

**FISCAL YEAR 2012  
MONITORING REPORT  
ON THE  
ALABAMA DEPARTMENT OF  
REHABILITATION SERVICES  
VOCATIONAL REHABILITATION  
PROGRAM**



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

**MAY 24, 2012**

# TABLE OF CONTENTS

	<b>Page</b>
Section 1: Executive Summary .....	2
Section 2: Performance Analysis.....	5
Section 3: Emerging Practices .....	11
Section 4: Results of Prior Monitoring Activities .....	13
Section 5: Focus Areas .....	17
A. Organizational Structure Requirements of the Designated State Agency and Designated State Unit.....	17
B. Transition Services and Employment Outcomes for Youth with Disabilities .....	18
C. Fiscal Integrity of the Vocational Rehabilitation Program .....	25
Section 6: Compliance Findings and Corrective Actions .....	26
Appendix A: Alabama Department of Rehabilitation Services Response.....	38
Appendix B: Legal Requirements .....	43

# SECTION 1: EXECUTIVE SUMMARY

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## Background

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

Through its monitoring of the VR and SE programs administered by the Alabama Department of Rehabilitation Services (ADRS) in federal fiscal year (FY) 2012, RSA:

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

The nature and scope of this review and the process by which RSA carried out its monitoring activities, including the conduct of an on-site visit from January 23-27, 2012, is described in detail in the [FY 2012 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program](#).

## Emerging Practices

Through the course of its review, RSA collaborated with ADRS, the State Rehabilitation Council (SRC), the Southeast Region 4 Technical Assistance and Continuing Education Center (Southeast TACE), and other stakeholders to identify the emerging practices below implemented by the agency to improve the performance and administration of the VR program.

- **Program Evaluation and Quality Assurance Practices:** In 2010, ADRS implemented a vision to place greater emphasis upon the measurement of quality and the lasting impact of VR services. Utilizing the foundation of data recorded by counselors within the ADRS case management system, and building upon investments in a business intelligence (BI) model, an entirely new set of resources was introduced to support the achievement of agency goals.

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

## **Summary of Observations**

RSA's review of ADRS resulted in the observations related to the focus areas identified below. The entire observations and the recommendations made by RSA that the agency can undertake to improve its performance are contained in Section 5 of this report.

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

- Approximately 30 percent fewer ADRS transition-age youth achieved SE outcomes in FY 2010 than in FY 2006, and the SE outcome rate for transition-age youth was less than half of the combined agency average throughout the period under review.
- ADRS experienced a downward trend in the array of services provided to transition-age youth and in the number of individuals who received those services. In addition, ADRS served significantly fewer transition-age youth with the most significant disabilities than the average for all combined agencies during the performance period.

## **Summary of Compliance Findings**

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

- ADRS is not in compliance with the requirements for third-party cooperative arrangements (TPCA) with respect to its 67 agreements to provide services to transition-age youth and thus, the expenditure of VR funds associated with these arrangements as well as the non-federal expenditures used as match are unallowable.
- ADRS is not in compliance with the requirements for the use of set-aside funds under the Randolph-Sheppard Vending Facility program as match for the VR program because it used expenditures as match that were allowable under the Randolph-Sheppard program but not allowable for purposes of match under the VR program.
- ADRS expended VR funds for the provision of services through a contract with the Alabama Institute for Deaf and Blind, E.H. Gentry Technical Facility (AIDB), that are either not allowable and/or allocable to the VR program to the degree that such expenditures are not sufficiently traceable through appropriate supporting documentation to the provision of VR services to applicants, individuals determined eligible for VR services, or an authorized group; and the non-federal share provided by AIDB to ADRS

associated with these non-allowable and/or allocable expenditures is not a permissible source of match.

- ADRS lacks sufficient fiscal and internal controls with respect the use of its “revolving fund” and contract arrangements to ensure that VR funds are used properly and efficiently and expended only for allowable VR expenditures in accordance with federal regulations.

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

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

## **Review Team Participants**

Members of the RSA review team included David Steele and Tarsha Johnson (Fiscal Unit); Ed West, Zera Hoosier and Sandy DeRobertis (Vocational Rehabilitation Unit); Joe Doney (Technical Assistance Unit); Joan Ward (Data Collection and Analysis Unit); and Pamela Hodge (Independent Living Unit). Although not all team members participated in the on-site visit, each contributed to the gathering and analysis of information, along with the development of this report.

