

C. the costs identified as shared are common to all partners;

D. DVRS receives a proportional benefits from each cost allocated to it;

E. the one-stop center cost-sharing agreement addresses each partner’s financial participation in allocated common costs pursuant to 34 CFR 361.23(a)(2);

F. the MOU or other cost-sharing agreement is based on reasonable, supportable, and valid data and is auditable; and

G. the cost allocation adheres to the Federal cost principles set forth at 2 CFR part 225.

5. Performance of DSU’s Non-Delegable Functions

**Legal Requirements:**

34 CFR 361.13(c), in pertinent part, states that:

(c) *Responsibility for administration.*

(1) **At a minimum,** the following activities are the responsibility of the designated State unit or the sole local agency under the supervision of the State unit:

(i) All decisions affecting eligibility for vocational rehabilitation services, the nature and scope of available services, and the provision of these services.

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(iii) Policy formulation and implementation.

(iv) The allocation and expenditure of vocational rehabilitation funds.

(v) Participation as a partner in the One-Stop service delivery system under Title I of the Workforce Investment Act of 1998, in accordance with 20 CFR part 662.
Finding 5: According to the approved FY 2011 VR State plan, NJDLWD is the designated state agency (DSA) for the VR program in the State of New Jersey and DVRS is the designated state unit (DSU). In submitting the VR State plan on behalf of DVRS, NJDLWD assures that the VR program will comply with all applicable Federal requirements (34 CFR 361.10(a) and 34 CFR 80.11(c)). Specifically, NJDLWD must assure that DVRS, as the DSU, will be responsible, at a minimum, for the functions outlined in 34 CFR 361.13(c)(1): decisions affecting eligibility for VR services and the nature, scope, and provision of such services; case closures; development and implementation of policies; expenditure and allocation of VR funds; and participation as a partner in the one-stop workforce development system. These functions are the sole responsibility of the DSU and may not be delegated to another individual or agency (34 CFR 361.13(c)(2)). During the monitoring process RSA learned that DVRS – the DSU – is not solely responsible for key functions affecting the VR program, as required by 34 CFR 361.13(c)(1).

A. On October 27, 2009, when preparing for the on-site review, RSA requested documents in writing from the DVRS Director, which would provide preliminary fiscal information about the allocation and expenditure of VR funds. When RSA staff did not receive the requested information, RSA staff followed up with the then DSU Director, who, in an email dated February 16, 2010, referred RSA to the DSA’s centralized Office of Budget and Accounting, which then provided the requested documentation to RSA. In addition, during the on-site review, RSA reviewed the allocation of VR funds for various purposes. When RSA questioned the then DVRS director about certain allocations, he informed RSA that he is not privy to the total funds available to the VR program. Instead, he explained that the DSA’s centralized financial management staff periodically inform him of how much is available for expenditure under the VR program. NJDLWD’s then Director of Budget and Accounting confirmed that he and his fiscal management staff are responsible for tracking and reporting VR allocations and expenditures. As stated above, the VR regulations require that decisions affecting the expenditure and allocation of VR funds be made solely by DVRS, and may not be delegated to NJDLWD (34 CFR 361.13(c)(1)(iv) and (2)).

B. During RSA’s review of personnel matters as part of the on-site monitoring, RSA found that VR funds were used to pay the salaries and related costs for 30.9 DSA administrative staff, despite the fact that no evidence was presented at the time to demonstrate that any of these staff performed work related to the VR program. At the exit conference on April 16, RSA asked about how these staffing decisions were made. The then DSU director informed RSA that he was not privy to the information regarding the level of staffing under his control and that he was not consulted about which DSA administrative staff would be charged to the VR grant. He also informed RSA that DVRS is not able to hire VR staff to fill vacancies; instead, those decisions are made by the DSA, NJDLWD. DSA management present at that exit conference confirmed that the DSA makes the final staffing decisions for the DSU. Personnel staffing decisions are part of the decisions affecting the allocation and expenditure of VR funds that must be made solely by DVRS, as the DSU, pursuant to 34 CFR 361.13(c)(1)(iv).
C. As part of the monitoring process, RSA also reviewed several contracts that involve the expenditure of VR funds. In one series of contracts that RSA reviewed for State FY 2009 (July 1, 2009 through June 30, 2010), DVRS entered into contracts with the Division of One-Stop Coordination and Support, another division within NJDLWD, to fund 8 of the 13 Disability Program Navigators for the one-stop system. When RSA questioned the then DVRS director about these contracts because they were for unallowable costs under the VR program (see finding 7 for more detail) and the then acting VR director was a signatory to those contracts, the DVRS director informed RSA while on-site that DSA management -- not DVRS -- was responsible for negotiating and executing these contracts and determining the level of funds to be included in the contracts. Furthermore, the Commissioner of NJDLWD -- not DVRS -- transmitted the contracts to the localities receiving the VR funds. Management staff with NJDLWD’s Office of Budget and Accounting confirmed to RSA, while on-site, that he and his staff negotiate and execute all contracts for the agency, including those arising under the VR program. Pursuant to 34 CFR 361.13(c)(1)(iv), DVRS must remain solely responsible for the allocation and expenditure of VR funds, including those funds awarded by contracts. While the DSA may centralize contracting processing, decisions involving whether to contract for a service, the amount to be contracted, and the service to be procured, must be retained by DVRS since those decisions pertain to the allocation and expenditure of VR funds and the provision of VR services (34 CFR 361.13(c)(1)(i) and (iv)). Furthermore, DVRS is solely responsible for its role as a partner in the one-stop system (34 CFR 361.13(c)(1)(v)). As a one-stop partner, DVRS must negotiate its own contracts with the other one-stop partners. Neither of these responsibilities may be delegated to another individual or agency (34 CFR 361.13(c)(2)).

RSA longstanding interpretation of the non-delegation provisions of 34 CFR 361.13(c) is that these functions and activities must be carried out by the DSU’s own staff (60 Fed. Reg. 64475, 64482 (Dec. 15, 1995) and 62 Fed. Reg. 6307, 6316 (Feb. 11, 1997)). As stated at the time of publishing these regulations, the Secretary believes that the non-delegation provisions would “strengthen the role of the State unit by requiring that the unit have a substantial role in all decisions affecting the administration of the VR program whenever management functions within the State agency are centralized” (60 Fed. Reg. at 64482). The Secretary further explained that retaining these non-delegable functions with the DSU would:

- ensure that State agencies that consolidate staff to administer multiple State and federally funded programs do not entrust these key VR programmatic decisions to individuals who lack experience in meeting the needs of individuals with disabilities. Moreover, the Secretary believes that the benefits derived from DSU retention of these functions -- enhanced program efficiency and effectiveness -- outweigh any costs that may be associated with the non-delegation requirements in the final regulations (62 Fed. Reg. at 6316).

In explaining the role of the DSU in section 101(a)(2)(B)(ii)(I) of the Rehabilitation Act to administer the VR program, RSA Program Instruction (PI)-75-31 (June 3, 1975) states:

This set of requirements means also, that, while certain purely administrative functions may be performed by personnel outside the VR unit, centralization of functions on the
State agency level is impermissible when it results in interference with the decision-making capacity of the administrator of the VR unit to direct the VR program in the State (page 1).

RSA has long recognized that the DSA may centralize certain routine administrative functions, often described as staff or support functions, such as housekeeping, bill paying, data processing, accounting, and routine personnel processing. It has been RSA’s position that centralization of these routine support or administrative functions are permissible within the requirements of the VR program (Id. at page 6).

However, when centralization of other functions occurs, questions arise as to whether the DSU has retained an effective voice in the making of key policy decisions to ensure that the DSU has sufficient responsibility for the administration of the VR program. According to PI-75-31, questions will arise when the following functions are centralized at the DSA level:

- staff development and training
- program planning
- program evaluation, including monitoring
- VR budget development and presentation
- personnel management
- quality assurance/internal audit
- priority setting and execution
- administrative review and fair hearing
- rehabilitation facilities development and utilization

When such functions are placed at the DSA level, the VR unit may not have either an effective voice or strong input into the policy planning, operations, or other important program decisions made in these areas. In this case, NJDLWD has centralized certain key functions that must be performed by DVRS’ own staff, such as contract negotiations and executions, fiscal management, and personnel decisions. Each of these duties involves the expenditure and allocation of VR funds, which are the sole responsibility of DVRS (34 CFR 361.13(c)(1)(iv)). By not having the authority to control the allocation and expenditure of VR funds, DVRS lacks the ability to administer the VR program effectively in accordance with statutory and regulatory requirements governing the VR program (34 CFR 361.12 and 34 CFR 80.20(a)). The then DVRS director informed RSA that he did not have the authority to control key decisions involving the expenditure and allocation of VR funds, and that representation was confirmed by NJDLWD’s Office of Budget and Accounting management staff. In addition, the then DVRS director demonstrated a clear lack of knowledge during onsite monitoring about critical aspects of the VR program, including staffing levels and VR budget matters. Because of the DVRS director’s lack of direct control over the VR funds, DVRS is unable to ensure that the VR program is administered in such a way to ensure the unique needs of individuals with disabilities are met and has failed to comply with 34 CFR 361.12, 34 CFR 361.13(c), and 34 CFR 80.20(a).

Corrective Action 5: DVRS must:

5.1 submit an assurance within 10 days of the final monitoring report that DVRS will retain and/or regain responsibility for the allocation and expenditure of VR funds and the other non-delegable functions, which are the sole responsibility of the DSU, as required by 34

47
CFR 361.13(c); DVRS also must assure that it will comply with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a); and

5.2 work with NJDLWD to develop procedures to ensure that, despite the centralization of certain financial management functions within the DSA, DVRS, as the DSU, remains responsible for all decisions related to the non-delegable functions set forth at 34 CFR 361.13(c)(1), especially those decisions involving the expenditure and allocation of VR funds and DVRS’ participation as a partner in the one-stop system; and

5.3 submit a copy of the procedures developed to demonstrate completion of the corrective actions.

Technical Assistance

This section of the chapter describes the technical assistance provided by RSA to DVRS during the course of the review. The TA requested by the agency to enable it to carry out the recommendations and findings set forth above is included in Appendix A of this report titled, “DVRS Response.”

Technical Assistance Provided

- RSA’s assessment of the agency’s compliance with specific financial requirements, including match, maintenance of effort (MOE), use of I & E funds for SILC or SRC resource plans, carryover, program income, liquidation of outstanding obligations and grant closeout;
- OMB Circular A-87 time distribution documentation requirements, including providing some suggested formats, which are applicable to staff working on more than one program or cost center or the semi-annual certification requirement applicable to staff charging 100 percent of their time to one federal grant program;
- explanation of 34 CFR Sec. 361.13 (c)(1)(2) with an emphasis that at a minimum, the activities of policy formulation and implementation, plus that the allocation and expenditure of VR funds is the sole responsibility of DVRS and cannot be delegated to any other agency or individual;
- requirements of the Cash Management Improvement Act and ensuring they comply with their internal written draw down procedures; and
- requirements of developing and implementing a third-party cooperative arrangement.

Areas Needing Further Review

Administrative Costs

The area of administrative expenditures needs further review because while RSA was on-site, time did not allow for this area to be properly reviewed. For example, Innovative and Expansion expenditures (I&E), which are all administrative costs, need further study as to what they include and how they are being reported. The agency reports $2.2 million in I & E funds for FY 2008 but only reports a six percent administrative cost.

Business Enterprise Program
The contract with the Friendship House bears further review. It appears that NJDOL and Workforce Development have granted VR funds to this organization to “establish” a business enterprise that is owner/employee owned and organized under worker cooperative principles. The structure, funding streams, and regulatory basis for this program needs further review.

**Rebates and Refunds**
In a two month period within FY09, rebates and refunds were found to be over $3 million. Since this is an unusual level of rebates and refunds to be reported, the detail for this category for the last five years warrants further review.

**Draw Down & Cash Management**
DVRS does not appear to be following their own written policy for drawing down funds or the requirements in 34 CFR 80.50(d)(2) because they are drawing down funds in large amounts without a determination that it is necessary to meet their cash needs. A review of their actual GAPS award (drawdown) history documents practices that warrant further review. For H187A090044 (SE), with a fund availability of 10/1/08 to 09/30/10, DVRS drew their entire grant amount of $567,017 on one day (08/20/09). For H169A090044 (IL), with a fund availability of 10/1/08 to 09/30/10, drew: $89,645 (23% of grant) on 06/08/09; $42,335 (11% of grant); and $247,507 (62% of grant) on 04/07/10. For H126A090043 (VR), with a fund availability of 10/1/08 to 09/30/10 the funds were not grouped as with IL and SE; however, on the following dates DVRS drew down VR funds of exactly $884,377: 11/03/08, 11/17/08, 12/01/08, 12/15/08, 12/29/08, 01/12/09, 1/26/09, 02/09/09, and 02/23/09. These drawdowns were distinct from other draws during this period and could be attributed to payroll, but then there is a month break for drawing down the exact amount of $884,377 (e.g., 03/23/09, 04/20/09, 05/13/09, 05/18/09), and then returned to the block draw down of $884,377 for 06/01/09, 06/15/09, and five days later (06/20/09) drew down $884,337. The remainder of the year, 07/14/09, 07/27/09, 08/10/09, 08/24/09, 09/08/09, 09/21/09, 10/05/09, draws were $884,337. Considering the regularity in which these drawdowns were made and in the exact amount each of those drawdowns, requires further review as to whether these funds were drawn down to meet expenses of exactly the same amount each time.

Areas to be reviewed include, but are not limited to:
1. whether the State is subject to the State’s Treasury Agreement or to 34 CFR 80.20 and 80.21. RSA will work with the OCFO to determine whether DVRS is subject to the State’s Treasury Agreement;
2. RSA conducting further review of the agency’s policies for cash management with OGC; and
3. an analysis of: a) how long the agency held on to the money drawn down prior to disbursing it; and b) how long did the agency wait after disbursing State funds and drawing down funds and adjust expenditures.

**Fiscal Management and Monitoring of Contractors**
DVRS stated that they have neither written procedures nor established practices for monitoring grant-supported activities performed by its contractors. In the contracts DVRS has states that the provider must cooperate with any monitoring and to submit program reports but contains no statement that any regular or schedule on-site monitoring shall occur. RSA shall work directly with DVRS to determine the level of monitoring that is occurring and follow-up on current and future planned practices in the area of monitoring.
PART II: REVIEW OF THE NEW JERSEY CBVI

EXECUTIVE SUMMARY

During FY 2010, RSA reviewed the performance of the following programs authorized by the Act and administered by the New Jersey Commission for the Blind and Visually Impaired (CBVI):

- the VR program, established under Title I;
- the SE program, established under Title VI, Part B; and
- the OIB program, established under Title VII, Chapter 2.

CBVI Administration of the VR, SE and OIB Programs

New Jersey has designated CBVI (the DSU) as the agency responsible for the provision of VR, SE and OIB program services to persons who are blind or visually impaired. CBVI is located within the Department of Human Services (DHS), the DSA.

CBVI Performance over the Past Five Years

Based on data provided by CBVI through various RSA reporting instruments, the agency’s employment rate increased from 68.0 percent to 70.7 percent, during the period beginning in FY 2004 and ending in FY 2008. Over this same period, the number of new applicants for VR services increased from 541 to 681; the number of individuals who received services under an individualized plan for employment increased from 413 to 415; and the number of individuals the agency assisted to achieve employment increased from 263 to 292. From FY 2004 through FY 2008, the average hourly earnings of those individuals who achieved employment increased from $13.96 to $15.24.

Additionally during the same time period, of those individuals who achieved an employment outcome, the number who achieved a supported employment outcome increased from 13 to 16. The average hourly earnings for these individuals decreased from $11.58 to $9.84.

The overall percentage of transition-age youths served to total served decreased from 13.08 percent in FY 2004, to 12.53 percent in FY 2008. The overall number of transition-age youths who achieved employment increased from 25 in FY 2004, to 30 in FY 2008.

Through contracts with local community organizations, the number of individuals served through the CBVI’s OIB program decreased from 936 to 911 between FY 2006 and FY 2009.

Observations of the Agency and Stakeholders

Through the course of the review, agency personnel and representatives of stakeholders, such as the SRC, SILC and the Client Assistance Program, shared information concerning the administration and performance of the CBVI VR, SE and OIB programs. During the review, they made the observations below.
• Timely processing of referrals varied across the regions.
• The State Plan did not effectively reflect the agency’s strategic goals and priorities.
• The agency’s interpretation and implementation of its IPE development timeline was inconsistent.
• A number of students did not have IPEs developed prior to graduation as required by regulations and CBVI’s procedures.
• There was a need for transition programming and flexibility in Joseph Kohn Rehabilitation Center (JKRC) programming to facilitate the transition from school to work or post-school activities.
• CBVI did not have a policy related to the determination that a business under self-employment is sustainable or the calculation of the wages earned and hours worked.
• JKRC maintained a rigid curriculum that was not tailored to the individual’s needs but predetermined.
• Policies were implemented inconsistently across the regions and there was a need to consolidate and organize guidance memoranda, agency policies and procedures, and both state and federal regulations.

Strengths and Challenges

Based on the observations from the agency and its stakeholders and other information gathered through the review process, RSA concluded that CBVI exhibited a variety of strengths that enhanced service delivery, and experienced a number of challenges that inhibited its ability to improve, the performance of its VR, SE and OIB programs.

Strengths

CBVI has developed unique partnerships with its secondary and post-secondary education institutions which foster collaboration and enable the implementation of a two-week work skills preparation training program for transition-age youths, ages 16-21, who are interested in and appropriate for SE services and pre-college preparation programs with the College of New Jersey, Drew University and Raritan Valley Community College.

CBVI assisted with the development and establishment of a teacher for the blind master’s degree program with the College of New Jersey. As a result, CBVI hopes to benefit from graduates of this program to provide high level rehabilitation and skills training for its blind consumers.

CBVI has utilized a portion of its ARRA funds to hire part-time job developers in each of its three regions to assist VR counselors with the development of relationships with businesses throughout the community. In addition, ARRA funds have also been used to hire two job developers for individuals with deaf-blindness and another job developer to work within its central office for employer network development. Although the funding for each of these positions is temporary, CBVI believes the relationships and connections developed with employers will be strengthened through meeting the employer’s hiring and technical assistance needs.

CBVI’s monitoring and technical assistance support to OIB program contractors contributed to a 97 percent overall consumer satisfaction rating achieved for OIB services in the FY 2008 annual
evaluation conducted by the Rehabilitation Research and Training Center on Blindness and Low Vision at Mississippi State University.

Challenges

The agency’s challenges included the ability of CBVI to assist individuals who are blind and visually impaired and who have secondary disabilities to achieve SE outcomes. In part, this is due to the lack of a strong working relationship with the state’s agency for individuals with developmental disabilities, from which CBVI receives relatively few referrals. As a result, CBVI experienced a decline in the number of individuals who achieved SE in FY 2007 to FY 2008 and a relatively low rehabilitation rate of .52 for persons who achieved SE outcomes in FY 2008.

CBVI’s case management system has limited capacity to expand, or modify data fields. As a result, the case management system significantly limits the agency’s ability to collect accurate information. In addition, limitations of the case management system hinder the agency’s ability to produce reports that could enhance its quality assurance and strategic planning activities.

The service provision of AT through a contract limits the consumer’s choice of providers. Although CBVI has additional limited options, counselors are required to obtain an exception to provide AT to an individual outside of the contract. The AT contractor is funded through an agreement established on the premise of a predetermined number of consumers referred for services. As observed during the time of RSA’s review, CBVI expends a considerable amount per consumer when referrals are below the expected target.

CBVI lacks the policies and procedures necessary to ensure that OIB eligibility criteria are applied and services are provided consistently across the state.

CBVI’s fiscal planning is not defined and is not inclusive of the agency’s State Plan, projected services or individuals served and other economic factors. In addition, CBVI has maintained various contracts for the provision of services for over ten years, such as Assistive Technology, that do not maximize the expenditure of VR, IL or SE funds that would be achieved through fee for service or performance based contracts. Finally, the fiscal staff at CBVI rely on information from a case management system that is outdated and limited in its ability to be expanded, which restrictions its ability to adequately track consumer expenditures.

Acknowledgement

RSA wishes to express appreciation to the representatives of DHS, CBVI, the SRC and the stakeholders who assisted the RSA monitoring team in the review of CBVI.
CHAPTER 1: VR AND SE PROGRAMS OF CBVI

VR and SE Program Systems

The following sections of this chapter describe the manner in which CBVI administers and operates the VR and SE programs through a variety of functions or systems, including service delivery, personnel, case and data management, QA and planning.

Service Delivery

CBVI provides VR and SE program services through a field office located in each of three regions in the northern, central and southern portions of the state. In addition, CBVI maintains an additional satellite office in the southern region. Each regional office is staffed by a regional director, supervisor, VR counselors (three to eight in each office/region), vocational assistants, eye health nurse, aides and home instructors, who provide rehabilitation teaching and orientation and mobility instruction. CBVI is further organized in three functional units, including VR, IL and Educational Services.

CBVI also operates a rehabilitation center, JKRC located in New Brunswick, which provides assessment and adjustment to blindness services. JKRC employs 25 staff, including three VR counselors. JKRC opened 22 years ago to provide individuals with visual impairments the skills to live independently. The JKRC serves approximately 58 individuals each fiscal year. JKRC has two primary purposes, to provide a two-week assessment to determine the appropriateness of VR services, and a 16 week program that teaches the essential IL skills to live or work independently within the community. In FY 2006, JKRC added a four-week computer training class designed for individuals who require the use of screen reading software.