## **Acknowledgements**

RSA wishes to express appreciation to the representatives of ADRS for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the SRC, the Client Assistance Program and advocates, and other stakeholders in the monitoring process.

## SECTION 2: PERFORMANCE ANALYSIS

This analysis is based on a review of the programmatic and fiscal data contained in Tables 2.1 and 2.2 below and is intended to serve as a broad overview of the VR program administered by ADRS. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measures performance based on individuals who exited the VR program during federal fiscal years 2006 through 2010. Consequently, the table and accompanying analysis do not provide information derived from ADRS open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. Preliminary FY 2011 RSA-911 data for Alabama was available at the time of this review and thus is reflected in the table below. ADRS may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified in the analysis.

### Performance Analysis

#### VR Program Analysis

**Table 2.1**  
**ADRS Program Performance Data for Federal FY 2006 through FY 2010**  
**(Including Preliminary FY 2011 Data)**

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010	Federal FY 2011 Preliminary Data
TOTAL CASES CLOSED	Number	14,723	13,698	13,229	11,079	23,967	9,244	281,286	10,547
	Percent	100%	100%	100%	100%	100%	62.80%	100%	100%
Exited as an applicant	Number	1,875	1,481	1,543	1,520	2,018	143	47,487	1,685
	Percent	12.7%	10.8%	11.7%	13.7%	8.4%	7.6%	16.9%	16.0%
Exited during or after trial work experience/extended evaluation	Number	5	5	2	4	8	3	1,708	3
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%	60.0%	0.6%	0.0%
TOTAL NOT DETERMINED ELIGIBLE	Number	1,880	1,486	1,545	1,524	2,026	146	49,195	1,688
	Percent	12.8%	10.8%	11.7%	13.8%	8.5%	7.8%	17.5%	16.0%
Exited without employment after IPE, before services	Number	0	0	0	0	0	0	5,824	0
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		2.1%	0.0%
Exited from order of selection waiting list	Number	0	0	0	0	0	0	1,390	0
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		0.5%	0.0%
Exited without employment after eligibility, before IPE	Number	1,203	926	1,373	1,190	2,284	1,081	68,696	1,098
	Percent	8.2%	6.8%	10.4%	10.7%	9.5%	89.9%	24.4%	10.4%
TOTAL EXITED	Number	1,203	926	1,373	1,190	2,284	1,081	75,910	1,098

All Individual Cases Closed	Number, Percent, or Average	2006	2007	2008	2009	2010	Change from 2006 to 2010	Agency Type 2010	Federal FY 2011 Preliminary Data
AFTER ELIBIBILITY, BUT PRIOR TO RECEIVING SERVICES	Percent	8.2%	6.8%	10.4%	10.7%	9.5%	89.9%	27.0%	10.4%
Exited with employment	Number	7,792	7,802	7,554	5,969	5,067	-2,725	78,860	4,547
	Percent	52.9%	57.0%	57.1%	53.9%	21.1%	-35.0%	28.0%	43.1%
Exited without employment	Number	3,848	3,484	2,757	2,396	14,590	10,742	77,321	3,214
	Percent	26.1%	25.4%	20.8%	21.6%	60.9%	279.2%	27.5%	30.5%
TOTAL RECEIVED SERVICES	Number	11,640	11,286	10,311	8,365	19,657	8,017	156,181	7,762
	Percent	79.1%	82.4%	77.9%	75.5%	82.0%	68.9%	55.5%	73.6%
EMPLOYMENT RATE	Percent	66.94%	69.13%	73.26%	71.36%	25.78%	-61.49%	50.49%	58.58%
Transition age youth	Number	6,898	6,292	6,408	5,145	11,504	4,606	100,116	5,147
	Percent	46.9%	45.9%	48.4%	46.4%	48.0%	66.8%	35.6%	48.8%
Transition aged youth employment outcomes	Number	4,016	3,889	3,866	3,007	2,504	-1,512	27,745	2,249
	Percent	51.5%	49.8%	51.2%	50.4%	49.4%	-37.6%	35.2%	49.5%
Competitive employment outcomes	Number	7,655	7,731	7,433	5,874	4,962	-2,693	73,995	4,469
	Percent	98.2%	99.1%	98.4%	98.4%	97.9%	-35.2%	93.8%	98.3%
Supported employment outcomes	Number	382	333	270	266	263	-119	7,004	287
	Percent	4.9%	4.3%	3.6%	4.5%	5.2%	-31.2%	8.9%	6.3%
Average hourly wage for competitive employment outcomes	Average	\$8.43	\$8.78	\$9.21	\$9.43	\$9.79	\$1.35	\$11.33	\$9.71
Average hours worked for competitive employment outcomes	Average	34.3	34	33.9	33	32.6	-1.7	31.4	32.9
Competitive employment outcomes at 35 or more hours per week	Number	4,877	4,850	4,602	3,328	2,726	-2,151	38,784	2,502
	Percent	62.6%	62.2%	60.9%	55.8%	53.8%	-44.1%	49.2%	55.0%
Employment outcomes meeting SGA	Number	5,147	5,019	4,847	3,685	3,149	-1,998	48,900	2,883
	Percent	66.1%	64.3%	64.2%	61.7%	62.1%	-38.8%	62.0%	63.4%
Employment outcomes with employer-provided medical insurance	Number	1,714	1,692	1,549	1,147	938	-776	18,791	646
	Percent	22.0%	21.7%	20.5%	19.2%	18.5%	-45.3%	23.8%	14.2%