In FY 2008, CBVI expended $4,226,417 on purchased services, which was 26.9 percent of its total expenditures. This was lower than the average of blind agencies at 35 percent of all expenditures. CBVI spent $1,170,587 of its purchased services expenditures on training, which was 25.7 percent of its total for purchased expenditures. The average spent by all blind agencies was $2,947,178, or 52.2 percent of the average total for purchased expenditures.

CBVI employs three VR transition specialists who have the sole responsibility of working with transition-age youths. The VR transition specialists are assigned to all high schools, statewide. These individuals process applications, determine eligibility and develop IPEs in the final year of high school. Upon graduation, students are transferred to regular VR counselors (with the exception of students served by the VR deaf-blind specialists). There are also two deaf-blind specialists who work with some transition-age youths, college, and general caseloads.

CBVI also operates a college unit which employs three VR college counselors who participate in pre-college meetings with staff and supervisors to discuss post-secondary educational opportunities. CBVI operates a four week pre-college Program at Drew University, with a residential component. The program was relocated to the JKRC in late FY 2010.

Transition services are predominately provided by the school system, while students are enrolled in school. CBVI operates a program titled, “The Work Skills Prep Program,” which is a two
week program for 16 to 21 year olds who are blind or visually impaired, and eligible for SE services.

CBVI primarily provides SE services to persons with developmental or psychiatric disabilities in addition to visual impairments. Prior to coordinating SE services with CRPs, CBVI provides orientation and mobility training to individuals in preparation for employment and a 16-week comprehensive needs assessment. SE services are paid through fee-for-service contracts. There are 70 SE providers approved to receive long-term funding through the DDD. CBVI and DDD implemented a memorandum of understanding on October 1, 2008. Long-term follow-along and extended services are funded primarily through DDD and occasionally DVRS. DDD uses Community Care Waiver Funds for long-term supports.

**Personnel**

At the time of the review, CBVI employed 94 staff dedicated to the provision of VR services. The staff were located at the three regional offices, one satellite office, the JKRC, and central office. The Northern regional office VR unit had a total staff of 15, which included one supervising counselor and eight VR counselors. The central regional office VR unit had a total staff of 12, which included one supervising counselor and eight VR counselors. The Southern regional office VR unit had a total staff of 14, which included one supervising counselor and three VR counselors. The VR unit at each regional office included orientation and mobility (O&M) instructors, nurses, and aides to provide services. CBVI hired five job development specialists with ARRA funds in FY 2010. Although a state hiring freeze was in effect during the review, CBVI was able to hire staff responsible for providing services directly to individuals.

At the state office level, the VR unit was administratively supported by the office of the chief of field operations. At this level, VR counselors with specialties in transition, college services, and deaf language are available to provide support to VR unit staff at the three regional offices.

**Table 1.1**

<table>
<thead>
<tr>
<th>Position</th>
<th>Number of Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>VR Counselor</td>
<td>28</td>
</tr>
<tr>
<td>Regional Manager</td>
<td>3</td>
</tr>
<tr>
<td>Counseling Supervisor</td>
<td>3</td>
</tr>
<tr>
<td>Job development Specialist</td>
<td>5</td>
</tr>
<tr>
<td>Aides/Vocational Assistant</td>
<td>8</td>
</tr>
<tr>
<td>OM Instructors/Rehabilitation Teacher</td>
<td>9</td>
</tr>
<tr>
<td>Rehabilitation Nurse</td>
<td>3</td>
</tr>
<tr>
<td>JKRC Staff</td>
<td>25</td>
</tr>
<tr>
<td>Central Office Administration and Support</td>
<td>11</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>94</strong></td>
</tr>
</tbody>
</table>
CBVI has established the education requirements for national certification of a rehabilitation counselor as defined by the CRCC as the standard for qualified personnel performing the non-delegable functions of a VR counselor. At the time of the review, 18 of the 28 VR counselors and all three counseling supervisors met the standard. Two of the ten individuals who did not meet the standard were scheduled to complete the educational requirements before the end of 2010 calendar year and the other individuals are under a plan to meet the standard within an established date of completion.

Data and Case Management

CBVI reported that its case management system was 22 years old and did not meet the needs of its staff. It was not fully accessible for use by individuals who are blind or visually impaired. The system lacked data elements necessary to adequately analyze Medicare benefits and other demographic and service delivery considerations. It also lacked the capability of generating reports for management and field office staff, and the ability to produce ad hoc reports on user selected data elements. Reports were only available through the data manager, and are generated outside of the case management system.

As a result of the deficiencies of the current system and the availability of ARRA funds, at the time of the review, CBVI reported it had entered into a contract for the purchase of a customized case management system that was awaiting approval by the state procurement office in Trenton.

Quality Assurance

CBVI conducts service record reviews at the state office and regional office levels. The supervising counselor conducts reviews twice per year of all the active cases of the regional office. Feedback to the counselor as a result of the review is at the discretion of the supervisor. The supervisor reports the aggregated findings to the chief of field services (CFS), who in turn reviews these reports for significant patterns such as timely movement through the VR process. Identified issues are addressed as a part of the regularly scheduled management meetings. Counseling supervisors conducted on-going progress reviews, and discussed cases with VR counselors.

In past years, a review of closed cases was conducted twice a year at the state office level. This process was described as an administrative review, and was guided by instruments developed to assess performance for selected closed cases. This review process was suspended in FY 2008.

Planning

CBVI engages in planning activities in collaboration with the SRC. CBVI also collaborates with the SRC to conduct the CSNA, and develop the State Plan. CBVI and the SRC began a three-year process of conducting the CSNA in FY 2008. The first year focused on the identification of legally blind individuals who are underserved and unserved. In FY 2009, the process focused on analyzing existing data and conducting consumer surveys for all individuals whose cases were closed after receiving services. In FY 2010, CBVI engaged in assessing its functioning in relation to the workforce investment system, and combining the results from the FY 2008 and FY 2009 assessment activities.
VR and SE Program Performance

The following table provides data on the performance of the VR and SE programs administered by CBVI in key areas from FY 2004 through FY 2008.

Table 1.2
CBVI Program Highlights

<table>
<thead>
<tr>
<th>New Jersey CBVI Program Highlights</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total funds expended on VR and SE</td>
<td>$12,935,073</td>
<td>$14,778,593</td>
<td>$14,944,796</td>
<td>$15,856,041</td>
<td>$15,699,664</td>
</tr>
<tr>
<td>Individuals whose cases were closed with employment outcomes</td>
<td>263</td>
<td>273</td>
<td>303</td>
<td>303</td>
<td>292</td>
</tr>
<tr>
<td>Individuals whose cases were closed without employment outcomes</td>
<td>150</td>
<td>170</td>
<td>139</td>
<td>124</td>
<td>123</td>
</tr>
<tr>
<td>Total number of individuals whose cases were closed after receiving services</td>
<td>413</td>
<td>443</td>
<td>442</td>
<td>427</td>
<td>415</td>
</tr>
<tr>
<td>Employment rate</td>
<td>63.68%</td>
<td>61.63%</td>
<td>68.55%</td>
<td>70.96%</td>
<td>70.36%</td>
</tr>
<tr>
<td>Individuals whose cases were closed with SE outcomes</td>
<td>13</td>
<td>18</td>
<td>25</td>
<td>28</td>
<td>16</td>
</tr>
<tr>
<td>New applicants per million state population</td>
<td>62</td>
<td>72</td>
<td>68</td>
<td>71</td>
<td>78</td>
</tr>
<tr>
<td>Average cost per employment outcome</td>
<td>$5,766</td>
<td>$6,157</td>
<td>$7,532</td>
<td>$6,780</td>
<td>$4,512</td>
</tr>
<tr>
<td>Average cost per unsuccessful employment outcome</td>
<td>$5,707</td>
<td>$7,948</td>
<td>$7,557</td>
<td>$8,087</td>
<td>$4,686</td>
</tr>
<tr>
<td>Average hourly earnings for competitive employment outcomes</td>
<td>$13.96</td>
<td>$14.75</td>
<td>$13.99</td>
<td>$14.02</td>
<td>$15.24</td>
</tr>
<tr>
<td>Average state hourly earnings</td>
<td>$22.75</td>
<td>$23.73</td>
<td>$24.54</td>
<td>$25.66</td>
<td>$26.36</td>
</tr>
<tr>
<td>Percent average hourly earnings for competitive employment outcomes to state average hourly earnings</td>
<td>61%</td>
<td>62%</td>
<td>57%</td>
<td>55%</td>
<td>58%</td>
</tr>
<tr>
<td>Average hours worked per week for competitive employment outcomes</td>
<td>30.0</td>
<td>29.4</td>
<td>31.0</td>
<td>29.9</td>
<td>29.0</td>
</tr>
<tr>
<td>Percent of transition-age served to total served</td>
<td>13.08%</td>
<td>19.19%</td>
<td>16.29%</td>
<td>18.74%</td>
<td>12.53%</td>
</tr>
<tr>
<td>Employment rate for transition population served</td>
<td>46.30%</td>
<td>49.41%</td>
<td>56.94%</td>
<td>55.00%</td>
<td>57.69%</td>
</tr>
<tr>
<td>Average time between application and closure (in months) for individuals with competitive employment outcomes</td>
<td>23.6</td>
<td>25.4</td>
<td>26.8</td>
<td>25.2</td>
<td>19.9</td>
</tr>
<tr>
<td>Performance on Standard 1</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
</tr>
<tr>
<td>Performance on Standard 2</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
<td>Met</td>
</tr>
</tbody>
</table>
VR/SE Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that CBVI take specific steps to improve the agency’s performance associated with each of the observations.

1. Discrepancies in and Accuracy of Reported Data

Observation: When comparing CBVI’s RSA-911 data for services provided during FY 2008 to the national averages for blind agencies, RSA discovered large discrepancies between the percentages of individuals who received specific services (see Table 1.3 below). As a result, the potential inaccuracies in the data collected and reported by CBVI impede the agency’s ability to effectively manage the VR program.

- In FY 2008, CBVI provided a substantially smaller percentage of assessment services; diagnosis and treatment of impairments, all training types except for miscellaneous training, job search assistance, job placement assistance, and other services when compared to the national average of blind agencies (see Table 1.3 below).

<table>
<thead>
<tr>
<th>Services Provided</th>
<th>CBVI FY 2008</th>
<th>Blind Agencies 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment services</td>
<td>0%</td>
<td>75.7%</td>
</tr>
<tr>
<td>Diagnosis and treatment of impairments</td>
<td>47.7%</td>
<td>58.0%</td>
</tr>
<tr>
<td>College or university training</td>
<td>6.0%</td>
<td>10.7%</td>
</tr>
<tr>
<td>Occupational/ vocational training</td>
<td>3.9%</td>
<td>12.8%</td>
</tr>
<tr>
<td>On-the-job training</td>
<td>.5%</td>
<td>4.9%</td>
</tr>
<tr>
<td>Basic academic remedial or literacy training</td>
<td>0%</td>
<td>2.0%</td>
</tr>
<tr>
<td>Job readiness training</td>
<td>.5%</td>
<td>9.5%</td>
</tr>
<tr>
<td>Disability related augmentative skills training</td>
<td>8.4%</td>
<td>37.3%</td>
</tr>
<tr>
<td>Miscellaneous training</td>
<td>49.4%</td>
<td>17.2%</td>
</tr>
<tr>
<td>Job search assistance</td>
<td>1.9%</td>
<td>17.2%</td>
</tr>
<tr>
<td>Job placement assistance</td>
<td>1.9%</td>
<td>15.5%</td>
</tr>
<tr>
<td>On-the-job supports</td>
<td>3.9%</td>
<td>10.0%</td>
</tr>
<tr>
<td>Maintenance</td>
<td>1.2%</td>
<td>17.6%</td>
</tr>
<tr>
<td>Rehabilitation technology</td>
<td>32.3%</td>
<td>42.2%</td>
</tr>
</tbody>
</table>

- CBVI’s case management system, which produces the data for the RSA-911 report, only captures services that are purchased resulting in an understatement of services provided.
- The current case system does not capture or report services provided directly by CBVI, nor does it accurately report the services purchased through a contract.
Additional discrepancies between CBVI data compared to national averages of blind agencies can be attributed to counselor’s not accounting for any service provided by a comparable benefit despite its inclusion on the IPE.

CBVI reported 49.4 percent of its consumers received miscellaneous training compared to 17.2 percent of the national average for all blind agencies. CBVI staff reported using this category as a catch-all for any training that did not fit easily into other training categories, thus increasing the appearance of the provision of miscellaneous training.

Recommendation 1: RSA recommends that CBVI:

1.1 provide training to field staff on how to enter information into the current case management system to include services provided by staff, comparable benefits and services under contract;
1.2 develop strategies to improve the validity and improve the reporting tools available to staff for planning, managing of caseloads and QA; and
1.3 evaluate supervisory review of case management reports to ensure compliance with proper coding.

2. Attrition Prior to Provision of Services

Observation: CBVI closed the service records of a significant number individuals prior to the provision of services. As a result, fewer individuals with disabilities who were in need of and eligible for services, received necessary VR services or achieved employment.

- In FY 2008, CBVI closed the records of 129 individuals, or 20.2 percent of all records closed, after they were determined eligible, but before the IPEs were developed, compared to the national average of 8.8 percent for all blind agencies.
- Individuals who exited the VR service delivery system after they were determined eligible, but before the development of an IPE, had an average case length of 30.4 months, compared to the national average of 18.2 months for all blind agencies.
- The most common reason listed by CBVI for closing individuals’ cases from this status was failure to cooperate, which was 24.8 percent of the cases, followed by disability too significant to benefit from VR services, which was 22.5 percent.
- In FY 2008, CBVI closed 131 records of transition-aged youths who applied for services. Of these individuals, 42.7 percent, or 56 cases, were closed after individuals were determined eligible, but before the development of an IPE. This was significantly higher than the national average for blind agencies, which was 14.3 percent of the transition-aged youths’ cases closed from this status. The two most common reasons CBVI attributed to closing cases were failure to cooperate and disability too significant to benefit from VR services, which was 24.8 percent and 22.5 percent of the closed cases, respectively.
- From FY 2004 to FY 2008, CBVI doubled the number of individuals closed from trial work experiences (TWE) or from extended evaluation (EE) status from 13 individuals to 26 individuals. This was significantly higher than the national average for blind agencies, which was four individuals in FY 2008. The most prominent reason CBVI cited for closing individuals in this status was disability too significant to benefit from VR services, which was 26.9 percent of the closed records.
• In FY 2008, CBVI closed records of ten transition-aged youths from TWE status, which was significantly more than the national average for blind agencies at one, or the total of transition-aged youths nationally at 22.

**Recommendation 2:** RSA recommends that CBVI:

2.1 conduct a comprehensive analysis for the reasons individuals are exiting the system prior to the development of the IPE;
2.2 review cases closed from TWE as too significant to benefit from VR services to ensure cases are compliant with federal regulations pursuant to 34 CFR 361.42(e); and
2.3 develop strategies based on the analysis in Recommendations 2.1 and 2.2 to improve communication and the successful development of an IPE, to reduce the number of individuals exiting the VR program.

3. Utilization of JKRC

**Observation:** Despite the fiscal and personnel resources at the center, programming is not tailored to meet the needs of individuals who are blind. As a result, JKRC is not being used to its fullest capacity and field staff are purchasing similar services from community providers and finding other resources to prepare individuals who are blind for employment.

• The budget for JKRC was approximately $2.8 million in FY 2009, with a staff of 25, or 27 percent of CBVI’s entire workforce of 94 staff members. JKRC opened in 1988, to replace the previous rehabilitation center located in Newark, and has the capacity to serve 24 individuals in its dormitory unit.
• Field and administration staff reported that the existing curriculum is not tailored to the needs of its consumers and lacks a vocational focus, resulting in staff utilizing similar resources in the community.
• From FY 2006 through FY 2009, admissions to JKRC have remained consistent at 58 individuals, with 59 individuals admitted in FY 2009. Of these admissions, 34 individuals did not complete services. Reasons for individuals terminating services are unknown, as JKRC does not track this information.
• Services at JKRC include a two-week evaluation program, a four-week computer training program (called the Bridge Program), and a sixteen-week VR and blindness skills training program. Services in the sixteen-week program include kitchen skills, independent living skills, communication skills, Braille, orientation and mobility skills, and technology skills.
• VR counselors reported that the 16-week program is not flexible enough, requiring individuals to move through all components of the program, as opposed to receiving training only on components that meet the individual’s needs. Staff cited examples of individuals who are only interested in orientation and mobility services, but would be required to attend all modules as part of the 16-week program. As a result, the VR counselors reported sending individuals to community-based providers.
• The Bridge Program was introduced during FY 2006, as a resource for individuals to enhance computer skills through the use of screen-reading software. From FY 2007 to FY 2009, the Bridge Program served a total of 24 individuals.
• The admission requirements for the Bridge Program included a basic knowledge of how to operate a computer, basic skills in word processing and document formatting, screen reading software skills and basic Internet skills. CBVI staff reported that the skills required for
entrance into the Bridge Program limited the number of individuals appropriate for the program. In addition, the variance between the skills acquired following the successful completion of the program and the computer proficiency level required for admission into the program target a small population.

- Field staff stated that the admission criteria prevented a number of individuals with secondary psychiatric and substance abuse issues from being admitted. Staff at JKRC reported that no individual has ever been denied admission despite requiring all students have a certain stamina level, be medically stable and independent, and possess good sleep patterns.
- JKRC maintains little QA information. In addition to consumer satisfaction surveys, JKRC also does not track the referral source satisfaction, or whether the individual required similar services received at the center following discharge. JKRC also does not assess quality of employment outcomes for individuals who received services at JKRC compared to individuals who received services in the community.

**Recommendation 3:** RSA recommends that CBVI:

3.1 conduct focus groups with CBVI field staff and stakeholders to obtain input on how JKRC can be utilized to increase the number of individuals served;
3.2 use the results from Recommendation 3.1 to develop a strategic plan, aligned with CBVI’s strategic plan, to increase utilization of JKRC;
3.3 implement a plan or strategy to promote an increased utilization of JKRC by field staff and stakeholders; and
3.4 develop a QA system to track consumer satisfaction and similar services required in the field to evaluate effectiveness of JKRC services.

**4. Consolidation of and training on policies and procedures to ensure consistent interpretation and implementation.**

**Observation:** CBVI staff and stakeholders reported that it would benefit from an integration of policies, procedures, and regulatory guidance from the state and federal governments into one operating manual and a more consistent implementation of policies and procedures throughout the agency’s field offices. The consolidation of policies and procedures could assist with increasing the consistency of interpretation and implementation of policies and procedures and enable CBVI to improve the effectiveness and efficiency of its service delivery system.

- Due to the limitation of staff resources, CBVI has not engaged in the development of a revised policy and procedures manual in order to consolidate and organize individual issuances of policy memoranda during the last five years.
- CBVI provides VR services through the following segmented policy memoranda: VR guidance pieces, VR policy directives, VR Operations Manual, the Code of Federal Regulations at 34 CFR 361, and Administrative Code Chapter 95, when applicable. Staff reported the need for the integration of all policy, procedures and guidance to ensure that the appropriate policies are being interpreted and implemented.
- Due to the fragmentation of policy memoranda, the IPE standard of 180 days, established by CBVI, is absent from the IPE chapter of the VR policy manual and is only documented in the Case Review Guide effective March 1, 2006.
- Policy revisions, guidance directives and updates are sent from CBVI management staff to regional managers through electronic communications. Regional managers and supervisors
are responsible for the review and dissemination of and training on policies and procedures to ensure consistent interpretation and implementation. Staff can also access policies, procedures and guidance through the agency’s intranet and all staff receive new counselor training when hired.

- Staff reported that revised policies do not always include a reference to the policies being replaced or the chapter(s) or section(s) in the VR Operations Manual that address the specific topical area(s) and requested the above information be included in electronic communications.
- Staff and stakeholders reported the need for training in the following policy and procedural areas: processing of timely referrals, trial work experiences and extended evaluation, IPE development timeline and development of an IPE prior to graduation for transition-age youths and the coding of services provided internally and externally by CBVI.

**Recommendation 4**: RSA recommends that CBVI:

4.1 consider the consolidation of the policy memoranda over the last five years into one manual easily accessible by staff through hard copy or intranet and referencing the policies being replaced by the published revision and the sections in the VR Operations Manual that address the specific topical areas;
4.2 re-issue CBVI’s policy on the agency established IPE timeframe and place the policy in the IPE chapter of the policy manual;
4.3 develop a formal training protocol for field office supervisors to provide consistent guidance, training and interpretation of policies and procedures across field offices; and
4.4 develop a strategy to assess staff needs for training in specific content areas and develop a training plan for and training on policies and procedures available to all staff responsible for implementation to include new counselors.

**5. QA System – Service Record Review Process**

**Observation**: CBVI had a QA system in place for the review of service records to ensure proper documentation and compliance with federal regulations. However, this process has not been conducted since FY 2008 to ensure accuracy and compliance with CBVI policies in the provision of services. As a result, CBVI management is unable to use accurate performance data to effect required changes in the VR program service delivery process.