- During the first three years of the performance period, the number of individuals whose cases were closed by ADRS decreased gradually from 14,723 in FY 2006 to 13,229 in FY 2008; whereas, in FY 2009 there was a more significant decrease to 11,079, and in FY 2010, a dramatic decrease to 23,967.

- In FY 2010, 48 percent of the individuals whose cases were closed were between the ages of 14 and 24 at application compared to the 35.6 percent for all combined agencies.
- From FY 2006 to FY 2008, the number of individuals who exited the program with employment showed little change; whereas, the number decreased dramatically in FY 2009 and FY 2010 with an overall five-year reduction of 2,725 or 35 percent.
- From FY 2006 to FY 2009, the number of individuals who exited without employment showed an overall four-year numerical decline from 3,848 to 2,396. However, in FY 2010, 14,590 individuals exited without employment. The overall five-year change for ADRS was 10,742, or a 279 percent increase, and in FY 2010, the percentage of individuals who exited ADRS without employment was 61 percent, or twice that of the combined agency average of 27.5 percent.
- The total number of individuals who exited the program after receiving services declined slightly from 11,640 in FY 2006 to 10,311 in FY 2008 while the employment rate rose from 66.94 percent to 73.26 percent. In FY 2009, the number dropped from 10,311 to 8,365 while the employment rate was at 71.36 percent. In FY 2010, the total number of individuals who exited the program after receiving services increased dramatically from 8,365 to 19,657 with 14,590 closed without employment. The corresponding employment rate declined to 25.78 percent compared to the average of 50.49 percent for all combined agencies.
- The percentage of SE outcomes remained relatively the same from 4.9 percent in FY 2006 to 5.2 percent in FY 2010, but the number of individuals closed in SE decreased by 31.2 percent from 382 in FY 2006 to 263 in FY 2010.
- The average hourly wage for competitive employment outcomes showed a five-year upward trend with an overall change of \$1.35 rising to \$9.79. However, the wage was below the agency type average of \$11.33. Additionally, the average hourly wage for competitive employment outcomes has been consistently almost half of Alabama's average hourly wage resulting in the agency's failure to pass indicator 1.5 since FY 2003.
- The average hours worked by individuals achieving competitive outcomes revealed a five-year decline from 34.3 hours to 32.6 hours but remained above the average of 31.4 for all combined agencies.
- The number of competitive employment outcomes dropped by 35 percent between FY 2006 and FY 2010. Similarly, the number of individuals with competitive employment outcomes working 35 or more hours per week at closure dropped by 44.1 percent between FY 2006 and FY 2010. Nevertheless, at 53.8 percent in FY 2010, the rate was above the combined agency average of 49.2 percent.
- The number of individuals achieving employment outcomes that met the level of substantial gainful activity as defined by the Social Security Administration dropped by 39 percent between FY 2006 and FY 2010, but at 62.1 percent, was slightly above the combined agency average of 62 percent.
- The number of individuals achieving employment outcomes having employer-provided medical insurance dropped by 45 percent between FY 2006 and FY 2010 to 18.5 percent and was below the combined agency average of 23.8 percent.