- CBVI has a QA system that is administered by central office staff responsible for conducting service record reviews in each region on an annual basis. However, this review process has not been administered since FY 2008.
- The central office staff reviewed a sample of service records in each region, and provided an analysis to the administrator.
- The service record review process presently in place is administered by supervisors, and only for VR counselors whom they supervise. No independent review is conducted.
- The present process of review is a case management process, and serves to assess timely movement and progress through the service delivery system, as opposed to assessment of the quality of service provision and adherence to established policy and procedure.
- Results of service record reviews conducted by the supervisors are not aggregated at the statewide level, and therefore the performance data is not available to provide management
with an assessment of overall performance. In addition, data is not available to inform the
design of training programs, or to serve as a means of evaluating training conducted by the
training function.

**Recommendation 5:** RSA recommends that CBVI:

5.1 resume the QA process for the review of service records by staff not functioning as VR
counselor supervisors;
5.2 review and refine instrumentation for conducting service record reviews; and
5.3 develop mechanisms to collect and aggregate the results of the review process and provide
the results to the training function to inform the design and evaluation of training.

### 6. Development of Goals and Priorities

**Observation:** The State Plan does not reflect the programs and strategies CBVI implemented in
order to improve VR services for individuals who are visually impaired or blind in the state of
New Jersey. As a result, CBVI cannot use the State Plan as a planning guide for the
management of VR services, to communicate with its stakeholders, or as a tool to assess its
progress in improving employment outcomes.

- CBVI staff reported the agency’s priorities involve initiatives to increase employment
  opportunities for college graduates, home based entrepreneurship, and collaborative efforts
  with The College of New Jersey to increase employment opportunities for individuals who
  are deaf-blind. However, the most recent State Plan did not include these initiatives within
  its goals and priorities.
- CBVI communicated that the State Plan is a collaborative effort of several administrative
  staff, and the SRC, and does not incorporate input from field staff.
- The information provided in the CBVI State Plan, specifically its goals and priorities and the
  evaluation of its goals and priorities, does not convey the agency’s organizational priorities,
  or communicate its vision, plans and programmatic successes.

**Recommendation 6:** RSA recommends that CBVI:

6.1 develop a State Plan with increased quantitative measures, defined measurement calculations,
specified data sources for measures, and increased alignment between goals and measures
within VR planning processes;
6.2 provide baseline data for goals and measures and provide contextual information when
reporting progress on goals and priorities in prior State Plans;
6.3 integrate recommendations from the SRC, findings from the CSNA, and feedback from field
staff into the development of the goals and priorities of the State Plan; and
6.4 include innovative programs developed and implemented by CBVI in the State Plan to
inform stakeholders and constituents of the agency goals, priorities, vision and mission.

### VR/SE Program Compliance Findings and Corrective Actions

As a result of its review activities, RSA identified the following compliance finding and
corrective actions that CBVI is required to undertake. CBVI must develop a corrective action
plan for RSA’s review and approval that includes specific steps the agency will take to complete
the corrective actions, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and is available to provide technical assistance to assist the agency in the development of the plan and the implementation of the corrective actions. RSA reserves the right to take enforcement actions in response to any of the compliance findings set forth in this section of the report.

1. Appropriate Uses and Application of Extended Evaluation and Trial Work Experiences

Legal requirement: Section 102(a)(1)(B) and (2)(B) of the Rehab Act; 34 CFR 361.42(e)(1); (e)(2)(iii) and (f)(3).

Sections 102(a)(1)(B) and (2)(B) define the criterion for eligibility and the presumption of benefit. As per section 102(a)(2)(B), “For purposes of this section, an individual shall be presumed to be an individual that can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(20)(A), unless the designated State unit involved can demonstrate by clear and convincing evidence that such individual is incapable of benefiting in terms of an employment outcome from vocational rehabilitation services due to the severity of the disability of the individual.”

Pursuant to 34 CFR 361.42(e)(1), “prior to any determination that an individual with a disability is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome because of the severity of that individual’s disability, the designated State unit must conduct an exploration of the individual’s abilities, capabilities, and capacity to perform in realistic work situations to determine whether or not there is clear and convincing evidence to support such a determination.”

As stated at 34 CFR 361.42(e)(2)(iii), “Trial work experiences must be of sufficient variety and over a sufficient period of time for the designated State unit to determine that—(B), “There is clear and convincing evidence that the individual is incapable of benefitting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual’s disability established to explore the abilities, capabilities and capacities to perform in work situations.”

The VR regulations at 34 CFR 361.42 (f)(1) state that an extended evaluation shall be implemented, “(1) Under limited circumstances if an individual cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the State unit is able to make the determinations described in paragraph (e)(2)(iii) of this section...”

In addition, 34 CFR 361.42(f)(3) states, “During the extended evaluation period, the designated State unit must develop a written plan for providing services necessary to make a determination under paragraph (e)(2)(iii) of this section.”

RSA interprets these statutory and regulatory requirements to mean that it shall be presumed that an individual can benefit from VR services, unless clear and convincing evidence can be demonstrated with a high degree of certainty, through multiple trial work experiences, that an individual is incapable of benefiting from services in terms of an employment outcome. In addition, it is RSA’s interpretation that extended evaluation periods be provided under limited
circumstances if an individual cannot engage in a trial work experience or if the options for a trial work experience have been exhausted. Finally, per the regulations, written plans are required for persons participating in an EE period. RSA has concluded that the absence of a written plan for persons participating in an EE is not in compliance with the intent of the regulations, which stipulate that a written plan be used for providing services necessary to make a determination under EE periods.

**Finding 1**: RSA finds that CBVI is not in compliance with the VR statutory requirement at Section 102 (a)(1)(B) and (2)(B) of the Rehabilitation Act or regulations at 34 CFR 361.42 (e)(1) and (2)(iii)(B) because the agency has not provided multiple TWE or in limited circumstances, EE, to demonstrate clear and convincing evidence that an individual cannot benefit from VR services through an employment outcome, prior to closing an individual’s case because he or she is too significantly disabled to benefit from VR services. In addition, CBVI is utilizing trial work experiences and extended evaluation periods inconsistent with the statutory and regulatory requirements as defined at 102(a)(2)(B); 7(20(A); 34 CFR 361.42(e)(2)(iii); and 34 CFR 361.42 (f)(1). Furthermore, CBVI has not developed a written plan to be used for EE periods as required at 34 CFR 361.42(f)(3).

During the review process, RSA reviewed the FY 2008 submission of the RSA-911. The data demonstrated that CBVI closed 80 cases coded as “disability too severe to benefit from VR services” in FY 2008. Of the total cases closed, only seven individuals participated in TWE or EE. In addition, it appears that 73 individuals did not participate in a TWE or EE prior to their cases being closed. Furthermore, the data demonstrates that CBVI failed to conduct an exploration of the individual’s abilities, capabilities, and capacity to perform in realistic work situations or provide clear and convincing evidence to support case closure from application status, without participating in a TWE or in limited circumstances EE.

As part of this review, CBVI submitted its policy at Chapter 10.95 Section 3.4(a) Trial Work state, “…Trial work may be used in lieu of an extended evaluation, based on a case-by-case agreement between the client and the counselor.” Furthermore, VR field staff reported that TWE and EE are interchangeable in use and purpose.

In addition, CBVI’s policy at Chapter 10.95 Section 3.3(a) Extended Evaluation, does not include a provision that a written plan must be developed for providing services necessary to make a determination under paragraph (e)(2)(iii) as defined at 34 CFR 361.42(f).

Therefore, the CBVI’s policy and practice does not meet statutory requirements at sections 102(a)(2)(B) and 7(20(A) of the Rehab Act and regulatory requirements at 34 CFR 361.42(e)(1); (e)(2)(iii); and 34 CFR 361.42 (f)(1).34 CFR 361.42(e)(2)(i) or (f)(3) because the agency has not defined the utilization or implemented TWE or EE consistent with statutory and federal requirements. In addition, CBVI has not developed a written plan to be used for EE periods.

**Corrective Action 1**: CBVI must:

1. amend its policy on the definition and provision of extended evaluation and trial work experiences at Chapter 10:95 Sections 3.3 and 3.4 consistent with 34 CFR 361.42(e) and (f); and
1.2 develop and implement policies and procedures pertaining to the development of written plans specific to EE periods for providing VR services necessary to make a determination under 34 CFR 361.42(e)(2)(iii).

Technical Assistance and Continuing Education

This section of the chapter describes the technical assistance (TA) and continuing education provided by RSA to CBVI during the course of the review and the continuing education needs of the agency identified by its personnel and stakeholders. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix B of this report titled “CBVI Response.”

Technical Assistance provided

During the review of the VR and SE programs, RSA provided technical assistance to CBVI regarding:

- federal requirements related to the processing of referrals and applications and the development of a written timeline for making good faith efforts to process referrals in a timely manner;
- use of the Personal Assistance Service Program (PASP) as a comparable benefit;
- use of TWE and EE;
- re-issuance of CBVI’s policy on the agency established IPE timeframe and placement of the policy in the IPE chapter of the policy manual;
- development and importance of a strategic plan, including the necessary steps and components involved to create measurable goals and objectives;
- specific feedback on recent submissions of its State Plan and how to combine strategic planning with the development of a State Plan;
- exploration of strategies for utilizing the resources and systems CBVI developed to increase the number of IPEs developed prior to graduation, as well as the communication and collaboration between the transition, college and VR specialists;
- consideration of surveying the staff and community to determine how JKRC can meet the needs of the field and community, in addition to increasing the number of referrals to the center;
- provision of waivers or exceptions to policies and procedures currently granted on a case by case basis through an overarching waiver policy specific to fee schedules with reference to arbitrary benefits;
- an overview of RSA’s MIS including data sets for national VR agencies, customized quick tables, and ad hoc queries for the RSA-911, RSA-113 and the RSA-2; and
- instructions on how to enter its State Plan into the RSA MIS, as well as view other published State Plans.

Continuing Education

During the course of the review, CBVI and stakeholder representatives, including the SRC, requested that agency personnel receive continuing education in the areas of:
• timelines for the development of the IPE;
• establishing a well organized electronic policy manual; and
• federal regulations concerning TWE/EE.
CHAPTER 2: IL SERVICES PROGRAM FOR OIB

Program Systems

The following sections of this chapter describe the manner in which CBVI administers and operates the IL services program for OIB, authorized pursuant to Title VII, Chapter 2, of the Act, through a variety of functions or systems, including service delivery, personnel, case and data management, QA and planning.

Program Administration and Service Delivery

The OIB program in New Jersey is known as the Senior Community Independent Living Services (SCILS) program. CBVI provides the SCILS services through contracts with six local, grassroots organizations. Through these contracts, CBVI provided OIB services to 911 individuals in 16 of the state’s 21 counties in FY 2009: Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Middlesex, Morris, Passaic, Salem, Sussex, Union and Warren.

According to its FY 2009 annual performance report (RSA-7-OB Report), CBVI expended a total of $893,568 on the SCILS program, including $755,391 in Chapter 2 funds and $138,177 in state match consisting of $104,072 in cash and $23,514 in-kind (volunteer services and CCTV donations). Most of the available OIB resources ($600,474) funded the program’s IL and adjustment training services.

CBVI also provides independent living services to older individuals who are blind or visually-impaired through its state-funded IL Services (ILS) program. ILS serves blind and visually-impaired individuals of all ages, including those over 55. Unlike the SCILS program, ILS services are provided through CBVI’s own staff of rehabilitation teachers (RTs), orientation and mobility (O&M) instructors, eye health nurses and social workers. The ILS program served 2,987 individuals throughout the state with $1,700,000 in state general revenue funds in FY 2009. SCILS and ILS staffs coordinate services and make mutual referrals wherever appropriate.

During the review, CBVI indicated that ILS’ state funding had been reduced by $600,000 and that it intended to use Chapter 2 funds to maintain the independent living services that were being provided to individuals over 55 through the ILS program. Four of the six SCILS contracts are in the process of being cancelled and OIB service provision responsibilities are being transferred to CBVI’s specialized staff. Based on its assessment of the ILS program, RSA considers the use of Chapter 2 funds for CBVI’s ILS program to be appropriate because the ILS and OIB programs’ purposes and services are equivalent.

Personnel

In FY 2009, the SCILS staff consisted of the IL program coordinator and a contract administrator. The SCILS contractors’ staff consisted of eight administrative and support full-time equivalent (FTE) positions and 16 direct service FTEs. CBVI expected that this staffing
level would change significantly, as the SCILS’ shifted from a contractor to a CBVI staff-based service delivery model in FY 2010.

**Data Management**

CBVI tracked the records of individuals served through the OIB program using the same management information system utilized for the VR and SE programs.

**Quality Assurance**

CBVI monitored its contractors through monthly program reports, quarterly financial reports and regular on-site performance and compliance monitoring reviews. These monitoring visits, conducted twice during the year, involve consumer file reviews, staff and consumer interviews and financial document reviews. CBVI issued a written report with findings and recommendations for improvement after each review.

Also, CBVI contracted with the Rehabilitation Research and Training Center on Blindness and Low Vision at Mississippi State University to conduct an annual evaluation of the SCILS program. The evaluation consisted of consumer satisfaction surveys, demographic analyses, case file reviews and consumer interviews. The most recent survey conducted in FY 2008, reported a 97 percent overall consumer satisfaction with the OIB services and outcomes.

**Planning**

The FY 2008-2010 SPIL included a description of the SCILS program, though it did not contain any OIB-related goals or objectives, though outreach to persons who are blind and visually impaired was mentioned. The OIB program manager was an ex-officio SILC representative and participated in the SPIL development committee.

**OIB Program Performance**

Table 3.1 below provides data on CBVI’s OIB program performance in key areas between FY 2008 and FY 2009, according to the agency’s RSA-7-OB Reports.

<table>
<thead>
<tr>
<th>Expenditures, Performance, and FTEs</th>
<th>2008</th>
<th>2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title VII, chapter 2 expenditures</td>
<td>760,325</td>
<td>755,391</td>
</tr>
<tr>
<td>Total expenditures (including chapter 2)</td>
<td>923,453</td>
<td>893,568</td>
</tr>
<tr>
<td>Total served older individuals who are blind</td>
<td>1,298</td>
<td>911</td>
</tr>
<tr>
<td>Total FTEs</td>
<td>12.00</td>
<td>22.61</td>
</tr>
<tr>
<td>Total FTEs with disabilities</td>
<td>1.00</td>
<td>0</td>
</tr>
</tbody>
</table>
OIB Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that CBVI take specific steps to improve the agency’s performance associated with each of the observations.

1. Policies and procedures

Observation: CBVI does not have policies and procedures for the SCILS program, and its ILS policies and procedures manual does not address the OIB program distinctive characteristics. As a result, eligibility criteria may be applied and services provided inconsistently across the state.

- The eligibility definition policy on page 5 of the ILS manual includes criteria regarding visual impairments, but does not reference the four required elements of OIB eligibility (applicant age, visual impairment, the impact of the visual impairment on competitive employment and feasibility of pursuing IL goals).
- The SCILS program does not have a single, comprehensive form that tracks and documents individuals’ eligibility or ineligibility with respect to OIB’s four eligibility criteria.
- Though the OIB program’s community capacity-building and public awareness purposes are reflected in the SCILS contracts, these activities are not reflected in the ILS manual, the ILS specialized staff’s job descriptions, or SCILS’ on-site compliance review instrument.

Recommendation 1: RSA recommends that CBVI:

1.1 describe the OIB program’s purpose and eligibility criteria outlined in 34 CFR 367.1 and 34 CFR 367.5, respectively, in its policies and procedures manual;
1.2 develop a single, comprehensive eligibility form that addresses the four required elements of OIB eligibility;
1.3 revise the ILS staff’s job descriptions and performance evaluation criteria to reflect the OIB program’s community capacity-building and public awareness activities; and
1.4 provide staff training on the revised policies and procedures manual, eligibility form, job descriptions and on-site compliance review instrument.

Note: Federal law does not require states to develop OIB-specific policies and procedures, except for the 34 CFR 364.56 requirements regarding consumer confidentiality (Finding 1, below). However, it is particularly advisable in this case in view of the proposed shift of OIB funds to the ILS program.

OIB Program Compliance Findings and Corrective Actions

RSA identified the following compliance finding and corrective actions that CBVI is required to undertake. CBVI must develop a corrective action plan for RSA’s review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist CBVI to develop the plan and undertake the corrective actions. RSA reserves
the right to take enforcement actions in response to any of the compliance findings set forth in this section of the report.

1. Consumer confidentiality

Legal Requirements:

34 CFR 367.4(c)(6) provides: “the following regulations apply to the Independent Living Services for Older Individuals: Section 364.56 (What are the special requirements pertaining to the protection, use, and release of personal information?).”

34 CFR 364.56(a) provides: “the State plan must assure that each service provider will adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names.”

Finding 1: CBVI does not comply with 34 CFR 364.56(a) because it does not require the OIB service providers to adopt and implement policies and procedures to safeguard the confidentiality of all personal information. The requirement is not addressed in its OIB policies and procedures manual, SCILS contract assurances or on-site compliance review instrument.

Corrective Action: CBVI must take corrective action to ensure that OIB service providers comply with 34 CFR 364.56 by adopting and implementing policies and procedures to safeguard the confidentiality of personal information, including photographs and lists of names.

Examples of corrective actions that the State may take to reach compliance include incorporating the confidentiality requirements in ILS/OIB policies and procedures, SCILS contract assurances and the on-site review instrument.

Technical Assistance

This section of the chapter describes the technical assistance (TA) provided by RSA to CBVI during the course of the review. The TA requested by the agency to enable it to carry out the recommendations and corrective actions set forth above is included in Appendix B of this report titled “CBVI Response.”

Technical Assistance Provided

During the review of the OIB program, RSA provided technical assistance to CBVI regarding:

- the proposed use of Chapter 2 funds for CBVI’s ILS program, especially regarding revisions to CBVI’s policies and procedures and inclusion of ILS program and fiscal data in the RSA-7-OB Report;
- expanded use of data collection and analysis as planning and performance improvement tools; and
- increased collaboration with CILs to reach and better serve the deaf and deaf blind population, particularly in the context of the FY 2011-2013 SPIL.
RSA reviewed CBVI’s fiscal management of the vocational rehabilitation (VR), Supported Employment (SE) and Independent Living Services for Older Individuals Who are Blind (OIB) programs. During the review process, RSA provided technical assistance to the state agency to improve its fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agency’s cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

Fiscal Management

CBVI fiscal management has sufficient checks and balances to ensure internal controls. CBVI contracts with 14 CRPs that provide Independent Living VR, SE, and state funded assistive technology services. All contracts, with the exception of the SE contract, are cost reimbursement with quarterly or monthly billing cycles. The costs reimbursed include salary, fringe benefits, rent and supplies as described in the contract budget pages. The SE contract is performance based with established benchmarks for payment. The last time CBVI procured for services was in 2002. CBVI conducts a compliance review every two years for all contracts. All contracts are processed through the statewide contracting system including legal, fiscal, program, compliance review and approval processes.

Counselors originate case service obligations for services through the case management system. All obligations over $500 are approved by the office supervisor. Invoices come to the counselor who reviews the invoice to ensure delivery of the ordered goods or completion of the obligated services. The invoices are then reviewed at the state office accounting staff for compliance with state policy and procedures. Finally the invoices are forwarded on to the state wide accounting system for further review and payment. Administrative fiscal staff conducts spot audits of the batched invoices to identify any anomalies in the invoicing or approval processes. Supervisors review files as including fiscal case information as part of the CBVI’s quality control system.

CBVI’s cost allocation plan has been approved by the Federal Department of Health and Human Services and monitored for compliance at both the DSA and DSU level.

The governor’s audit staff in September 2009 audited the agency’s fiscal processes including a review of CBVI checks and balances. The results of the audit were that CBVI’s systems were sufficient to ensure fiscal accountability.

CBVI Fiscal Performance

The data in the following tables are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of the agency’s fiscal management practices. Data related to the VR program matching requirements are taken from the fourth quarter of the respective fiscal year’s SF-269 report. The data pertaining to the VR program maintenance of effort requirements are derived from the final SF-269 report of the fiscal year (two years prior to the fiscal year to which they are compared). Fiscal data related to VR
program administration, total expenditures, and administrative cost percentage are taken from the RSA-2. OIB program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the programs’ SF-269s and the RSA-7OB report.

Table 3.1
Vocational Rehabilitation Services - Fiscal Table

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>New Jersey (B)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2004</td>
</tr>
<tr>
<td>Grant Amount</td>
<td>$9,806,474</td>
</tr>
<tr>
<td>Federal Expenditures</td>
<td>$9,805,829</td>
</tr>
<tr>
<td>Required Match</td>
<td>$2,653,928</td>
</tr>
<tr>
<td>Actual Match</td>
<td>$2,717,127</td>
</tr>
<tr>
<td>Over (Under) Match</td>
<td>$63,199</td>
</tr>
<tr>
<td>Carryover at 9/30 (year one)</td>
<td>$1,340,787</td>
</tr>
<tr>
<td>Program Income</td>
<td>$1,043,843</td>
</tr>
<tr>
<td>Maintenance of Effort (MOE)</td>
<td>$2,717,127</td>
</tr>
<tr>
<td>Administrative Costs</td>
<td>$2,164,780</td>
</tr>
<tr>
<td>*Total Expenditures</td>
<td>$12,935,073</td>
</tr>
<tr>
<td>Percent Admin Costs to Total Expenditures</td>
<td>16.74%</td>
</tr>
</tbody>
</table>

*Includes Supported Employment Program Expenditures.

Table 3.2
OIB - Fiscal Table

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>New Jersey (B)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2004</td>
</tr>
<tr>
<td>Grant Amount</td>
<td>$913,333</td>
</tr>
<tr>
<td>Federal Expenditures</td>
<td>$913,333</td>
</tr>
<tr>
<td>Required Match</td>
<td>$101,481</td>
</tr>
<tr>
<td>Actual Match</td>
<td>$101,481</td>
</tr>
<tr>
<td>Over (Under) Match</td>
<td>$0</td>
</tr>
</tbody>
</table>

Fiscal Management Observations and Recommendations

As a result of its review activities, RSA identified the following performance observations related to the fiscal management of the programs under review and recommended that CBVI take specific steps to improve the agency’s performance associated with each of the observations.

1. Fiscal Planning

Observation: CBVI’s financial planning process is not clearly defined and consists mainly of the development of the agency’s budget and subsequent monitoring of expenditures against an approved budget. From discussions with CBVI financial and management staff, there is limited
evidence that the agency’s financial planning process is all inclusive and takes into consideration:

• resources needed to achieve State Plan and strategic plan goals;
• innovation and expansion activities planned by the agency;
• projected or potential federal and state financial resources and funding reductions in the current fiscal year and future funding periods;
• staffing plans;
• the number of consumers projected to be served each fiscal year;
• the cost of serving these consumers;
• the projected cost and financial impact of prior year commitments for individualized plans for employment;
• utilization of agency resources, i.e. the center, contacted vendors, use of internal staff;
• the agency’s reduction in the number of contracts issued for the provision of OIB services;
• New Jersey’s freeze on the hiring of new staff;
• lack of reviewing service needs and vendors able to provide those needing services; and
• the dependence on cost reimbursement contracts with limited methods to control increasing costs.

While both financial and program staffs are aware of the financial position of the agency and the challenges it faces, there is no structured process for the development and implementation of a long-range financial and program plan to address these issues.

**Recommendation 1:** RSA recommends that CBVI develop and implement a multi-year financial planning process that, at a minimum, considers:

• anticipated financial resources (federal and non-federal);
• the utilization of available resources, documents the need for additional resources, and identifies surplus resources;
• administrative (including indirect) expenses;
• staff salaries, fringe benefits and overhead costs;
• innovation and expansion activities;
• fee for services contracts;
• state plan goals and strategies; and
• costs related to providing services to program participants.

This plan should be updated on a regular basis and become a valuable program management tool that is used to improve the agency effectiveness, efficiency and employment outcomes for individuals with disabilities.

2. Purchased Service Contracts

**Observation:** The agency contracts with 14 CRPs for the provision of service including VR, SE, IL, OIB, State IL, and State funded Assistive Technology. These contracts have been in existence since 2002. All contracts’ performance is dependent on referrals from CBVI counselors to meet the contract objectives. The last time CBVI conducted a Request for Proposal (RFP) process for new vendors or services was in 2002.
From discussions with CBVI financial and management staffs, a number of observations and process were described.

- All the existing contracts are cost reimbursement with the exception of the SE contract which is performance based.
- The CBVI has a contract review process every two years when each CRP contract is reviewed. The agency review includes the monitoring of fiscal records, time records, qualifications of staff, equipment inventory, service records, and contract outcomes.
- CBVI has been reviewing their RFP and reimbursement processes. CBVI is looking at moving to a two-year contracting cycle and to a fee based or other performance based system.
- CBVI indicates that all contracts are relying on the referrals coming only from CBVI counselors. CRPs invoice and receive payments monthly or quarterly regardless of the number of referrals the CRP receives form counselors.

The CBVI financial staff is aware the issues involved and the need to update their contracting processes. With the current financial situation in New Jersey, the efficient use of case services funds leading to the employment of consumers is important to CBVI success.

**Recommendation 2:** RSA recommends that CBVI develop and implement a process of procurement for services with a fee for service or other performance based payment system. The process should include:

- a schedule for updating and reviewing the RFP;
- the service needs of the agency based on Comprehensive State Needs Assessment results; and
- the statewide geographic distribution of services.

**Technical Assistance**

**Technical Assistance Provided**

This section of the chapter describes the technical assistance provided by RSA to CBVI during the course of the review. The TA requested by the agency to enable it to carry out the recommendations and findings set forth above is included in Appendix B of this report titled “CBVI Response.”

To enable the agency to improve its fiscal management processes, RSA provided technical assistance to CBVI during the review process regarding:

- the assessment of the agency’s compliance with specific financial requirements, including match, maintenance of effort (MOE), carryover, program income, liquidation of outstanding obligations and grant closeout;
- strategic fiscal and program planning to efficiently and effectively expend federal and matching funds for the VR program;
- the completion of federally required SF-269 and RSA-2 financial and statistical reports;
- OMB Circular A-87 time distribution documentation requirements applicable to staff working on more than one program (federal and/or state);
• OMB Circular A-87 semi-annual certification requirement applicable to staff charging 100 percent of their time to one federal grant program;
• development of the resource plan for the SILC, available sources of funds that can be used to support this plan, and allowable costs for federal financial participation; and
• the connection to the Innovation and Expansion expenditures reported on the SF-269 and the state plan attachment describing Innovation and Expansion activities and funds used for this purpose.
PART III: REVIEW OF THE NEW JERSEY IL PROGRAM

EXECUTIVE SUMMARY

New Jersey Administration of the IL Program

During FY 2010, RSA reviewed the performance of the Statewide Independent Living Services (SILS) program, authorized under Title VII, Part B, of the Act in the state of New Jersey.

In New Jersey, the SILS program is jointly administered by DVRS and CBVI. Of New Jersey’s allocation of IL Part B funds in FY 2009, $397,582 was administered by DVRS and $99,328 was administered by CBVI. Both DVRS and CBVI participate in the Statewide Independent Living Council (SILC) and support the State Plan for Independent Living (SPIL) development, implementation and evaluation activities.

IL Program Performance over the Past Five Years

As reported in the annual performance reports, the number of individuals served through IL Part B-funded CILs decreased from 3,922 to 3,165 between FY 2007 and FY 2008, but increased to 3,644 in FY 2009.

Strengths and Challenges

Based on the observations from the agencies and the stakeholders and other information gathered through the review process, RSA concluded that the agencies and the SILC exhibited a variety of strengths that enhanced, and experienced a number of challenges that inhibited their ability to improve, the performance of the IL program.

The strengths included the high degree of collaboration that exists among the DVRS, CBVI, the CILs and other IL stakeholders across the state. As a result, the SILC performs its programmatic and fiscal responsibilities in an autonomous manner as required by Title VII of the Act, and the SPIL is developed and implemented effectively across the state.

The challenges included delays in SILC and CIL expense reimbursements processing, adversely affecting the fulfillment of the SILC’s statutory duties and the operations of the CILs. DVRS and CBVI’s contracting and monitoring processes do not have a major impact on the performance of their IL Part B contractors.

Acknowledgement

RSA wishes to express appreciation to the representatives of the LWD, DVRS, CBVI, the SILC and the stakeholders who assisted the RSA monitoring team in the review of the IL program administered by DVRS and CBVI.
CHAPTER 1: IL PROGRAM

IL Program Systems

The following sections of this chapter describe the manner in which DVRS and CBVI administer and operate the IL program, authorized pursuant to Title VII, Part B, of the Act through a variety of functions or systems, including service delivery, personnel, case and data management, quality assurance and planning.

Program Administration and Service Delivery

DVRS and CBVI

Both DVRS and CBVI provide IL services through contracts with centers for independent living (CILs) with a combination of IL Part B, state and other federal funds. In FY 2009, available CIL funding consisted of $342,982 in Part B funds and $625,000 in state general revenue funds from DVRS, as well as $99,328 in IL Part B funds, $11,043 in state matching funds and $29,109 in Social Security Reimbursements from CBVI. In addition, the CILs received $600,000 through DVRS’ Pathways to Self-Advocacy Program (PAS) program for transition-age youths, jointly funded by DVRS’ Title I VR funds and the state Department of Education-administered federal funds from the Office of Special Education Program (OSEP).

In FY 2009, DVRS used its portion of the IL Part B funds to support the operations of the state’s non-Part C CILs. CBVI used its portion of the Part B funds for its LEAD (Leadership, Education, Advocacy and Determination) program. Under its LEAD program, CBVI contracts with one of the state’s Part C CILs to provide peer mentoring to transition-age youths.

CIL Network

The statewide network of CILs consists of twelve CILs, seven that receive IL Part C funds from RSA, and five that receive IL Part B and state funding from DVRS. All twelve CILs also received funds under DVRS’ PAS program in FY 2009. Aside from CBVI’s LEAD program contractor, the Part C-funded CILs do not receive Part B funds. The CILs have formed the New Jersey Association of Centers for Independent Living, a 501(c)(3) nonprofit organization through which the CILs collaborate on statewide resource development, advocacy and other SPIL-related activities.

Statewide Independent Living Council (SILC)

The SILC was created by Executive Order 106 in 1993 and operates as a 501(c)(3) non-profit organization. The SILC develops and adopts its operating budget, based on the resource plan in the approved SPIL. The SILC’s fiscal agent is one of the Part B CILs, MOCEANS Center for Independent Living, whose primary role is to process, receive and disburse quarterly reimbursements from DVRS for SILC expenditures, as authorized by the SILC Treasurer. The fiscal agent also provides other administrative services, such as SILC web site hosting.
In FY 2009, the SILC’s budget consisted of $52,902 in Title I Innovation and Expansion funds from DVRS and $10,956 in IL Part B funds from CBVI

**Personnel**

DVRS’ IL program is administered by an IL program manager. CBVI’s program is administered by an IL program manager and a contracts administrator.

The SILC is staffed by a part-time contractor who provides a variety of coordination, liaison and support services. The SILC also receives bookkeeping and administrative support from its fiscal agent as well as technical assistance and donated meeting space from DVRS.

**Data Management**

DVRS aggregates and includes the Part B-funded CILs’ IL services and outcomes data in its annual performance report (704 Report) submitted to RSA. CBVI does not report LEAD program data to RSA because, as a Part C CIL, the LEAD contractor submits its 704 Report directly to RSA.

DVRS and CBVI do not regularly use their contractors’ IL services and outcomes for planning and performance improvement purposes. However, at the time of the RSA review, CBVI had initiated a data-driven analysis of LEAD’s effectiveness in support of its VR program’s youth transition objectives.

**QA**

**Contractor-provided IL services**

Both DVRS and CBVI include minimum performance targets or levels of service (LOS) for its IL Part B-funded CILs. DVRS requires its contractors to submit quarterly program and financial reports and an annual independent audit. CBVI requires monthly program and quarterly financial reports. DVRS and CBVI’s contracts are required to submit completed consumer satisfaction surveys.

Both DVRS and CBVI periodically make informal visits to their contractors, and provide technical assistance, as needed. Neither agency performs formal on-site compliance nor performance reviews. Both agencies’ IL managers provide technical assistance based on their observations from the CILs’ reports and their informal visits.

**SILC**

The SILC chair and treasurer review the quarterly and year-end financial reports from the SILC’s fiscal agent, and must approve the disbursement of IL Part B funds by the fiscal agent. The SILC treasurer provides financial reports at every SILC meeting.

The IL program manager reviews the SILC budget and financial reports and processes the SILC’s reimbursement requests, in close coordination with LWD. As a Part B CIL, the SILC’s fiscal agent is subject to DVRS-required annual independent audits.
The SILC monitors and evaluates the implementation of the SPIL by reviewing the CILs’ consumer satisfaction surveys, quarterly performance reports and annual 704 reports. It also receives feedback about SPIL progress and challenges through CIL presentations at SILC meetings and stakeholder input at public forums and other SPIL events.

Planning

The SPIL is developed by the DSUs and the SILC with the active involvement of the CILs. Both DVRS and CBVI are represented on the SPIL development committee. The SILC hosts an annual SILC Strategic Planning Day to elicit council members and center directors’ ideas for strengthening the statewide network of CILs and the SPIL.

IL Program Performance

The following table provides data on the individuals served, IL services provided and IL outcomes achieved by the DVRS’ five IL Part B-funded CILs.

| Table 1.1 New Jersey IL Program Highlights for FY 2007 through FY 2009 |
|-------------------------------------------------|--------|--------|--------|
| **Funding, Performance, and FTEs**             | 2007   | 2008   | 2009   |
| Total resources (including part B funds)       | 2,324,383 | 1,975,919 | 2,427,134 |
| Total served                                   | 3,922   | 3,165   | 3,644   |
| Total consumer service records closed          | 1,006   | 1,170   | 1,044   |
| Cases closed, completed all goals              | 772     | 544     | 745     |
| Total goals set                                | 3,189   | 2,397   | 3,568   |
| Total goals met                                | 1,646   | 817     | 1,999   |
| Total individuals accessing previously unavailable transportation, health care, and assistive technology | 449 | 212 | 765 |

IL Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that DVRS and CBVI take specific steps to improve the agencies’ performance associated with each of the observations.

1. **SILC and CIL Expense Reimbursements**

**Observation:** The CILs and SILC experience delays of up to six months in receiving their quarterly IL Part B expense reimbursements from DVRS. Though they are allowed to request two-month advances, they have experienced several lengthy delays in such requests as well. These delays adversely affect SILC and CIL operations.
• SILC travel and accommodations expense reimbursement delays limit some members’ ability to participate in SILC meetings and impair the SILC’s recruitment and retention efforts. CILs face difficulties in covering operating expenses and occasionally find it necessary to obtain high-interest commercial loans to maintain operations.
• The delays appear to occur at various stages of the reimbursement process involving the CILs and SILC as well as DVRS and the LWD.

**Recommendation 1:** RSA recommends that DVRS:

1.1 consider alternative reimbursement arrangements and timetables, such as monthly reimbursements and routine two-month advances at the beginning of the fiscal year;  
1.2 develop written reimbursement procedures outlining the responsibilities of the SILC, the CILs, LWD and DVRS, including timelines and expectations for all parties; and  
1.3 provide SILC and CIL representative training regarding the state’s reimbursement procedures and responsibilities.

2. **SILC Fiscal Agent**

**Observation:** The relationship between the SILC and its fiscal agent lacks transparency and accountability.

• The SILC’s current arrangement with its fiscal agent, MOCEANS CIL, has been in place for several years, yet RSA did not find any contract or legally-binding agreement between the SILC and the fiscal agent; any documentation about the CIL’s original selection as the SILC fiscal agent; or any monitoring criteria or performance review protocols for evaluating the effectiveness of the fiscal arrangement/agent.
• Absent such documentation the SILC’s fiscal relationship with the Part B-funded CIL creates the appearance of a conflict of interest, given the SILC’s statutory role in decisions regarding the disposition of Part B funds.

**Recommendation 2:** RSA recommends that the SILC:

2.1 reassess its current fiduciary arrangement in accordance with state law and regulations;  
2.2 establish fiduciary arrangement/agent selection and evaluation processes and legally-binding contractual framework, to eliminate any appearance of conflict of interest; and  
2.3 review and revise the SILC bylaws accordingly.

3. **IL Part B CIL Performance Monitoring**

**Observation:** DVRS and CBVI’s IL Part B contract standards and oversight practices do not promote IL performance improvements. As a result, they have minimal impact on the quality or quantity of IL services and outcomes in the state.

• The contractors’ reported outcomes routinely exceed the minimum levels of service or performance targets established by DVRS and CBVI. The minimum targets remain unchanged each year, and are not adjusted based on assessments of current IL needs or prior year’s results.
• Neither DVRS nor CBVI conduct regular on-site performance reviews of the IL Part B contractors.

**Recommendation 3:** RSA recommends that DVRS and CBVI:

3.1 in consultation with its IL Part contractors, establish a process for reviewing and updating minimum performance targets or LOS based on an assessment of current IL needs and prior year’s results; and
3.2 establish a formal on-site review protocol to maximize contractors’ compliance and performance.

**IL Program Compliance Findings and Corrective Actions**

RSA identified the following compliance findings and corrective actions that DVRS, CBVI and the SILC are required to undertake. The DSUs and SILC must develop a corrective action plan for RSA’s review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist the DSUs and SILC to develop the plan and undertake the corrective actions. RSA reserves the right to take enforcement action in response to any of the compliance findings set forth in this section of the report.

**1. SILC Appointments and Composition**

**Legal Requirements:**

Section 705(b)(1) of the Rehabilitation Act and 34 CFR 364.21(b)(1) provide: “members of the SILC must be appointed by the Governor or the appropriate entity within the State responsible, in accordance with State law, for making appointments.”

Section 705(b)(4)(A)(iv) of the Rehabilitation Act and 34 CFR 364.21(b)(2)(iii), “a majority of the members of the SILC must be individuals with disabilities, as defined in Sec. 364.4(b), and not employed by any State agency or center.”

Section 705(b)(4)(B) of the Rehabilitation Act and 34 CFR 364.21(d), “a majority of the voting members of the SILC must be individuals with disabilities, as defined in Sec. 364.4(b), and not employed by any State agency or center.”

Section 705(b)(6)(B) of the Rehabilitation Act and 34 CFR 364.21(f)(3), “no member of the SILC may serve for more than two consecutive full terms.”

**Finding 1:** The SILC is not in compliance with 34 CFR 364.21(b)(2)(iii) because it is not comprised of a majority of members who are individuals with disabilities not employed by any State agency or center. At the time of RSA’s on-site review, only six of the 13 members of the SILC were individuals with disabilities not employed by a CIL or state agency.
Compliance with this requirement is particularly challenging because the state’s SILC composition standards exceed the federal requirements. Specifically, the New Jersey Governor’s Executive Order 106 requires the SILC to include three CIL representatives and six ex-officio members. As a result, in order to comply with both the state and federal requirements, the SILC must include at least ten individuals with disabilities who are not employed by a CIL or state agency. In addition, the executive order does not reflect the federal requirements in 34 CFR 364.21(d) that “a majority of the voting members of the SILC must be individuals with disabilities, as defined in Sec. 364.4(b), and not employed by any State agency or center.” This federal requirement is not reflected in the SILC bylaws either. While the SILC may be in actual compliance with this federal requirement, it is preferable for the SILC’s governing documents to reflect accurately all applicable federal SILC requirements.

The SILC is not in compliance with 34 CFR 364.21(b)(1) because its ex-officio members are not appointed by the Governor. The requirement that the Governor appoint SILC members does not include an exception for ex officio members. Also, neither the SILC’s executive order nor its bylaws stipulate that the Governor is responsible for appointing all SILC members, including the ex-officio members. Paragraph 3 of the executive order and Article IV of the bylaws specifies only that the Governor appoints the voting members.

The SILC is not in compliance with 34 CFR 364.21(f)(3) because, according to Article IV of the bylaws, “voting members of the SILC … serve until their successors have been appointed.” All members of the SILC are subject to the two year-term limitation contained in federal law. Once a SILC member’s term has expires, he or she has no authority to continue to serve as a member. The SILC is not in compliance with 34 CFR 364.21(d) because the executive order and the bylaws do not specify that “a majority of the voting members of the SILC must be individuals with disabilities, as defined in Sec. 364.4(b), and not employed by any State agency or center.”

Corrective Action: The DSUs and the SILC must take the necessary steps to ensure that:

1.1 the majority of SILC members are individuals with disabilities not employed by any State agency or center, as required by 34 CFR 364.21(b)(2)(iii);
1.2 all SILC members are appointed by the Governor, regardless of their status as ex-officio members, as required by 34 CFR 364.21(b)(1); and
1.3 no SILC member serves more than two consecutive full terms, as required by 34 CFR 364.21(f)(3).

Examples of corrective actions that the State and the SILC may take to reach compliance include revising sections of Executive Order 106 and the SILC bylaws to reflect accurately all federal SILC requirements and complying with those requirements.

2. Service Provider Requirements

Legal Requirements:

34 CFR 364.23(a) provides: “the state plan must assure that the staff of the service provider includes personnel who are specialists in the development and provision of IL services and in the development and support of centers.”
34 CFR 364.24 provides: “the State plan must assure that the service provider establishes and maintains a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.”

34 CFR 364.30 provides: “the State plan must include satisfactory assurances that all service providers will use formats that are accessible to notify individuals seeking or receiving IL services under chapter 1 of title VII about (a) The availability of the CAP authorized by section 112 of the Act; (b) The purposes of the services provided under the CAP; and (c) How to contact the CAP.”

34 CFR 364.40 provides: “the State plan must assure that (a) Any individual with a significant disability, as defined in Sec. 364.4(b), is eligible for IL services under the SILS and CIL programs authorized under chapter 1 of title VII of the Act; (b) Any individual may seek information about IL services under these programs and request referral to other services and programs for individuals with significant disabilities, as appropriate; and (c) The determination of an individual's eligibility for IL services under the SILS and CIL programs meets the requirements of Sec. 364.51.”

34 CFR 364.41(b) provides: “the state plan must assure that the service provider does not impose any State or local residence requirement that excludes under the plan any individual who is present in the State and who is otherwise eligible for IL services from receiving IL services.”

34 CFR 364.56(a) provides: “the State plan must assure that each service provider will adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names.”

34 CFR 364.58, “each service provider shall (a) Establish policies and procedures that an individual may use to obtain review of decisions made by the service provider concerning the individual's request for IL services or the provision of IL services to the individual; and (b) Use formats that are accessible to inform each individual who seeks or is receiving IL services from the service provider about the procedures required by paragraph (a) of this section.”

34 CFR 365.30 provides: “the DSU shall develop, establish, and maintain written standards and procedures to be applied by service providers to assure expeditious and equitable handling of referrals and applications for IL services from individuals with significant disabilities.”