ADRS management informed RSA that in FY 2009 the ADRS commissioner embarked on a paradigm shift that emphasizes the quality of services provided by ADRS while de-emphasizing the number of individuals served and the maintenance of the agency's employment rate in excess of 70 percent. In the previous RSA monitoring review in FY 2007, ADRS indicated that caseload sizes were too high and counselor performance expectations for successful outcomes were too great, and, therefore, the agency agreed to reduce caseloads. These factors, in part, impacted counselors' time spent working with individuals with the most significant disabilities. In FY 2010, ADRS closed 14,590 individuals with unsuccessful employment outcomes. ADRS described a systematic process of purging caseloads by closing inactive cases after making multiple attempts to contact these consumers using multiple outreach methods (see Section 4: Follow Up).

The process of purging cases may have resulted in some of the downturn in data reported in FY 2010. In addition, at the time of the onsite, it was too early to determine the overall impact of the paradigm shift on agency performance. However, ADRS should exercise caution and monitor its performance data to determine other factors that may be contributing to decreased performance. ADRS data submitted for FY 2011 shows an increase in the employment rate from 25.78 percent in FY 2010 to 58.58 percent in FY 2011. However, there have been corresponding decreases in both average hourly wage from \$9.79 in FY 2010 to \$9.71 in FY 2011 and employment outcomes with employer-provided medical coverage from 18.5 percent in FY 2010 to 14.2 percent in FY 2011.

## Fiscal Analysis

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

<b>VR Fiscal Profile</b>	<b>Quarter</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Grant amount per MIS	4 <sup>th</sup>	57,890,480	57,286,047	61,049,994	59,746,023	59,101,952
	Latest/ Final*	57,890,480	57,286,047	61,049,994	59,746,023	
Total outlays	4 <sup>th</sup>	67,989,395	63,129,745	54,509,270	43,151,215	36,293,942
	Latest/ Final*	74,131,881	72,915,403	77,698,055	76,041,166	
Total unliquidated obligations	4 <sup>th</sup>	7,036,098	7,881,505	8,044,196	7,485,839	9,575,273
	Latest/ Final*	0	0	0	0	
Federal Share of Total Outlays	4 <sup>th</sup>	52,196,451	47,500,389	37,861,209	26,856,072	21,774,367
	Latest/ Final*	57,890,480	57,286,047	61,049,994	59,746,023	
Federal share of unliquidated obligations	4 <sup>th</sup>	5,694,028	7,881,505	8,044,196	7,485,839	8,189,886
	Latest/ Final*	0	0	0	0	
Total federal share	4 <sup>th</sup>	57,890,479	55,381,894	45,905,405	34,341,911	29,964,253
	Latest/ Final*	57,890,480	57,286,047	61,049,994	59,746,023	
Recipient funds	4 <sup>th</sup>	15,792,944	15,629,356	16,648,061	16,295,143	14,519,575
	Latest/ Final*	16,241,401	15,629,356	16,648,061	16,295,143	
Recipient share of unliquidated obligations	4 <sup>th</sup>	1,342,070	0	0	0	1,385,387
	Latest/ Final*	0	0	0	0	
Agency actual match (total recipient share)	4 <sup>th</sup>	17,135,014	15,629,356	16,648,061	16,295,143	14,519,575
	Latest/ Final*	16,241,401	15,629,356	16,648,061	16,295,143	
Agency required match	4 <sup>th</sup>	14,126,867	12,855,887	10,247,062	7,561,770	5,895,094
	Latest/ Final*	15,667,944	15,504,356	16,523,061	16,170,143	
Over/under match	4 <sup>th</sup>	3,008,147	2,773,469	6,400,999	8,733,373	8,624,481
	Latest/ Final*	-573,457	-125,000	-125,000	-125,000	
MOE **	4 <sup>th</sup>					
	Latest/ Final*			16,648,061	16,295,143	
Unobligated funds qualifying for carryover	4 <sup>th</sup>	1	1,904,153	15,144,589	25,404,112	29,137,699
	Latest/ Final*	0	0	0	0	
Total program income realized	4 <sup>th</sup>	993,499	1,627,354	2,061,632	1,636,740	888,279
	Latest/ Final*	993,499	1,627,354	2,061,632	0	
Total indirect costs	4 <sup>th</sup>	3,404,371	2,819,364	2,385,413	2,150,147	2,136,327
	Latest/ Final*	3,778,633	3,136,939	2,990,026	4,973,320	

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

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

RSA reviewed fiscal performance data from federal FY 2007 through federal FY 2011. RSA was not able to include FY 2011 fourth quarter data because at the time of this report, the FY 2011 fourth quarter SF-425 report was still in a partially saved, not completed, status.