**Finding 2**: DVRS and CBVI are not in compliance with the federal regulations concerning service provider requirements because they do not have policies or procedures in place to ensure that their IL part B contractors meet the service provider requirements of 34 CFR 364.41 regarding residency; 34 CFR 365.30 regarding referrals and applications; 34 CFR 364.56 regarding confidentiality; or 34 CFR 364.58 regarding appeals.

In addition, CBVI is not in compliance because it does not have policies or procedures to ensure that its IL part B contractors meet the service provider requirements of 34 CFR 364.23 regarding staffing; 34 CFR 364.24 regarding staff development; 34 CFR 364.40 regarding eligibility; or 34 CFR 364.30 regarding Client Assistant Program notification.
These service provider requirements are not included in any written policies or procedures that apply to the IL part B contractors, in the assurances that are part of the contracts, or the on-site compliance review instrument. Neither DVRS nor CBVI have conducted any formal on-site reviews to verify the IL part B-funded CILs’ compliance with these IL service provider requirements in more than two years.

Corrective Action: DVRS and CBVI must take corrective action to ensure that their IL Part B contractors meet the IL service provider requirements in 34 CFR 364.23, 24, 30, 40, 41, 56 and 58, and 34 CFR 365.30.

Examples of corrective actions that the DVRS and CBVI may take to reach compliance include incorporating the IL service provider requirements in DVRS and CBVI’s IL part B policies, procedures, contract assurances and/or on-site compliance review instrument, and conducting regular on-site compliance reviews of the IL part B contractors.

Technical Assistance and Continuing Education

This section of the chapter describes the technical assistance (TA) and continuing education provided by RSA to DVRS and CBVI during the course of the review and the continuing education needs of the agencies identified by their personnel and stakeholders. The TA requested by the agencies to enable them to carry out the recommendations and corrective actions set forth above is included in Appendix C of this report titled “NJ IL Response.”

Technical Assistance Provided

During the review of the IL program, RSA provided technical assistance to DVRS, CBVI and the SILC regarding:

• SILC’s authorized activities, including the SILC’s responsibility for the proper administration of its resource plan and the evaluation of its staff;
• SILC nomination and appointment strategies to ensure compliance with federal and state membership requirements;
• authorized uses of IL part B ARRA funds, and
• increased CIL data analysis as a planning and performance improvement tool; and
• improved FY 2011-2013 SPIL IL needs assessment and evaluation, including a statewide consumer satisfaction survey.

Continuing Education

During the course of the review, RSA received requests for continuing education in the areas of:

• SILC roles and responsibilities;
• SILC membership requirements, including term limits; and
• federal guidance regarding lobbying and fundraising.
RSA reviewed the fiscal management of the Independent Living (IL) program by DVRS and the CBVI. During the review process, RSA provided technical assistance to the state agencies to improve their fiscal management and identified areas for improvement. RSA reviewed the general effectiveness of the agencies’ cost and financial controls, internal processes for the expenditure of funds, use of appropriate accounting practices and financial management systems.

**Fiscal Management**

The New Jersey Division of Vocational Rehabilitation Services (DVRS) is located within the Department of Labor and Workforce Development (DLWD). The New Jersey Division of Blind and Visually Impaired (CBVI) is located within the Department of Human Services (DHS). The Legislative Budget and Finance Officer, as the chief fiscal officer for the Legislature and the Legislative Services Commission, collects and presents fiscal information for the Legislature and its budget committees, reviews requests for appropriations, and determines approval for and the transfer of funds among State accounts. The Legislative Budget and Finance Office administers the fiscal note process, and staffs the Joint Budget Oversight Committee. The Office of the State Comptroller (“OSC”) is charged with, among other functions, “providing technical assistance and training” to government contracting units regarding best practices designed to prevent the misuse of public funds. N.J.S.A. 52:15C-15. In accordance with that mandate, OSC issues guidance to New Jersey government units concerning practices that will better ensure efficiency, transparency, and accountability in the award of contracts for services. Such service contracts, unlike contracts for goods, are oftentimes awarded on bases other than exclusively price, and as a result typically involve a less formulaic contract award process.

On March 4, 2010 the New Jersey issued guidance for awarding service contracts OSC developed a guide governing bodies in their efforts to competitively contract for services. This guidance was not intended to apply in those instances where service contracts are awarded solely on the basis of the lowest responsible bid. Derived from New Jersey, federal and model procurement provisions, as well as policy papers, this direction was condensed into the following six principles: (1) The pool of contractors solicited should be as expansive as possible; (2) Statements of work should be drafted in clear and unambiguous terms; (3) Proposals should be judged on the basis of predetermined, merit-based evaluative criteria, made known to vendors before proposals are submitted; (4) The evaluative criteria should be judged by a qualified evaluation committee; (5) The evaluation process should be explainable to evaluators and competing vendors, and capable of withstanding scrutiny under a protest challenge; and (6) The scoring process and award recommendations should be well-documented and retained. The direction provided by the OSC concluded the following:

“Government units should be vigilant in their efforts to ensure that all contracts funded by public dollars are appropriately solicited, properly evaluated, and transparently awarded by procurement officials. A contracting unit that adheres to the best practices set forth in this report should find itself better able to procure quality, cost-efficient services from vendors consistent with the public trust. Those vendors, in turn, will more likely find themselves competing for the award of public business on playing fields bounded by clear and understandable procurement rules, with qualified referees impartially judging the participants. While many of the best practices set forth
in this report may seem self-evident, in most contexts current state law presents these practices as options to be pursued as opposed to mandatory procedures to be followed. We recommend that the Legislature consider enacting legislation that would make these best practices mandatory for government entities in this state. Under such legislation, government units would be required, for example, to publicly advertise service contracts absent a truly bona fide basis for exemption, proposals would be judged by a qualified evaluation committee based on pre-determined, merit-based criteria, and contracts would be awarded following a documented scoring process. Regardless of whether they are required by law, we recommend that government units adopt these best practices as soon as possible. The use of these practices will serve to ensure the public is receiving the best value for its tax dollars, and will limit opportunities for unscrupulous public officials and government contractors willing to engage in unlawful contract-related activity. OSC will continue to monitor and audit public procurement processes to promote compliance with these best practices.”

**Fiscal Performance**

The data in the following table are taken from fiscal and program reports submitted by the state agencies to RSA, and speak to the overall effectiveness of their fiscal management practices. Specifically, IL program fiscal data, including the sources and amount of funding, match and carryover, are extracted from the program’s SF-269s and the RSA-704 report.

**Table 2.1**
**Fiscal Data for DVRS – Independent Living**

<table>
<thead>
<tr>
<th>New Jersey (G)</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
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<tr>
<td>Grant Amount</td>
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<td>$399,282</td>
<td>$394,084</td>
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<tr>
<td>Federal Expenditures</td>
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**Table 2.2**
**Fiscal Data for CBVI – Independent Living**

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<td>Fiscal Year</td>
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<td>$0</td>
<td>$0</td>
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</table>
Fiscal Management Compliance Findings and Corrective Actions

RSA identified the following compliance findings and corrective actions that DVRS is required to undertake. DVRS must develop a corrective action plan for RSA’s review and approval that includes specific steps the agency will take to complete the corrective action, the timetable for completing those steps, and the methods the agency will use to evaluate whether the compliance finding has been resolved. RSA anticipates that the corrective action plan can be developed within 45 days from the issuance of this report and RSA is available to provide technical assistance to assist DVRS to develop the plan and undertake the corrective actions. RSA reserves the right to pursue enforcement action, including the recovery of IL Part B funds, pursuant to 34 CFR 80.43 and 34 CFR Part 81 of EDGAR.

1. Internal Controls, Fiscal Management, and Monitoring of Subgrantees – IL Part B Program

Legal Requirements:

34 CFR 364.34 requires that:
In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 364.35 requires that:
In addition to complying with applicable EDGAR recordkeeping requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will maintain –
(a) Records that fully disclose and document –
   (1) The amount and disposition by the recipient of that financial assistance;
   (2) The total cost of the project or undertaking in connection with which the financial assistance is given or used;
   (3) The amount of that portion of the cost of the project or undertaking supplied by other sources; and
   (4) Compliance with the requirements of chapter 1 of title VII of the Act and this part; and
   (b) Other records that the Secretary determines to be appropriate to facilitate an effective audit.

34 CFR 74.23(l) states:
For those entities where CMIA and its implementing regulations do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to $250 per year may be retained by the recipient for administrative expense.

34 CFR 74.2 states:
Program income . . . Interest earned on advances of Federal funds is not program income.
34 CFR 80.20(a) states:

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

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

34 CFR 80.40(a) states:

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

Finding 1: For at least the last five years, DVRS has provided some of the IL funds it receives under title VII, Part B (chapter 1) to the DAWN Center for Independent Living. While the grant agreements included detailed budgets and narratives explaining how the IL-B funds would be used, the invoices submitted by the subgrantees do not reflect the level of specificity necessary to connect the charges with the allowable activity approved under the budget. DVRS paid the invoices, even though it could not determine that the charges were allowable and allocable under the federal grants and consistent with the subgrant agreement. DVRS did not monitor the subgrantees to ensure that the IL-B funds provided under the grant agreements were spent on allowable costs and did not require the documentation needed to ensure that the federal awards could be traced to a level sufficient to show that they were not used in violation of federal restrictions and prohibitions. In particular, RSA found the following:

DVRS provides multiple IL Part B subgrants to the DAWN Center for Independent Living, Inc organization. For example, DVRS awarded this grantee a $187,965 grant (FY 2010) for independent living skills and a $50,000 grant (FY 2010) for promoting self-advocacy. The grant agreement provides that the DAWN Center for Independent Living, Inc. is to be paid on a cost reimbursement basis upon presentation of invoices. It also provides that the DAWN Center for Independent Living, Inc must establish and maintain separate accounting for the use of grant funds and that the use of funds in any manner contrary to allowable grant activities may result in the subsequent termination of the grant and any balance of funds. Internal control issues identified include:

A. A budget is included in the agreement but a review of the invoices reveal they do not provide a breakout of the costs in order to show that they are allowable or allocable, incurred during the grant period, and correspond to the items approved in the budget. Section (3) Allowable Costs of the subject agreement states: Funds expended in this project shall be those as stated in the Agreement for the purposes and functions outlined, unless changed by an approved modification. Section (7) Payment Method (A) requires supporting documentation be submitted with the invoice but the attachment is only a
summary of the costs and does not include the breakout that is included in the grant budget;

B. DVRS’s grant agreement with DAWN provides in section 5A, Program Income, that “[I]f a Grantee receives interest earned of $250 or more in a fiscal year on advances of grant funds, see Attachment A, Section VIII (B).” However, no such attachment was provided by DVRS in the contract given to RSA staff. Moreover, interest earned on the advance of federal funds is not program income under 34 CFR 74.2. However, under 34 CFR 74.23(l) DVRS must be able to ensure that its grantee tracks any interest earned on the advance of federal funds and remits that interest annually, as required by 34 CFR 74.23(l);

C. From invoices reviewed by RSA from the DAWN Center for Independent Living, Inc for the ($50,000) grant for promoting self-advocacy, were paid at $12,500 every three months (e.g. every quarter) toward paying out the entire grant of $50,000 by the end of the grant. Invoices from the DAWN Center for Independent Living, Inc for the $187,965 grant for providing independent living skills training, were paid at $47,000 every three months (e.g. every quarter) toward paying out the entire grant of $187,965 by the end of the grant. Because these are cost reimbursable subgrants and are to be invoiced on actual costs for each month, it seems very unlikely that costs were exactly the same each month and/or quarterly report period. DVRS needs to ensure that it is only reimbursing costs and not making advance payments, since the grant agreement does not provide for such method of payment. Furthermore, grant stipulations conflict with the “voucher” DVRS has the grantee use to receive funds and the DVRS grantee transmittal letter of 12/15/09 that allows the grantee to request advances of 12 percent monthly or 29 percent quarterly; and

D. DVRS failed to collect and maintain any financial records that would permit the agency to track, account for, and report on funds received and expended under the grant agreements and detailed in the grantee’s budget. The lack of proper fiscal monitoring and oversight of the grant agreements and related payments includes, but is not limited to:

- DVRS does not follow the provisions in the grant agreement related to cost reimbursement according to actual expenditures and is making payments to the grantee without the appropriate specificity in the invoice necessary to ensure that the charges are allowable. For example, DVRS pays the subgrantee by cumulative costs (e.g. personnel) instead of according to the itemized budget (e.g. IL Specialist);
- Expenditures were not tracked, monitored, or reviewed at any level in the DSU;
- DVRS did not require a subgrantee to reconcile its expenditures to the budget in the grant agreement, and DVRS did not monitor expenditures to ensure accountability.

Federal regulations require DVRS to adopt fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for IL-B (34 CFR 364.34). In particular, DVRS must have fiscal controls in place that enable it to expend and account for the IL funds to such a degree that it can trace the funds for each activity to ensure that the funds were expended in accordance with Federal requirements (34 CFR 80.20(a)). In addition, DVRS is required to monitor and manage the day-to-day operations of all grant-supported activities (34 CFR 80.40(a)). The IL services provided by the DAWN Center for Independent Living, Inc. under grant agreements with DVRS constitute grant-supported activities and must be monitored
by DVRS to ensure compliance with all Federal requirements. DVRS has not adopted, maintained, or applied any fiscal controls and accounting procedures to ensure the DAWN Center for Independent Living, Inc are accountable for tracking, supporting, and accurately reporting expenditures from their respective grant agreements.

As a result of the financial deficiencies outlined above, DVRS cannot trace the funds provided to the DAWN Center for Independent Living, Inc. under these grant agreements to a level of expenditures adequate to establish that such funds were used for allowable costs, and have not been used in a way that violates Federal requirements. For all of these reasons, DVRS has failed to administer the program in accordance with the requirements of 34 CFR 364.34, 34 CFR 364.35, 34 CFR 80.20, and 80.40.

Corrective Action 1: DVRS must:

1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure the validity of expenditures under the IL-B as required by 34 CFR 364.34 and 34 CFR 80.20(a)(2);

1.2 develop and implement policies/procedures to ensure that DVRS:
   A. Requires invoices submitted by all subgrantees to provide sufficient detail regarding costs to show that they are allowable, incurred during the grant period, and correspond to the items approved in the budget;
   B. implements the existing grant agreements with the IL provider, as well as any other similar grant agreements, to include guidance on allowable costs, invoicing and expenditure reporting requirements, maintenance of records to support costs charged, and separation of grant expenditures in order to properly allocate costs to existing grants and ensure compliance with the requirements of 34 CFR 364.34, 34 CFR 364.35, 34 CFR 80.20 and 80.40; and
   C. develops and implements a written protocol for fiscal monitoring of subgrantees;
   D. tracks any interest earned by its subgrantees and ensure that they remit that interest annually, as required by 34 CFR 74.23(l);

1.3 submit the all grant attachments, including the missing sections of the subject grants’ Attachment A, Section IV and Section VII (B) to enable RSA review the handling of interest and program income.

2. Fiscal Management of SILC Expenses and Payment of Allowable Costs

Legal Requirements:

34 CFR 364.21(a)(2) and (i) requires that:

(a)(2) The SILC may not be established as an entity within a State agency, including the designated State agency or DSU. The SILC shall be independent of the DSU and all other State agencies.

(i) Resource plan. (1) The SILC shall prepare, in conjunction with the DSU, a resource plan for the provision of resources, including staff and personnel, made available under parts B and C of chapter I of title VII of the Act, part C of title I of the Act, and from other public and private sources that may be necessary to carry out the functions of the SILC under this part.
(2) The SILC’s resource plan must, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the State plan.

(3) No conditions or requirements may be included in the SILC’s resource plan that may compromise the independence of the SILC.

(4) The SILC is responsible for the proper expenditure of funds and use of resources that it receives under the resource plan.

34 CFR 364.34 requires that:
In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 364.35 requires that:
In addition to complying with applicable EDGAR recordkeeping requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will maintain –

(b) Records that fully disclose and document –

   (1) The amount and disposition by the recipient of that financial assistance;
   (2) The total cost of the project or undertaking in connection with which the financial assistance is given or used;
   (3) The amount of that portion of the cost of the project or undertaking supplied by other sources;
   (4) Compliance with the requirements of chapter 1 of title VII of the Act and this part; and

   (c) Other records that the Secretary determines to be appropriate to facilitate an effective audit.

34 CFR 80.20(a) states:

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

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

34 CFR 80.40(a) states:

Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee fiscal monitoring must cover each program function and activity.
Finding 2: For at least the last five years, DVRS has had on-going cost reimbursement subgrants that provided some of the IL funds it receives under Title VII, Part B (chapter 1) to the MOCEANS Center for Independent Living. Although not a part of these subgrants, DVRS pays this subgrantee funds to act as the SILC’s “fiscal agent”. These funds are spent for unspecified administrative and financial duties conducted by MOCEANS, as the SILC’s fiscal agent, without an agreement specifying the duties of MOCEANS, any invoices presented, or appropriate records kept.

This arrangement is not in compliance with 34 CFR 364.21(a)(2) and (i), 364.34 and 364.35 and 34 CFR 80.20 and 80.40 because:

A. The SILC is required to be independent of all state agencies, including the DSU. The SILC receives its funds to fulfill its functions under title VII through a resource plan developed jointly with the DSU and must have control over the funds in its resource plan. If the SILC requires a separate fiscal agent to perform such duties on its behalf, then the SILC needs to procure a fiscal agent using the applicable procurement standards, which would include 34 CFR 74.40 – 74.48 if its resource funds include federal funds distributed to it as a subgrant through DVRS. DVRS should not be handling the fiscal aspects of the SILC because it may compromise the SILC’s independence. Any subcontract entered into by the SILC would have to include those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds, as discussed further below. While a center for independent living could be a possible fiscal agent for the SILC, the SILC would need to ensure that there are no potential conflicts of interest in that relationship.

B. DVRS provides reimbursements to MOCEANS for activities as the SILC “fiscal agent” without any written agreement or contract that stipulates 1) the fiscal agent duties or statement of work of MOCEANS will perform for the SILC; 2) what expenses are allowable for the activities MOCEANS will perform for DVRS; 3) procedures for providing financial reports, invoices or fiscal oversight that supports/documents the expenses charged for service to the SILC; and 4) measurable outcomes for which MOCEANS would receive reimbursement of costs for services provided to the SILC;

C. DVRS pays, in addition to covering costs identified by MOCEANS for services to the SILC, an additional administrative fee that is not supported by a benefit to the SILC or an agreement that stipulates the justification for this additional fee;

D. DVRS has an IL-Part B cost reimbursement grant with MOCEANS, unrelated to its activities as the SILC fiscal agent, but it does not monitor the costs paid under this agreement nor the costs paid MOCEANS as the SILC fiscal agent, nor is it able to document that funds paid to MOCEANS under the IL-Part B grant agreement or as the SILC fiscal agent are not duplicate payments and/or that DVRS is tracking payments for the Part B subgrant and payments for the performing as the SILC’s fiscal agent separately.

Corrective Action 2: DVRS must:

2.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure the validity of future expenditures under the IL-B grant to support the SILC, as required by 34 CFR 364.34 and 34 CFR 80.20(a)(2); and

2.2 develop and implement policies/procedures to ensure that DVRS:
A. ceases and desists all payments to MOCEANS for any payments, including administrative fees, that are being paid without any agreement, budget, or scope of work;
B. Provides funds to the SILC in its resource plan so that the SILC can manage its fiscal responsibilities, whether on its own or through a contract, executed by it using the appropriate procurement procedures;
C. Provides sufficient guidance to the SILC concerning its resource plan so that it can meet its administrative needs consistent with federal financial requirements; and
D. submits a spreadsheet, that covers the last five years and details the amount of funds paid to MOCEANS, including administrative fees, and the costs for which those funds were expended.

Technical Assistance

This section of the chapter describes the technical assistance provided by RSA to DVRS and CBVI during the course of the review. The TA requested by the agencies to enable them to carry out the recommendations and findings set forth above is included in Appendix C of this report titled “NJ IL Response.”

Technical Assistance Provided

To enable the agency to improve its fiscal management processes, RSA provided technical assistance to DVRS during the review process regarding:

- the financial implications of making payments for services, such as with MOCEANS, without a written agreement; and
- the requirements of the Cash Management Improvement Act and ensuring they comply with their internal written draw down procedures.
APPENDIX A: DVRS RESPONSE

Part I: Responses to Observations, Recommendations, Compliance Findings or Corrective Actions and TA needs

Chapter 1: VR/SE Program Performance Observations and Recommendations

As a result of its review activities, RSA identified the performance observations set forth below and recommended that DVRS take specific steps to improve the agency’s performance associated with each of the observations.

1. Employment Outcomes

Recommendation 1: RSA recommends that DVRS:

1.1 develop measurable goals and strategies to improve the agency’s employment rate;
1.2 develop strategies to increase wage levels for the individuals served; and
1.3 explore relevant training and education to increase wages, and expand relationships with employers throughout the state.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

2. Case Management System

Recommendation 2: RSA recommends that DVRS:

2.1 evaluate whether it is more effective and efficient to complete the necessary modifications to the existing system or to purchase a new case management system that meets the agency’s needs, produces the desired reports and is accessible to all staff members. This evaluation should include the affect of both options on the agency’s staff and fiscal resources; and
2.2 take the actions necessary to complete the modifications to the existing system or purchase a new system based on the results of the evaluation conducted pursuant to Recommendation 2.1.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

3. Reporting and Evaluation of SE Services for Persons with Most Significant Disabilities.

Recommendation 3: RSA recommends that DVRS:
3.1 analyze the decline in the number of individuals who have SE goals on their IPEs and achieve SE to determine the reasons underlying the decline in these respective performance measures and develop strategies to address the reasons identified;
3.2 review and analyze the case management settings utilized to identify SE goals and SE services on an IPE and the case closure page and develop a systematic process to ensure accurate coding and reporting;
3.3 provide training to staff related to the definition of SE and SE services to include appropriate identification of SE goals on the IPE, coding of SE services on the IPE and the case closure page in the case management system;
3.4 review data and other information related to the DVRS’ current contracting methods to determine which method (fee-for-service or DMHS contracting) promotes greater performance and accountability of SE providers; and
3.5 develop fiscal controls and evaluation methods to ensure that providers are not billing DVRS through multiple contracts.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

4. Attrition for Transition-Age Youths

Recommendation 4: RSA recommends that DVRS:

4.1 conduct surveys of transition-age youths who exit the VR program after eligibility is determined, but before their IPEs are developed, to determine the reasons why these individuals are withdrawing from the program; and
4.2 based on the information obtained through this survey, develop goals with measurable targets to decrease the number of transition-age youths exiting the VR program at this stage of the process, and strategies to achieve these goals.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

5. Revision of Policy Manual and Training on Policies and Procedures

Recommendation 5: RSA recommends that DVRS develop a plan for training on existing and revised policies and procedures for all staff involved in their implementation.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

6. QA System – Service Record Review Process

Recommendation 6: RSA recommends that DVRS:

6.1 resume the QA process for the review of service records by staff not functioning as VR
counselor supervisors;
6.2 review and refine instrumentation for conducting service record reviews; and
6.3 develop mechanisms to collect and aggregate the results of the review process and provide
the results to the training function to inform the design and evaluation of training.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

7. Development of Goals and Priorities

Recommendation 7: RSA recommends that DVRS:

7.1 identify goals that incorporate the needs of its stakeholders and the individuals served by
DVRS; and
7.2 establish measurements and performance targets for each goal that enable the agency and its
stakeholders to accurately assess progress.

Agency Response: DVRS did not respond.

Technical Assistance: DVRS did not request technical assistance.

VR/SE Program Compliance Findings and Corrective Actions

1. Provision of Non-VR Services

Corrective Action 1: DVRS must:

1.1 cease expending Title I VR funds for unallowable activities;
1.2 within 10 days of the receipt of the final monitoring report, submit an assurance to RSA that
it will use Title I VR funds solely for the provision of VR services to eligible VR consumers
and applicants and the administration of the VR program; and
1.3 implement methods of administration that ensure financial accountability for the VR
program, as required by 34 CFR 361.12, so that DVRS can be sure that Title I funds are
expended solely for allowable expenditures.

NJDLWD Response: DVRS no longer uses VR funds for the Promoting Self-Advocacy
Program.

Technical Assistance: NJDLWD did not request technical assistance.

2. SRC Fails to Satisfy Composition Requirements

Corrective Action 2: RSA requires that DVRS:

2.1 take the steps necessary to ensure the Governor appoints representatives to fill the SRC
vacancies – at least those required by section 105(b) of the Rehabilitation Act and 34 CFR
361.17(b)(1); and
2.2 submit a written assurance within 10 days of the receipt of the final monitoring report that its SRC will be fully constituted with full membership through gubernatorial appointment in accordance with sections 105(b) of the Rehabilitation Act and 34 CFR 361.17 in a timely manner. DVRS also must assure that it will take every opportunity to assist the governor’s office in this effort to ensure the required appointments are made.

**NJDLWD Response:** DVRS and the State Rehabilitation Council (SRC) are aware of this requirement and are implementing a remediation plan. We are working with the Governor’s Appointment Office to fill the vacancies. We have a timeline and strategies that will bring us into compliance over the next year. DVRS acknowledges the challenges in recruiting for the NJ State Rehabilitation Council. One barrier to recruitment is the SRC does not have statutory authority in VR policy development and program operations. The SRC is considered a partner in the process, and provides oversight and advice only.

**RSA Response:** RSA recommends training for SRC members and DVRS staff on the functions and authority of the SRC, as outlined in 34 CFR 361.17(h). As individuals are appointed to the SRC, RSA requests that DVRS submit the names of appointed members, the position on the SRC that they are representing and the start date of their appointment. In addition, once the SRC is fully constituted, DVRS must submit a list of members, the position each member represents and the start and end date of the first term, and if appropriate, the second term, as well, so that RSA can determine that this finding has been resolved.

**Technical Assistance:** NJDLWD did not request technical assistance.

3. **Appropriate use of Trial Work Experiences and Extended Evaluations**

**Corrective Action 3:** DVRS must:

3.1 issue a program directive to ensure that all staff are familiar with the requirements of clear and convincing evidence through the use of TWE required to support a decision that an individual is unable to benefit from VR services. In addition, the directive should be followed up with agency wide training on the effective use and requirements of EE and TWE; and

3.2 review all cases closed due to “disability too significant to benefit from VR services” following the implementation of training to ensure counselors followed all requirements in compliance with 34 CFR 361.42, assessment for determining eligibility and priority standards.

**NJDLWD Response:** DVRS will develop a policy. Once the policy has been developed, VR staff will need training on proper implementation.

**Technical Assistance:** NJDLWD requested technical assistance.
Chapter 2: Fiscal Management of DVRS VR and SE Programs

Fiscal management Compliance Findings and Corrective Actions

1. Improper Consolidation of Title I and VI-B Funds

Corrective Action 1: DVRS must:

1.1 cease commingling Title VI-B SE funds with Title I VR funds;
1.2 submit a written assurance within 10 days of the final monitoring report that DVRS will comply with 34 CFR 363.11(g), 34 CFR 363.52(b), and 34 CFR 80.20(a), especially in terms of accounting for and tracking Title VI-B SE funds separately so that DVRS can ensure that Title VI-B SE funds are spent solely on allowable expenditures under the SE program;
DVRS also must assure that it will report separately those individuals served under the SE program versus those served under the VR program; DVRS also must assure that the agency provides SE services in accordance with its Federal requirements – namely that the time-limited services are provided only to those individuals with the most significant disabilities; and
1.3 submit a plan, including a timeline, as to the procedures DVRS will implement to ensure that the Title VI part B SE funds are tracked and accounted for separately from Title I VR funds, as required by 34 CFR 363.11(g) and 34 CFR 80.20(a), and how it will ensure that the RSA-911 is completed accurately, as required by 34 CFR 363.52(b). This plan must describe the mechanisms that will be implemented to ensure that: 1) Title VI part B funds are tracked and accounted for accurately; 2) supporting documentation is retained to ensure allowability of all expenditures under Title VI part B; and 3) the accuracy of information contained in financial and statistical reports is verified prior to submission to RSA.

NJDLWD Response: The NJ Department of Labor and Workforce Development (NJDLWD) as the Designated State Agency (DSA) believes that the methodology currently used to account for Title VI-B SE funds complies with the relevant Federal and State statutes and regulations. However, on a prospective basis we will establish a unique reporting category in our client payment monitoring and tracking system (WORCs), which will be used to segregate expenditures that are allowed pursuant to Title VI-B SE funds.

DVRS disburses funds for the payment of services through a fee schedule based authorization process. That fee schedule, consisting of service codes and dollar amounts, along with DVRS policy and procedures, ensures that DVRS funds are spent on specific, designated services. In regard to SE, we have a billable hours policy which delineates between billable and non-billable job coaching/SE activities. We are able to ascertain the amount of funds spent in each of the two basic categories of job coaching services germane to SE, pre-placement and SE intensive job coaching. The latter category is strictly related to SE and it is clear that most of the pre-placement dollars go toward SE. It is readily ascertained that we spend millions of dollars on strictly designated and approved SE services (over 2.5M in 2007 on SE intensive coaching, for example – not counting a larger pre-placement dollar amount), far exceeding the Title VI part B allotment. The Division is doing as is intended in terms of allowability of expenditures as evidenced simply by the sheer volume of SE services provided versus the comparatively small Title VI part B funding stream.
RSA Response: RSA appreciates the steps that the agency will take to address this finding, specifically that DVRS, “…will establish a unique reporting category in [its] client payment monitoring and tracking system (WORCs), which will be used to segregate expenditures that are allowed pursuant to Title VI-B SE funds.” However, DVRS has not submitted any new information regarding this finding that results in it being inaccurate or misstated; therefore, the finding remains unchanged and DVRS is required to comply with all corrective actions associated with the finding.

Technical Assistance: The agency did not request technical assistance.

2. Third-Party Arrangement – Department of Mental Health Services

Corrective Actions 2: DVRS must:

2.1 submit an assurance within 10 days of the final monitoring report that DVRS will comply with the requirements for a third-party cooperative arrangement (34 CFR 361.28); that DVRS will retain responsibility for the allocation and expenditure of VR funds and the other non-delegable functions, as required by 34 CFR 361.13(c); that DVRS will monitor all grant-supported activities, including the Supported Employment Program, as required by 34 CFR 80.40(a); and that DVRS will administer the VR program in a proper and efficient manner that ensures VR funds are spent solely on allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a).

2.2 revise the contract with DMHS, as the agency indicated it would do, that authorizes and implements the third-party cooperative arrangement between DVRS and DMHS to operate the Supported Employment Program to correct deficiencies in accordance with the requirements of 34 CFR 361.13(c)(1)(iv), 34 CFR 361.28, and 34 CFR 80.40(a). In particular, DVRS must ensure that:
   A. it retains responsibility for the allocation and expenditure of VR funds, as required by 34 CFR 361.12(c)(1)(iv);
   B. it retains supervisory control over the expenditures incurred pursuant to the third-party cooperative arrangement, as required by 34 CFR 361.28(a)(3);
   C. the services provided pursuant to the third-party cooperative arrangement are new or modified VR services, not typically provided by the non-profits, as required by 34 CFR 361.28(a)(1);
   D. the services provided pursuant to the third-party cooperative arrangement are provided solely to VR consumers and applicants, as required by 34 CFR 361.28(a)(2); and
   E. it is responsible for monitoring all grant supported activities, including the Supported Employment Program, as required by 34 CFR 80.40(a).

2.3 submit a spreadsheet that contains:
   A. the amount of non-federal match provided by DMHS pursuant to the third-party cooperative arrangement for FFYs 2005-2009;
   B. the amount of Federal VR funds provided to the 20 non-profit agencies by DVRS under the contract for FFYs 2005-2009; and
   C. the total number of individuals served pursuant to the third-party cooperative arrangement between DVRS and DMHS, as well as the number of those individuals who were applicants or consumers of the VR program; and
2.4 cease utilizing non-Federal expenditures incurred by DMHS under the third-party cooperative arrangement to meet its non-Federal share requirement under the VR program until the deficiencies of the third-party cooperative arrangement have been corrected.

NJDLWD Response: The finding indicates that the Division of Mental Health Services (DMHS) is supplying the State match of $500,000. This is not accurate. The $500,000 State match is funded by the NJDLWD and provided to DMHS to supplement the $1,080,519 in Title I funds.

DVRS believes that the contract or grant with the Division of Mental Health Services (DMHS) meets the criteria of a third-party contract, and offers the following clarifications and actions to remedy issues identified by RSA:

- DMHS will develop a mechanism to share the SE provider agency budgets and performance expectation as outlined in the DMHS contract Annex A with both central and local offices and obtain input and direction in the use of the DVRS portion of the SE funding.
- Additionally, DMHS currently provides DVRS with an aggregated quarterly report of expenditures for the DVRS SE funds. In order to provide more transparency and accountability, DMHS will forward the individual SE provider quarterly Interim Reports of Expenditures (ROE).
- Each client served under this agreement has a DVRS counselor, who is directly involved in overseeing the case as he or she is with any DVRS SE Vendor. The counselor is in essence “supervising” the DMHS SE provider staff in that he or she is monitoring the activities provided under that case. DVRS and DMHS will finalize a monthly client progress report, which the DMHS SE providers will use to provide the VR counselor with more client information. This will allow the VR counselor to exercise a greater degree of supervision over the activities of the case.

DVRS entered into this arrangement for SE services with DMHS starting in 1988, not 2006. At that time, 1988, supported employment was a brand new service; having just been identified by RSA a few years earlier for a developmental disabilities population. The SE services were completely new to the non-profits and not provided at all. Initially, SE was made available to four counties in the State as a brand new service with $200,000 in Federal funds; $50,000 per non-profit agency selected through a request for proposal (RFP) process in which DVRS played a primary role. At the beginning of this contract arrangement, DVRS Federal funds provided the sole revenue source for the new service. DMHS provided in-kind services for the extended supports required for SE service through the four selected non-profit provider agencies. Over the course of the next three years, DVRS was able to provide additional Federal resources until all counties in New Jersey had SE services available to persons with psychiatric disabilities. The non-profit providers in each county were chosen by a rigorous RFP process in which DVRS played a primary role, including the final approval. By 1994, DMHS was able to obtain State appropriations to provide the joint DVRS/DMHS program with a matching amount of State revenue; $1,090,000 or a 50/50 share between the two State agencies. Over the course of the past fourteen years, the DMHS portion of the braided SE funding has grown to about 75% of the total cost including the extended support component.
The 2006 year referenced in the report refers to the year that additional State resources were provided to DVRS for SE services to persons with mental illness, as a result of recommendations made by former Governor Cody’s Mental Health Task Force. As previously stated, the third-party arrangement predates this by many years.

All recipients of SE services provided for by this third-party contract with DMHS are presently required to be clients of DVRS. This presently includes the now 75% of the total cost of the program funded by DMHS with non-Federal funds. In other words, DVRS has leveraged a significant amount of additional dollars for its clients using this service. The interagency contract or agreement for the use of these funds does specify this and in practice the subcontracted providers adhere to serving only DVRS clients. DMHS has continued to stipulate the DVRS only requirements to their providers on a regular basis.

Although it has been a clear expectation that SE providers can only exclusively serve individuals who are open with DVRS, the DMHS will add language in all 22 SE provider contracts that specifies that client services provided under the contract with DVRS funds may only be provided to individuals who have a case opened by DVRS.

In addition, DMHS will also cluster the DVRS SE funds within the 22 agencies’ contracts so that they may not be used for any other purpose than providing SE services. While not in writing at present, in practice, both the DVRS and DMHS funds are spent on SE activities for DVRS clients only.

DMHS submits an Annex A (performance commitment) spreadsheet with each third-party annual renewal contract between DVRS and DMHS, which contains the number of new individuals to be served for the Federal fiscal year, as well as the amount and type and total number of job coaching units. At present and heretofore, all individuals served through the contract are required to be open DVRS cases.

RSA Response: RSA appreciates the information NJDLWD provided in its response regarding the history and current operation of its arrangement with DMHS and the non-profit service providers. After a careful review of this information, RSA has modified the finding as now written in this final report to focus on the supervision exercised by DVRS over the allocation of funds and expenditures used in the arrangements, the services provided and the monitoring of the contracts with the non-profits. In addition, we recognize the steps that DVRS will take to revise the manner in which these arrangements will be handled in the future.

In the provided response, NJDLWD stated that the $500,000 received by DVRS as state match is funded by the NJDLWD and provided to DMHS to supplement the $1,080,519 in Title I funds, rather than by DHMS. It remains unclear if DMHS provides any funds toward the operation of the program that is used by DVRS toward meeting its non-federal requirement. Whether or not DMHS receives its funding from direct state appropriation or another state agency, DMHS must use the non-Federal funds it receives into its account to pay a portion of the non-Federal share of the services. However, if this is a third-party cooperative arrangement, as communicated by NJDLWD, DMHS as the cooperating agency would be required to provide the match. Conversely, if NJDLWD provides the funds to DVRS directly, then this arrangement is not a third-party cooperative arrangement, as defined at 34 CFR 361.28. The information provided by NJDLWD does not clarify the issues raised in this finding, as NJDLWD reported that it provides
the funds to DMHS. Nonetheless, despite this conflicting information, RSA will proceed with
the understanding that DMHS is actually paying the expenditures with its funds, regardless of
where those non-Federal funds originate. Consequently, the requirement found at 34 CFR
361.28(a) concerning the provision of the non-federal share is met.

Regulations at 34 CFR 361.28(a)(1) further require that the services provided by the cooperating
agency, or DMHS must be new, modified or expanded with a VR focus. In NJDLWD’s
response, it stated DVRS was responsible for the original RFPs and that the services were new
twenty years ago. RSA recognizes this point, but wishes to clarify that the services provided
through the third-party cooperative arrangement, in this case by the CRPs, must be new,
modified or expanded with a VR focus, and are not typically provided to individuals not served
under the SE project. As stated in the finding, the CRPs provide these very same services to
other DVRS consumers who are not served under the SE project. For these other consumers,
DVRS pays the CRPs through fee-for-service contracts that are separate and distinct from the
third-party cooperative arrangement. RSA acknowledges that NJDLWD’s history makes it clear
that these were new and different at the time of the initial contracts 20 years ago; however, these
services are not limited to those consumers being served under the third-party cooperative
arrangement. Instead, these very same services are available to any DVRS consumer or any
other individual with a disability. In order for the service to qualify for purposes of a third-party
cooperative arrangement, it has to be a service that the vendor does not typically provide.
Therefore, RSA maintains that portion of the finding pertaining to the requirements of 34 CFR
361.28(a)(1).

In its response, NJDLWD stated that VR counselors supervise and monitor the service providers.
Requesting, authorizing and reviewing progress reports from the service providers does not
necessarily include the monitoring of CRPs to deliver services to DVRS applicants or persons
eligible for services, or other administrative and supporting activities included under the SE
contract. RSA appreciates that NJDLWD reported it will strengthen the DMHS contracts with
the CRPs to include a provision that the VR counselors and DVRS will be supervising the staff,
services provided and expenditures associated with the funds provided to DHMS, as well as the
monitoring of these arrangements.

Finally, in its response, NJDLWD also reports that only individuals who are DVRS consumers
are provided services under the DMHS contracts, but that it will ensure that the contracts contain
language to this effect in accordance with 34 CFR 361.28(a)(2).

Although RSA appreciates the steps NJDLWD and DVRS indicate they will take to address this
finding, they must comply with all corrective actions related to this compliance finding. Only
through the implementation of the corrective actions, may the true financial and programmatic
nature of this relationship be determined, understood, and modified to comply with all applicable
regulations.

**Technical Assistance:** The agency did not request technical assistance.

3. Submission of Required Reports

**Corrective Action 3:** DVRS must:
3.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure the timeliness of future financial and statistical reports submitted on behalf of the VR, SE, and IL-part B programs;
3.2 submit all missing SF-269s, including final reports; and
3.3 submit a plan, including timelines, describing the steps DVRS will implement to ensure timeliness of the financial and statistical reports, as required by 34 CFR 361.12, 34 CFR 80.20(a), and 34 CFR 80.41(b).

**NJDLWD Response:** All required reports have been submitted. Going forward, we will make every effort to comply with the due dates.

**RSA Response:** RSA appreciates the actions NJDLWD has taken since the conduct of its onsite visit. However, we note that several reports remain outstanding and require immediate action. Fiscal reports that are currently past due include the SF-425 report for FY 2010 for the VR program due March 31, 2011, the second year SF-269 report for FY 2009 for the IL program, and the first year SF-269 report for FY 2010 for the IL program. Therefore, RSA maintains this finding. Also, DVRS is reminded that in addition to submitting all missing SF-269s and SF-425 (Corrective Action 3.2), it is required to comply with Corrective Actions 3.1, and 3.3.

**Technical Assistance:** The agency did not request technical assistance.

4. **Unallowable VR Expenditures – Disability Program Navigators**

**Corrective Action 4:** DVRS must:

4.1 cease using VR funds for costs that are not allowable under the VR program, including costs associated with the funding of DPN positions in the one-stop centers;
4.2 submit a written assurance within 10 days of the issuance of the final monitoring report that DVRS will use Title I VR funds solely for the provision of VR services or the administration of the VR program, as required by 34 CFR 361.3; DVRS also must assure that it will administer the VR program in a proper and efficient manner that ensures the proper usage and accounting of VR funds for allowable expenditures, as required by 34 CFR 361.12 and 34 CFR 80.20(a); finally, DVRS also must assure VR funds used toward paying DVRS’ share of the one-stop costs are proportional to the benefit received by the VR program and are consistent with regulatory requirements and DOL’s and RSA’s guidance on this matter;
4.3 work with NJDLWD and the one-stop partners to establish policies and procedures for the development of a method or methods to determine DVRS’ appropriate share of one-stop center operating costs that are consistent with requirements of the VR program regulations, EDGAR, OMB cost principles, and WIA. These cost sharing methodologies must ensure that:
   A. the costs allocated to DVRS are allowable under the VR program;
   B. the computational methodology of allocating costs, as well as the basis used for their distribution, are equitable to the VR program;
   C. the costs identified as shared are common to all partners;
   D. DVRS receives a proportional benefits from each cost allocated to it;
   E. the one-stop center cost-sharing agreement addresses each partner’s financial participation in allocated common costs pursuant to 34 CFR 361.23(a)(2);
F. the MOU or other cost-sharing agreement is based on reasonable, supportable, and valid data and is auditable; and
G. the cost allocation adheres to the Federal cost principles set forth at 2 CFR part 225.

NJDLWD Response: The funding of the Disability Program Navigator (DPN) positions was in line with Title I activities that include:

- Client referral development through information sharing about DVRS to One-Stop Career Center customers.
- Employment development and job placement to eligible DVRS clients who were referred to the One-Stop Career Center and guided through their process for labor exchange.
- Reaching unserved or underserved minority populations through referral development and identification of those individuals with disabilities who would not use the traditional resources in the disability community.
- Training to the community providers and to employers was an active role filled by the DPNs. This activity not only heightened the awareness of the availability of qualified applicants to employers, but also enhanced the knowledge of those individuals who would be responsible for referring individuals with disabilities to the VR agency.