Based on the data in the table above, the agency matched its grant award in each fiscal year reviewed and was able to carry over unexpended federal funds in FYs 2008 - 2010 for an additional federal fiscal year. The agency receives more than half of its match directly from state appropriations, with the remainder of the match primarily from third-party cooperative arrangements.

The agency's carryover increased substantially from \$1,904,153 in FY 2008 to \$25,404,112 in FY 2010. The increase in carryover funds was due primarily to the awarding of VR funds under the American Reinvestment and Recovery Act of 2009. According to the data, the agency met its maintenance of effort requirements. The U.S. Department of Education is the cognizant agency and approved the indirect cost rate.

## SECTION 3: EMERGING PRACTICES

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

- strategic planning;
- program evaluation and quality assurance practices;
- financial management;
- human resource development;
- transition;
- the partnership between the VR agency and SRC;
- the improvement of employment outcomes, including supported employment and self-employment;
- VR agency organizational structure; and
- outreach to unserved and underserved individuals.

RSA considers emerging practices to be operational activities or initiatives that contribute to successful outcomes or enhance VR agency performance capabilities. Emerging practices are those that have been successfully implemented and demonstrate the potential for replication by other VR agencies. Typically, emerging practices have not been evaluated as rigorously as "promising," "effective," "evidence-based," or "best" practices, but still offer ideas that work in specific situations.

As a result of its monitoring activities, RSA identified the emerging practice below.

### **Program Evaluation and Quality Assurance – Business Intelligence Model**

In 2010, ADRS implemented a vision of placing greater emphasis on quality and long-term impact of ADRS services. To fully achieve this vision, ADRS made a commitment to develop tools and resources to support data-driven decision making, performance evaluation, and proactive management. Utilizing the foundation of data recorded by counselors within the ADRS case management system and building on recent ADRS investments in Business Intelligence (BI), an entirely new set of resources was introduced to support the achievement of agency goals. Business Intelligence is a set of methodologies, processes, architectures, and technologies that transform raw data into meaningful and useful information used to enable more effective strategic, tactical, and operational insights and decision-making. Included in BI are technologies such as data integration, data quality, data warehousing, master data management, text and content analytics.

Microsoft SharePoint 2010 is used to provide the communication “medium” (via secure intranet pages) as well as the “message” of shared performance management (via BI tools such as PerformancePoint). Since early FY 2012, all VR professional staff have been provided access to a first generation BI dashboard website. To maximize staff input and participation, the site communicates and shares departmental performance data among staff in a user friendly manner.

The open style of communication within the site reflects a deliberate decision made in favor of transparency, whereby counselors, supervisors and administrators have access to a level playing field of information, from the highest level of the organization down to each individual caseload in one single dashboard. For example, the dashboard enables counselors to view their own caseloads and compare relative performance to any other caseload in the state. Multiple indicators of performance to a given standard span far beyond mere production measures. New measures of service delivery, quality and lasting impact are added on an ongoing basis. Positive impacts have already been realized from counselors being more aware of their individual contributions toward agency objectives through administrators being more in touch with the everyday practice of casework. Business Intelligence has provided a continuous and instantaneous source of feedback that reflects a shared progress toward a planned destination and provides a proactive approach to delivering vocational rehabilitation services.

A complete description of the practice described above can be found on the [RSA website](#).

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

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During its review of the VR and SE programs in federal FY 2012, RSA assessed progress toward the implementation of recommendations accepted by ADRS resulting from the prior monitoring review in FY 2007 and the resolution of compliance findings from that review. Appendix A of this report indicates whether or not the agency has requested additional technical assistance to enable it to implement any outstanding prior accepted recommendations and to resolve outstanding compliance findings.