DVRS entered into the agreement with the One-Stop partners in good faith with the expectation that the funds would be blended with the TANF funds to expand the DPN program. While DVRS is listed as supporting eight positions, the additional funds allowed the program to support 18 positions throughout the State’s One-Stop Career Centers. Essentially, the funds covered 44% of the entire cost of the program which provided the opportunity to provide services to additional groups. DVRS agrees that this was confusing in the MOU and will develop better criteria for cost sharing of special initiatives. DVRS will no longer fund these positions, even though feedback from the generic workforce community was positive and the agency was viewed as progressive and willing to partner with the One-Stop Career Centers.

RSA Response: The agency does not dispute the issues raised in the finding and, therefore, the finding and required corrective actions stand as written.

Technical Assistance: The agency did not request technical assistance.

5. Performance of DSU’s Non-Delegable Functions

Corrective Action 5: DVRS must:

5.1 submit an assurance within 10 days of the final monitoring report that DVRS will retain and/or regain responsibility for the allocation and expenditure of VR funds and the other non-delegable functions, which are the sole responsibility of the DSU, as required by 34 CFR 361.13(c); DVRS also must assure that it will comply with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a); and

5.2 work with NJDLWD to develop procedures to ensure that, despite the centralization of certain financial management functions within the DSA, DVRS, as the DSU, remains responsible for all decisions related to the non-delegable functions set forth at 34 CFR 361.13(c)(1), especially those decisions involving the expenditure and allocation of VR funds and DVRS’ participation as a partner in the one-stop system; and
5.3 submit a copy of the procedures developed to demonstrate completion of the corrective actions.

**NJDLWD Response:** We do not concur with this finding. We would like to note at the outset that the findings and the facts as set forth by RSA are generally inaccurate. As an example, in Paragraph B (page 45) it indicates that the “NJDLWD’s fiscal officer confirmed to RSA, while on site, that he and his staff negotiate and implement all contracts for the agency including those arising under the VR program.”

The above statement is inaccurate. Contract negotiation is initiated by the appropriate program, in this case VR, and implementation is overseen by VR staff. Although the “fiscal officer” has not been identified in the RSA report, no fiscal staff has been engaged in negotiating or implementing any DVRS contract. The DSA fiscal staff role as to any VR contract is to ensure that the contract initiated by the VR staff conforms to all appropriate Federal and State financial regulations and to further insure that the funding for said contract is available and has not been previously committed.

As to the other functions referred to in the RSA draft report (page 46), NJDLWD believes that many of these functions are performed by the VR program. Regarding budget setting, staffing levels and establishing priorities, these functions are initiated by the DSU and reviewed by the DSA. If there are any issues as to budgets, staffing or priorities they are generally resolved through negotiation or discussion between the DSA and the DSU. They are not dictated by the DSA as the RSA draft report implies.

**RSA Response:** It may be that, in theory, key decisions about budget setting, staffing levels, establishing priorities and other non-delegable functions for the VR program under 34 CFR 361.13(c)(1) are to be initiated by the DSU, and then processed administratively by DSA’s fiscal staff, but RSA found that, in fact, that was not the case. Although NJDLWD denies that certain statements were made by its staff during the onsite monitoring visit and attempts to explain the DSA’s role in certain VR matters, NJDLWD did not provide any documentation or other support, as had been requested, to demonstrate that DVRS indeed retains sole responsibility for the non-delegable functions set forth at 34 CFR 361.13(c). In addition, the then DVRS director demonstrated a clear lack of knowledge about certain VR staffing and budget issues. He informed RSA that he is not privy to the total funds available to the VR program; instead, he explained that the DSA’s centralized financial management staff periodically inform him of how much is available for expenditure under the VR program. He stated he was not a part of key decisions involving the expenditure and allocation of VR funds. He informed RSA that he was not privy to the information regarding the level of staffing under his control and that he was not consulted about which DSA administrative staff would be charged to the VR grant. He also informed RSA that DVRS is not able to hire VR staff to fill vacancies; instead, those decisions are made by the DSA, NJDLWD. These are critical aspects of administering the VR program that are not to be delegated to another entity. The regulations governing the non-delegable functions were implemented to ensure that the DSU, the agency identified by the State with the unique experience to meet the VR needs of individuals with disabilities, remains solely responsible for critical decisions affecting the VR program. While the Secretary recognized that some administrative and support activities may be centralized within a State agency, the
centralization of those activities must not interfere with the decision-making authority of the DSU.

As the head of the DSU – the entity solely responsible for the expenditure and allocation of VR funds -- the DVRS director ought to be privy to all financial information about the VR program, not just when informed by the DSA, and should be in direct control of the decisions affecting the VR program. Staffing levels, priority setting, and awarding contracts fall within the scope of the expenditure and allocation of VR funds. Decisions related to these matters require the DSU to decide where to spend its resources for the benefit of the program and to meet the needs of individuals with disabilities within the State. As such, these decisions must ultimately be made by the DSU, pursuant to 34 CFR 361.13(c)(1) – not through “negotiation” with the DSA, as stated by NJDLWD in its comments.

Because NJDLWD did not provide any evidence or documentation to support the assertions made in its comments above, the finding stands and DVRS must complete the required corrective actions. RSA can provide TA, as needed, to assist DVRS and NJDLWD to resolve these issues.

**Technical Assistance:** DVRS did not request technical assistance
APPENDIX B: CBVI RESPONSE

Part I: Responses to Observations, Recommendations, Compliance Findings or Corrective Actions and TA Needs

Chapter 1: VR/SE Program Performance Observations and Recommendations

1. Discrepancies in and Accuracy of Reported Data

Recommendation 1: RSA recommends that CBVI:

1.1 provide training to field staff on how to enter information into the current case management system to include services provided by staff, comparable benefits and services under contract;
1.2 develop strategies to improve the validity and improve the reporting tools available to staff for planning, managing of caseloads and QA; and
1.3 evaluate supervisory review of case management reports to ensure compliance with proper coding.

Agency Response to 1.1 – 1.3: CBVI is currently transitioning to a new client tracking and case management system, which will be fully operational within the current FY. Staff are currently being trained on the new system. As the rollout continues strategies will be developed to most effectively use the system for caseload management and planning as well as supervisory reviews and case management reports. This will be a continuous training and QA process as the new system is implemented.

Technical Assistance: CBVI did not request technical assistance.

2. Attrition Prior to Provision of Services

Recommendation 2: RSA recommends that CBVI:

2.1 Conduct a comprehensive analysis for the reasons individuals are exiting the system prior to the development of the IPE.

Agency Response to 2.1: CBVI Administrative Team will conduct a comprehensive analysis of all cases that were found eligible for VR services but were closed prior to the development of the IPE. The Administrative Team will initially gather data from FFY 2008, 2009, and 2010 via the agency’s MIS unit to look for trends in practices by VR Counseling staff to determine the factors contributing to the higher number of closures prior to the development of the IPE. Based on data analysis and identification of trends, administrative staff will direct supervisory staff in the regional offices to review relevant case files and provide a report on the rationale for these closures. Factors such as length of time in VR status, types of evaluations that were performed to determine eligibility, and types of activities that were perform to provide a comprehensive assessment of consumer that would assist in the development of a plan of service will be
included in the assessment. A final report will detail the results of the assessment and annotate action steps for reducing the numbers of cases closed in this manner. Information obtained from this process will be shared with the agency’s State Rehabilitation Council for their review and comments prior to developing a final report.

**Technical Assistance:** CBVI did not request technical assistance.

2.2 Review cases closed from TWE as too significant to benefit from VR services to ensure cases are compliant with federal regulations pursuant to 34 CFR 361.42(e).

**Agency Response to 2.2:** CBVI Administrative Team will review all cases closed from Trial Work Experiences whose closure was coded as disability too severe to benefit from VR services to ensure cases are compliant with relevant federal regulations. Cases meeting the above criterion will be identified for FFY 2008, 2009, 2010 by the agency’s MIS unit. After review of the case files by CBVI Administrative Team, a report of the findings will be generated with specific action steps for improving performance. A draft of the report will be shared with the agency’s State Rehabilitation Council for its review and comments prior to the development of the final report.

**Technical Assistance:** CBVI did not request technical assistance.

2.3 Develop strategies based on the analysis in Recommendations 2.1 and 2.2 to improve communication and the successful development of an IPE, to reduce the number of individuals exiting the VR program.

**Agency Response to 2.3:** Data obtained from activities described in responses to 2.1 and 2.2 will be used to develop proactive strategies to assist field staff to reduce the number of individuals exiting the VR program and increase the number of individuals in the VR program that develop an IPE. It is anticipated that the TACE-Region II will play a role in providing technical assistance and continuing education to staff related to utilizing various comprehensive assessment activities that will assist in the development of an IPE. In addition, revisions may have to occur to existing policies and procedures to address identified trends in service provision. A summary of data results and strategies for improvement will be reviewed by the agency’s State Rehabilitation Council for review and comment prior to the creation of a final report. The final report will be shared with the agency’s administrative and field staff, to review steps for improvement.

**Technical Assistance:** CBVI did not request technical assistance.

3. Utilization of JKRC

**Recommendation 3:** RSA recommends that CBVI:

3.1 Conduct focus groups with CBVI field staff and stakeholders to obtain input on how JKRC can be utilized to increase the number of individuals served.

**Agency Response to 3.1:** A plan to increase the number of individuals served at the JKRC has been developed and is currently in the initial stages of implementation. The plan was developed
in cooperation with the State Rehabilitation Council and was presented to field staff and CBVI stakeholders for their input and recommendations.

**Technical Assistance:** CBVI did not request technical assistance.

3.2 Use the results from Recommendation 3.1 to develop a strategic plan, aligned with CBVI’s strategic plan, to increase utilization of JKRC.

**Agency Response to 3.2:** A strategic plan has been developed to increase utilization of the JKRC. The plan includes an automatic referral of eligible VR clients to the JKRC for a one day orientation to the Center, a two week vocational assessment and evaluation, two to four weeks of job shadowing with local businesses and organizations and a revamped curriculum that continues to teach blindness skills with an added focus on employment outcomes. In cooperation with the Hadley School, online evening classes will be offered to all students at the JKRC.

**RSA response:** RSA does not recommend the practice of automatically referring eligible VR consumers to JKRC, but rather any service offered at JKRC be an option consistent with consumer choice paired with other options available in their community.

**Technical Assistance:** CBVI did not request technical assistance.

3.3 Implement a plan or strategy to promote an increased utilization of JKRC by field staff and stakeholders.

**Agency Response to 3.3:** See response to 3.2 above.

**Technical Assistance:** CBVI did not request technical assistance.

3.4 Develop a QA system to track consumer satisfaction and similar services required in the field to evaluate effectiveness of JKRC services.

**Agency Response to 3.4:** CBVI will continue to conduct exit interviews with all graduates of the JKRC program to determine consumer satisfaction with the program. The CBVI Administrative Team and designated VR staff will also conduct follow up surveys of JKRC attendees at six month and one year intervals post graduation to determine the impact of the program on employment outcomes. This data will be shared with field staff and the training unit as a component of a continuous QA process.

**Technical Assistance:** CBVI did not request technical assistance.

**4. Consolidation of and training on policies and procedures to ensure consistent interpretation and implementation.**

**Recommendation 4:** RSA recommends that CBVI:

4.1 Consider the consolidation of the policy memoranda over the last five years into one manual easily accessible by staff through hard copy or intranet and referencing the policies being
replaced by the published revision and the sections in the VR Operations Manual that address the specific topical areas.

**Agency Response to 4.1:** As a component of the implementation of the new case management system CBVI will consolidate all policy memoranda into a single intranet reference page. The policies will be linked to the appropriate section of the VR Operations manual.

**Technical Assistance:** CBVI did not request technical assistance.

4.2 Re-issue CBVI’s policy on the agency established IPE timeframe and place the policy in the IPE chapter of the policy manual.

**Agency Response to 4.2:** CBVI has reissued the policy on IPE timeframes to all VR staff. The policy will be included in the updated manual.

**Technical Assistance:** CBVI did not request technical assistance.

4.3 Develop a formal training protocol for field office supervisors to provide consistent guidance, training and interpretation of policies and procedures across field offices.

**Agency Response to 4.3:** CBVI administrative staff will resume bi-monthly meetings with VR supervisors. Each meeting agenda will have a policy review component to ensure consistency of policies and procedures across field offices.

**Technical Assistance:** CBVI did not request technical assistance.

4.4 Develop a strategy to assess staff needs for training in specific content areas and develop a training plan for and training on policies and procedures available to all staff responsible for implementation to include new counselors.

**Agency Response to 4.4:** Administrative staff, in conjunction with the CBVI training unit, will conduct biannual assessments and reviews of staff training needs in specific content areas in order to develop a training plan. Consistent implementation of policies and procedures will also be enhanced with the introduction of the new case management system.

**Technical Assistance:** CBVI did not request technical assistance.

5. QA System – Service Record Review Process

**Recommendation 5:** RSA recommends that CBVI:

5.1 Resume the QA process for the review of service records by staff not functioning as VR counselor supervisors.

**Agency Response to 5.1:** The CBVI administrative case review process not been suspended since 2008; all regional vocational rehabilitation offices were monitored by an administrative team in 2009. Preparatory, participatory, and responsive work conducted by the administrative team in connection with the RSA monitoring process precluded administrative case reviews in
2010; however, annual administrative VR case reviews will be scheduled for 2011 to examine a sample of CBVI vocational rehabilitation cases in active and closed status.

**Technical Assistance:** CBVI did not request technical assistance.

5.2 Review and refine instrumentation for conducting service record reviews.

**Agency Response to 5.2:** A revised CBVI case record review instrument, along with a new protocol for linking regional and administrative service record reviews, will be developed by an agency work group. Factors including: case process, client outcomes, client satisfaction, regional office performance, and VR Counselor assessment will be examined for inclusion within the design of a comprehensive and useful performance measurement tool and review process.

**Technical Assistance:** CBVI did not request technical assistance.

5.3 Develop mechanisms to collect and aggregate the results of the review process and provide the results to the training function to inform the design and evaluation of training.

**Agency Response to 5.3:** The CBVI work group referenced in response 5.2 will work with CBVI Quality Assurance Coordinator, Information Technology Manager, and Human Resources Training Coordinator to coordinate data from reviews and link results to inform and evaluate Vocational Rehabilitation training initiatives.

**Technical Assistance:** CBVI did not request technical assistance.

6. Development of Goals and Priorities

**Recommendation 6:** RSA recommends that CBVI:

6.1 Develop a State Plan with increased quantitative measures, defined measurement calculations, specified data sources for measures, and increased alignment between goals and measures within VR planning processes.

**Agency Response to 6.1:** Implementation of the FACTS case management system will provide CBVI administrative staff with access to more accurate and reliable data. This will provide an enhanced ability to derive baseline data and will facilitate the development of quantitative measures for the development of State Plan goals and objectives.

**Technical Assistance:** CBVI did not request technical assistance.

6.2 Provide baseline data for goals and measures and provide contextual information when reporting progress on goals and priorities in prior State Plans.

**Agency Response to 6.2:** CBVI will utilize the extensive reporting functionality of the new FACTS case management system to generate accurate baseline data for the goals and measures in the State Plan and will contextualize information, as appropriate, when reporting on the goals and priorities of prior plans.
Technical Assistance: CBVI did not request technical assistance.

6.3 Integrate recommendations from the SRC, findings from the CSNA, and feedback from field staff into the development of the goals and priorities of the State Plan.

Agency Response to 6.3: CBVI currently integrates findings from the CSNA and recommendations from the SRC into the State Plan. CBVI will solicit feedback from field staff via electronic surveys and focus groups in the development of the State Plan goals and priorities.

Technical Assistance: CBVI did not request technical assistance.

6.4 Include innovative programs developed and implemented by CBVI in the State Plan to inform stakeholders and constituents of the agency goals, priorities, vision and mission.

Agency Response to 6.4: Although CBVI has included innovative programs in prior State Plans, CBVI will emphasize innovative programs to inform stakeholders and constituents regarding the agency’s goals, priorities, vision and mission.

Technical Assistance: CBVI did not request technical assistance.

VR/SE Program Compliance Findings and Corrective Actions

1. Appropriate Uses and Application of Extended Evaluation and Trial Work Experiences

Corrective Action 1: CBVI must:

1.1 Amend its policy on the definition and provision of extended evaluation and trial work experiences at Chapter 10:95 Sections 3.3 and 3.4 consistent with 34 CFR 361.42(e) and (f).

Agency Response to 1.1: The CBVI Administrative Team will amend its administrative code in sections 3.3 and 3.4 (NJAC 10:95) to be consistent with 34 CFR 361.42(e) and (f). A draft of the proposed revisions to the administrative code will be shared with the members of the State Rehabilitation Council for their review and comments. In addition, a draft will be sent to the agency’s Representative at RSA for a review to ensure language is in compliance with the Code of Federal Regulations prior to initiating the procedures for amending the administrative code.

Technical Assistance: CBVI requested technical assistance to ensure compliance with 34 CFR 361.42(e) and (f).

1.2 develop and implement policies and procedures pertaining to the development of written plans specific to EE periods for providing VR services necessary to make a determination under 34 CFR 361.42(e)(2)(iii).

Agency Response to 1.2: The CBVI Administrative Team will develop policies and procedures that derive from the amended sections of the administrative code (NJAC 10:95 – 3.3,3.4) that relate to the development of written plans specific to extended evaluation periods for providing VR services for determining if individuals can benefit from an employment outcome. Policies and procedures will be reviewed by the Policies and Procedures sub-committee of the agency’s
State Rehabilitation Council for their review and comments to improve the documents. Based on SRC recommendations, a final policy will be created and distributed to administrative and field staff. The policy will also be posted in the agency’s VR Operations Manual.

**RSA response:** In its corrective action plan, DVRS must submit to RSA its revised policies on the definition and provision of extended evaluation and trial work experiences, as well as the written plans specific to extended evaluation periods.

**Technical Assistance:** CBVI has requested technical assistance to ensure compliance with federal regulations.

### Chapter 2: IL Services program for OIB

1. **Policies and procedures**

**Recommendation 1:** RSA recommends that CBVI:

1.1 Describe the OIB program’s purpose and eligibility criteria outlined in 34 CFR 367.1 and 34 CFR 367.5, respectively, in its policies and procedures manual.

**Agency Response to 1.1:** CBVI will place in the revised policy and procedure manual the OIB program’s purpose and eligibility criteria outlined in 34 CFR 367.1 and 34 CFR 367.5. Independent Living Services for Older Individuals Who Are Blind supports projects that—(a) Provide any of the independent living (IL) services to older individuals who are blind that are described in Sec. 367.3(b); (b) Conduct activities that will improve or expand services for these individuals; and (c) Conduct activities to help improve public understanding of the problems of these individuals. A letter will be sent to all providers advising them of updated policy and procedures that include the new language.

**Technical Assistance:** CBVI did not request technical assistance.

1.2 Develop a single, comprehensive eligibility form that addresses the four required elements of OIB eligibility.

**Agency Response to 1.2:** CBVI will develop a single comprehensive eligibility form that addresses the four required elements of OIB eligibility. This form will include: Independent living services for older individuals who are blind are identified for services if they meet the following criteria: An older individual who is blind and is age fifty-five or older and whose severe visual impairment makes competitive employment extremely difficult to obtain but for whom IL goals are feasible.

**Technical Assistance:** CBVI did not request technical assistance.

1.3 Revise the ILS staff’s job descriptions and performance evaluation criteria to reflect the OIB program’s community capacity-building and public awareness activities.

**Agency Response to 1.3:** A memo to all ILS staff will include the staff’s job description and performance evaluation criteria to reflect the OIB program.
Technical Assistance: CBVI did not request technical assistance.

1.4 Provide staff training on the revised policies and procedures manual, eligibility form, job descriptions and on-site compliance review instrument.

Agency Response to 1.4: ILS supervisors will provide staff training on the revised policies and procedures manual, eligibility form, job descriptions and on-site compliance review instrument.

Technical Assistance: CBVI did not request technical assistance.

OIB Program Compliance Findings and Corrective Actions

1. Consumer confidentiality

Corrective Action: CBVI must take corrective action to ensure that OIB service providers comply with 34 CFR 364.56 by adopting and implementing policies and procedures to safeguard the confidentiality of personal information, including photographs and lists of names.

Agency Response: CBVI will take corrective action to include the following additional language in the form of an addendum to its Business Agreement as well as a contract assurance letter to be signed by all SCILS contracts stating that they have read and will comply with the Federal regulations. This will also be included in the policies and procedures manual, SCILS contracts assurances and the on-site compliance review instrument. This addendum to the Business Agreement will include the following from Sec. 364.56 stating that each service provider will adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names.

The special requirements pertaining to the protection use and release of personal information will include the following add:

(a) General provisions. The State plan must assure that each service provider will adopt and implement policies and procedures to safeguard the confidentiality of all personal information, including photographs and lists of names. These policies and procedures must assure that—(1) Specific safeguards protect current and stored personal information; (2) All applicants for, or recipients of, IL services and, as appropriate, those individuals' legally authorized representatives, service providers, cooperating agencies, and interested persons are informed of the confidentiality of personal information and the conditions for gaining access to and releasing this information; (3) All applicants or their legally authorized representatives are informed about the service provider's need to collect personal information and the policies governing its use, including—(i) Identification of the authority under which information is collected; (ii) Explanation of the principal purposes for which the service provider intends to use or release the information; (iii) Explanation of whether providing requested information to the service provider is mandatory or voluntary and the effects to the individual of not providing requested information; (iv) Identification of those situations in which the service provider requires or does not require informed written consent of the individual or his or her legally authorized representative before information may be released; and (v) Identification of other agencies to which information is routinely released; (4) Persons who are unable to communicate in English or who rely on alternative modes of communication must be provided
an explanation of service provider policies and procedures affecting personal information through methods that can be adequately understood by them;

(5) At least the same protections are provided to individuals with significant disabilities as provided by State laws and regulations; and (6) Access to records is governed by rules established by the service provider and any fees charged for copies of records are reasonable and cover only extraordinary costs of duplication or making extensive searches. (b) Service provider use. All personal information in the possession of the service provider may be used only for the purposes directly connected with the provision of IL services and the administration of the IL program under which IL services are provided. Information containing identifiable personal information may not be shared with advisory or other bodies that do not have official responsibility for the provision of IL services or the administration of the IL program under which IL services are provided. In the provision of IL services or the administration of the IL program under which IL services are provided, the service provider may obtain personal information from other service providers and cooperating agencies under assurances that the information may not be further divulged, except as provided under paragraphs (c), (d), and (e) of this section. (c) Release to recipients of IL services. (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, if requested in writing by a recipient of IL services, the service provider shall release all information in that individual's record of services to the individual or the individual's legally authorized representative in a timely manner. (2) Medical, psychological, or other information that the service provider determines may be harmful to the individual may not be released directly to the individual, but must be provided through a qualified medical or psychological professional or the individual's legally authorized representative. (3) If personal information has been obtained from another agency or organization, it may be released only by, or under the conditions established by, the other agency or organization.

(d) Release for audit, evaluation, and research. Personal information may be released to an organization, agency, or individual engaged in audit, evaluation, or research activities only for purposes directly connected with the administration of an IL program, or for purposes that would significantly improve the quality of life for individuals with significant disabilities and only if the organization, agency, or individual assures that-- (1) The information will be used only for the purposes for which it is being provided; (2) The information will be released only to persons officially connected with the audit, evaluation, or research; (3) The information will not be released to the involved individual; (4) The information will be managed in a manner to safeguard confidentiality; and (5) The final product will not reveal any personally identifying information without the informed written consent of the involved individual or the individual's legally authorized representative. (e) Release to other programs or authorities. (1) Upon receiving the informed written consent of the individual or, if appropriate, the individual's legally authorized representative, the service provider may release personal information to another agency or organization for the latter's program purposes only to the extent the information may be released to the involved individual and only to the extent that the other agency or organization demonstrates that the information requested is necessary for the proper administration of its program. (2) Medical or psychological information may be released pursuant to paragraph (e)(1) of this section if the other agency or organization assures the service provider that the information will be used only for the purpose for which it is being provided and will not be further released to the individual. (3) The service provider shall release personal information if required by Federal laws or regulations. (4) The service provider shall release personal information in response to investigations in connection with law enforcement, fraud, or abuse, unless expressly prohibited by Federal or State laws or regulations, and in response to
judicial order. (5) The service provider also may release personal information to protect the individual or others if the individual poses a threat to his or her safety or to the safety of others.

RSA response: RSA appreciates the steps that CBVI will take to address the finding. With regard to the Business Agreement, it would be sufficient to incorporate the legal citation to and description of 34 CFR 364.56 in this document. While it is certainly acceptable to include the entire text of 34 CFR 364.56 in the Business Agreement, it is not necessary to do so.

Technical Assistance: CBVI did not request technical assistance.

Chapter 3: Fiscal Management of CBVI VR, SE and OIB Programs

1. Fiscal Planning

Recommendation 1: RSA recommends that CBVI develop and implement a multi-year financial planning process that, at a minimum, considers:

1.1 anticipated financial resources (federal and non-federal);
1.2 the utilization of available resources, documents the need for additional resources, and identifies surplus resources;
1.3 administrative (including indirect) expenses;
1.4 staff salaries, fringe benefits and overhead costs;
1.5 innovation and expansion activities;
1.6 fee for services contracts;
1.7 state plan goals and strategies; and
1.8 costs related to providing services to program participants.

Agency Response to 1.1 – 1.8: The Commission’s program and financial staff will develop and implement a multi-year financial planning process that will be used to improve the agency effectiveness, efficiency and employment outcomes for individuals with disabilities.

Technical Assistance: CBVI did not request technical assistance.

2. Purchased Service Contracts

Recommendation 2: RSA recommends that CBVI develop and implement a process of procurement for services with a fee for service or other performance based payment system. The process should include:

2.1 a schedule for updating and reviewing the RFP;
2.2 the service needs of the agency based on Comprehensive State Needs Assessment results; and
2.3 the statewide geographic distribution of services.

Agency Response to 2.1 – 2.3: The Commission in June 2010 issued an RFP for a program entitled Independent Living-Center Based Day Program for Older Individuals who are Blind and Visually Impaired. Three contracts were awarded regionally using ARRA-Older Blind funds. They run from 10/1/10 – 9/30/11.
The Commission in April 2011 will be issuing an RFP for Regional Assistive Technology Programs For Individuals Who Are Blind or Visually Impaired with a fee for service based payment system.

Before current contracts come up for renewal, the service needs of the agency based on a Comprehensive State Needs Assessment will be performed.

**Technical Assistance:** CBVI did not request technical assistance.
APPENDIX C: NJ IL RESPONSE

Part III: Responses to Observations, Recommendations, Compliance Findings or Corrective Actions and TA Needs

Chapter 1: IL program Performance Observations and Recommendations

1. SILC and CIL Expense Reimbursements

Recommendation 1: RSA recommends that DVRS:

1.1 consider alternative reimbursement arrangements and timetables, such as monthly reimbursements and routine two-month advances at the beginning of the fiscal year;
1.2 develop written reimbursement procedures outlining the responsibilities of the SILC, the CILs, LWD and DVRS., including timelines and expectations for all parties; and
1.3 provide SILC and CIL representative training regarding the state’s reimbursement procedures and responsibilities.

Agency Response: No response provided.

Technical Assistance: No technical assistance requested.

2. SILC Fiscal Agent

Recommendation 2: RSA recommends that the SILC:

2.1 reassess its current fiduciary arrangement in accordance with state law and regulations
2.2 establish fiduciary arrangement/agent selection and evaluation processes and legally-binding contractual framework, to eliminate any appearance of conflict of interest; and
2.3 review and revise the SILC bylaws accordingly.

Agency Response: No response provided.

Technical Assistance: No technical assistance requested.

3. IL Part B CIL Performance Monitoring

Recommendation 3: RSA recommends that DVRS and CBVI:

3.1 in consultation with its IL Part contractors, establish a process for reviewing and updating minimum performance targets or LOS based on an assessment of current IL needs and prior year’s results; and
3.2 establish a formal on-site review protocol to maximize contractors’ compliance and performance.
Agency Response: CBVI along with the Contract Administrator and the Quality Assurance Officer will perform yearly on site visits to the LEAD program to assess current Independent Living needs and to update performance targets and levels of service for the program.

CBVI, Contract Administrator and CBVI Quality Assurance Officer will establish a process for reviewing and updating minimum performance targets or LOS based on assessments of current IL needs and prior year’s results. CBVI, Contract Administrator and Quality Assurance officer will also establish a formal on-site-review protocol to maximize contractors’ compliance and performance of the program.

Technical Assistance: Did not request technical assistance.

IL Program Compliance Findings and Corrective Actions

1. SILC Appointments and Composition

Corrective Action: The DSUs and the SILC must take the necessary steps to ensure that:

1.1 the majority of SILC members are individuals with disabilities not employed by any State agency or center, as required by 34 CFR 364.21(b)(2)(iii);
1.2 all SILC members are appointed by the Governor, regardless of their status as ex-officio members, as required by 34 CFR364.21(b)(1); and
1.3 no SILC member serves more than two consecutive full terms, as required by 34 CFR 364.21(f)(3).

NJDLWD Response: DVRS and the State Independent Living Council (SILC) are aware of this requirement and are implementing a remediation plan that will bring us into compliance.

CBVI Response: In compliance with 34 CFR364.21 (b) (1) CBVI has submitted the necessary required information to the Governor’s Office for their appointment status of ex-officio member of the SILC.

RSA Response: RSA acknowledges DVRS and CBVI acceptance of this finding and will work collaboratively with DVRS, CBVI and the SILC on a plan to address the corrective action steps outlined in this finding.

Technical Assistance: Did not request technical assistance.

2. Service Provider Requirements

Corrective Action: DVRS and CBVI must take corrective action to ensure that their IL Part B contractors meet the IL service provider requirements in 34 CFR 364.23, 24, 30, 40, 41, 56 and 58, and 34 CFR 365.30.

LWD Response: We are in agreement and will proceed with Corrective action.

CBVI Response: CBVI will have all contracts comply with regulations 34 CFR 364.41 regarding residency, 34 CFR.30 regarding referrals and applications, 34 CFR 364.56 regarding
confidentiality or 34 CFR 364.58 regarding appeals. A contract assurance letter will be signed by all contracts stating that they have read and will comply with the Federal regulations. This will also be included in the policies and procedures manual, contracts assurances and the on-site compliance review instrument.

CBVI will develop policy and procedures to ensure that its IL part B contractors meet the service provider requirements of 34 CFR 364.23 regarding staffing, 43 CFR 364.24 regarding staff development, 34 CFR 364.40 regarding eligibility, 34 CFR 364.30 regarding Client Assistance program notification.

CBVI will conduct a formal on-site review of the contract, using a comprehensive screening instrument, to ensure the IL part B contractor is in compliance with the these IL service provider requirements. A contract assurance letter will be signed by all contracts stating that they have read and will comply with the Federal regulations. This will also be included in the policies and procedures manual, contracts assurances and the on-site compliance review instrument.

**RSA Response:** RSA acknowledges DVRS and CBVI acceptance of this finding and will work collaboratively with DVRS, CBVI and the SILC on a plan to address the corrective action steps outlined in this finding.

**Technical Assistance:** Did not request technical assistance.

**Chapter 2: Fiscal Management Compliance Findings and Corrective Actions**

1. **Internal Controls, Fiscal Management, and Monitoring of Subgrantees – IL Part B Program**

**Corrective Action 1:** DVRS must:

1.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure the validity of expenditures under the IL-B as required by 34 CFR 364.34 and 34 CFR 80.20(a)(2);

1.2 develop and implement policies/procedures to ensure that DVRS:

   a. Requires invoices submitted by all subgrantees to provide sufficient detail regarding costs to show that they are allowable, incurred during the grant period, and correspond to the items approved in the budget;
   b. implements the existing grant agreements with the IL provider, as well as any other similar grant agreements, to include guidance on allowable costs, invoicing and expenditure reporting requirements, maintenance of records to support costs charged, and separation of grant expenditures in order to properly allocate costs to existing grants and ensure compliance with the requirements of 34 CFR 364.34, 34 CFR 364.35, 34 CFR 80.20 and 80.40;
   c. develops and implements a written protocol for fiscal monitoring of subgrantees; and
   d. tracks any interest earned by its subgrantees and ensure that they remit that interest annually, as required by 34 CFR 74.23(l); and
1.3 submit the all grant attachments, including the missing sections of the subject grants’ Attachment A, Section IV and Section VII (B) to enable RSA review the handling of interest and program income.

**NJDLWD Response:** The Department is always willing to improve internal controls. We are currently reviewing the Finding and required Corrective Action. We will address these actions once the final RSA report is issued.

**RSA Response:** RSA will work collaboratively with DVRS on a plan to address the corrective action steps outlined in this finding.

**Technical Assistance:** Did not request technical assistance.

2. Fiscal Management of SILC Expenses and Payment of Allowable Costs

**Corrective Action 2:** DVRS must:

2.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will implement internal controls sufficient to ensure the validity of future expenditures under the IL-B grant to support the SILC, as required by 34 CFR 364.34 and 34 CFR 80.20(a)(2); and

2.2 develop and implement policies/procedures to ensure that DVRS:

a. ceases and desists all payments to MOCEANS for any payments, including administrative fees, that are being paid without any agreement, budget, or scope of work;

b. Provides funds to the SILC in its resource plan so that the SILC can manage its fiscal responsibilities, whether on its own or through a contract, executed by it using the appropriate procurement procedures;

c. Provides sufficient guidance to the SILC concerning its resource plan so that it can meet its administrative needs consistent with federal financial requirements; and

d. submits a spreadsheet, that covers the last five years and details the amount of funds paid to MOCEANS, including administrative fees, and the costs for which those funds were expended.

**LWD Response:** We are currently reviewing the Finding and required Corrective Action. We will address these actions once the final RSA report is issued.

**RSA Response:** RSA will work collaboratively with DVRS on a plan to address the corrective action steps outlined in this finding.

**Technical Assistance:** Did not request technical assistance.
APPENDIX D: EXPLANATIONS OF DATA TABLES

VR and SE Program Highlights

- Total funds expended on VR and SE – RSA-2 line 1.4
- Individuals whose cases were closed with employment outcomes - RSA-113 line D1
- Individuals whose cases were closed without employment outcomes - RSA-113 line D2
- Total number of individuals whose cases were closed after receiving services – RSA-113 line D1+D2
- Employment rate – RSA-113 line D1 divided by sum of RSA-113 line D1+D2, multiplied by 100
- Individuals whose cases were closed with SE outcomes – Total number of individuals whose employment status at closure (record position 161) = 7 in the RSA-911 report
- New applicants per million state population – RSA-113 line A2 divided by the result of the estimated state population divided by 1 million. The estimated state population is found on the following website: http://www.census.gov/popest/states/NST-ann-est.html
- Average cost per employment outcome – Sum of individuals’ cost of purchased services from the RSA-911 (record position 104-109) for individuals who achieved an employment outcome (record position 198 =3) divided by the total number of these individuals
- Average cost per unsuccessful employment outcome – Sum of individuals’ cost of purchased services from the RSA-911 (record position 104-109) for individuals who did not achieve an employment outcome (record position 198 = 4) divided by the total number of these individuals
- Average hourly earnings for competitive employment outcomes - Sum of individuals’ weekly earnings at closure (record position 163-166) divided by the total hours worked in a week at closure (record position 167-168) for individuals where weekly earnings at closure > 0, where the type of closure (record position 198) = 3, and where competitive employment (record position 162) = 1
- Average state hourly earnings – Using the most relevant available data from the Bureau of Labor Statistics Report (http://www.bls.gov), state average annual earnings divided by 2,080 hours
- Percent average hourly earnings for competitive employment outcomes to state average hourly earnings – Average hourly earnings for competitive employment outcomes (above) divided by the Average state hourly earnings (above) multiplied by 100
• Average hours worked per week for competitive employment outcomes - Average hours worked in a week at closure (record position 167-168) for individuals where weekly earnings at closure (record position 163-166) > 0 and where the type of closure (record position 198) = 3 and competitive employment (record position 162) = 1

• Percent of transition-age served to total served – Total number of individuals whose age at application is 14-24 and whose type of closure (record position 198) is 3 or 4 divided by all individuals of any age whose type of closure (record position 198) is 3 or 4

• Employment rate for transition population served – Total number of individuals whose age at application is 14-24 and whose type of closure (record position 198) is 3 or 4 divided by the number of individuals whose age at application is 14-24 and whose type of closure (record position 198) is 3 or 4 multiplied, the result of which is multiplied by 100

• Average time between application and closure (in months) for individuals with competitive employment outcomes - Average of individuals date of closure (record position 201-208) minus date of application (record position 15-22) in months where type of closure (record position 198) = 3 and competitive employment (record position 162) = 1

• Standard 1 – To achieve successful performance on Evaluation Standard 1 the DSU must meet or exceed the performance levels established for four of the six performance indicators in the evaluation standard, including meeting or exceeding the performance levels for two of the three primary indicators (Performance Indicators 1.3, 1.4, and 1.5).

• Standard 2 – To achieve successful performance on Evaluation Standard 2, the DSU must meet or exceed the performance level established for Performance Indicator 2.1 (.80) or if a DSU’s performance does not meet or exceed the performance level required for Performance Indicator 2.1, or if fewer than 100 individuals from a minority population have exited the VR program during the reporting period, the DSU must describe the policies it has adopted or will adopt and the steps it has taken or will take to ensure that individuals with disabilities from minority backgrounds have equal access to VR services.

IL Program Highlights (From RSA 704 report)

• Title VII, Chapter 1, part B Funds – Subpart I, Administrative Data, Section A, Item 1(A)

• Total Resources (including part B funds) – Subpart I, Administrative Data, Section A, Item 4

• Total Served - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section A(3)

• Total Consumer Service Records Closed - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section B(6)

• Cases Closed - Completed All Goals - Subpart II, Number and Types of Individuals with Significant Disabilities Receiving Services, Section B(4)
• Total Goals Set - Subpart III, Section B, Item 1, sum of (A) + (B) + (C) + (D) + (E) + (F) + (G) + (H) + (I) + (J) + (K) + (L)

• Total Goals Met - Subpart III, Section B, Item 1, sum of (A) + (B) + (C) + (D) + (E) + (F) + (G) + (H) + (I) + (J) + (K) + (L)

• Total individuals accessing previously unavailable transportation, health care, and assistive technology - Subpart III, Section B, Item 2, sum of (A) + (B) + (C)

• Total FTEs - Subpart I, Section F, sum of Item 2 for the column

• Total FTEs with Disabilities - Subpart I, Section F, sum of Item 2 for the column

OIB Program Highlights (From RSA 7-OB Form)

• Title VII, Chapter 2, Expenditures - part I-Sources and Amounts of Funding, (A)(1)

• Total Expenditures (including Chapter 2) - part I-Sources and Amounts of Funding, (A)(6)

• Total Served Older Individuals who are Blind - part III-Data on Individuals Served During This Fiscal Year, (B)-Gender, sum of (1) + (2)

• Total FTEs - part II-Staffing, sum of (1) + (2) + (3) + (4) for the column

• Total FTEs with Disabilities - part II-Staffing, sum of (1) + (2) + (3) + (4) for the column
APPENDIX E: EXPLANATIONS APPLICABLE TO FISCAL PROFILE TABLES

Grant Amount:

The amounts shown represent the final award for each fiscal year, and reflect any adjustments for MOE penalties, reductions for grant funds voluntarily relinquished through the reallocation process, or additional grant funds received through the reallocation process.

Match (Non-Federal Expenditures):

The non-federal share of expenditures in the Basic Support Program, other than for the construction of a facility related to a community rehabilitation program, was established in the 1992 amendments to the Act at 21.3 percent. As such, a minimum of 21.3 percent of the total allowable program costs charged to each year’s grant must come from non-federal expenditures from allowable sources as defined in program and administrative regulations governing the VR Program. (34 CFR 361.60(a) and (b); 34 CFR 80.24)

In reviewing compliance with this requirement, RStA examined the appropriateness of the sources of funds used as match in the VR program, the amount of funds used as match from appropriate sources, and the projected amount of state appropriated funds available for match in each federal fiscal year. RSA also reviewed the accuracy of expenditure information previously reported in financial and program reports submitted to RSA.

Carryover:

Federal funds appropriated for a FY remain available for obligation in the succeeding fiscal year only to the extent that the VR agency met the matching requirement for those federal funds by September 30 of the year of appropriation (34 CFR 361.64(b)). Either expending or obligating the non-federal share of program expenditures by this deadline may meet this carryover requirement.

In reviewing compliance with the carryover requirement, RSA examined documentation supporting expenditure and unliquidated obligation information previously reported to RSA to substantiate the extent to which the state was entitled to use any federal funds remaining at the end of the FY for which the funds were appropriated.

Program Income:

Program income means gross income received by the state that is directly generated by an activity supported under a federal grant program. Sources of state VR program income include, but are not limited to, payments from the SSA for rehabilitating Social Security beneficiaries, payments received from workers’ compensation funds, fees for services to defray part or all of the costs of services provided to particular individuals, and income generated by a state-operated community rehabilitation program. Program income earned (received) in one FY can be carried
over and obligated in the following FY regardless of whether the agency carries over federal grant funds. Grantees may also transfer program income received from the SSA for rehabilitating SSA beneficiaries to other formula programs funded under the Act to expand services under these programs.

In reviewing program income, RSA analyzed the total amount (as compared to the total percentage of income earned by all VR agencies and comparable/like VR agencies), sources and use of generated income.

**Maintenance of Effort (MOE):**

The 1992 amendments revised the requirements in section 111(a)(2)(B)(ii) of the Act with respect to maintenance of effort provisions. Effective federal FY 1993 and each federal FY thereafter, the maintenance of effort level is based on state expenditures under the title I State Plan from non-federal sources for the federal FY two years earlier. States must meet this prior year expenditure level to avoid monetary sanctions outlined in 34 CFR 361.62(a)(1). The match and maintenance of effort requirements are two separate requirements. Each must be met by the state.

In reviewing compliance with this requirement, RSA examined documentation supporting fiscal year-end and final non-federal expenditures previously reported for each grant year.

**Administrative Costs:**

Administrative costs means expenditures incurred in the performance of administrative functions including expenses related to program planning, development, monitoring and evaluation. Details related to expenditures that should be classified as administrative costs are found in VR Program regulations at 34 CFR 361.5(b)(2).