### **Recommendations**

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

#### **1. Stabilize overall agency performance expectations and reduce counselor caseload size.**

- 1.1. Study the current counselor staffing structure with respect to caseload size, employment outcome expectations, and the effects of type of caseload assignment and location of assignment on workload.
- 1.2. Review the current agency staffing pattern to determine if the current staff allocations are still appropriate, and if not appropriate, identify resources that could be redirected to the field program.
- 1.3. Hire additional counselors through SMART BUDGET appropriations requests (2 vocational rehabilitation counselor (VRC) positions were requested and approved in the FY 2008 budget, and 10 will be requested in the FY 2009 budget request).

**Status:** This goal has been completed. Under the new administrator, the agency has reduced caseload size and performance outcome expectations. ADRS has developed internal tracking mechanisms to monitor these indicators through the BI dashboard.

#### **2. Increase the rehabilitation rate from 70 percent to 74.5 percent by FY 2010.**

- 2.1. Review status 28 closures to identify reasons for unsuccessful outcomes, and continue to review these cases as part of QA activities.
- 2.2. Consider requiring one or more process requirements such as supervisory review of 28 cases prior to closure, requiring multiple contact numbers at application to provide more points of contact if the individual cannot be located at the primary address, or establishing minimum requirements for regular personal contact. The particular type of process requirement should be determined by the status 28-closure review discussed above.
- 2.3. Identify population needs of groups more likely to be unsuccessful in achieving an employment outcome and provide staff training and/or services to address needs. Possible examples might be to develop training and services for emerging disability populations such as autism, culturally relevant approaches to the growing Hispanic population, and development of a focus on serving older workers who do not wish to retire but are aging into disability.

- 2.4. Reduce caseload size using approach outlined under the goal of reduction of caseload size and performance expectations.
- 2.5. To develop measurable intermediate steps related to the particular strategies outlined above, develop by March 31, 2008, a plan for implementing these strategies that should include a description of the main reasons found for unsuccessful employment outcomes; any process requirements that will be implemented and the timeframes and measurable results expected from the implementation of the requirement; and, identification of particular groups of individuals for which staff training or customized services are needed to improve outcomes, including the timelines for implementation and outcome improvement expectations for the activities. These measurable objectives should be included in the ADRS FY 2009 state plan submission.

**Status:** The agency's goal of achieving a 74.5 percent employment rate in FY 2010 was not completed, and its stated FY 2012 goal of achieving a 70 percent employment rate at the start of this review has been reconsidered. The rehabilitation rate had remained stable for FY 2007 and FY 2008, dropping somewhat in FY 2009 and severely dropping in FY 2010 to 25.78 percent after the agency closed cases of 14,450 individuals with disabilities as unsuccessful. ADRS described a systematic process of purging caseloads by closing inactive cases through a process that involved making multiple attempts to contact consumers using multiple outreach methods. Individuals' case records were reviewed by supervisors to assure the process was followed. Searches were conducted through the Unemployment Insurance database to ascertain whether earnings had been recorded and the individual with an inactive case had indeed gone on to employment. Otherwise, consumers' cases were closed as unsuccessful. Although preliminary data for FY 2011 showed an increase in the employment rate to 58.58 percent, ADRS has undergone a philosophical shift, focusing on quality instead of quantity in its service delivery with an emphasis on individuals with the most significant disabilities. As a result, ADRS management has modified its approach, placing qualitative improvement goals ahead of quantitative goals.

### **3. Further develop the overall SE system in Alabama to provide the foundation for increasing the number of individuals who appropriately achieve SE outcomes.**

- 3.1. Resolve data discrepancies and consistently count and report SE outcomes.
- 3.2. Meet with senior management of the state developmental disability and mental health agencies for the purpose of discussing the current employment programs of these agencies and to determine how these agencies use supported employment with their populations, including identification of barriers to supported employment for their populations.
- 3.3. Meet with the state Medicaid agency to make inquiries about and/or advocate for the extension of the Medicaid waiver to groups other than those with mental retardation that would be likely to benefit from supported employment services.

**Status:** This goal was not completed. ADRS's performance showed an overall decrease in SE outcomes during the five-year review period. The decreased performance in SE may be attributable, in part, to the agency's focus on serving individuals with significant disabilities and those who were not significantly disabled in order to achieve quantitative objectives rather than serving individuals with the most significant disabilities with a focus on qualitative goals.

Furthermore, ADRS reported that there are 38 vendors providing SE services; however, there is a lack of funding for SE long term supports. ADRS's philosophical change to a focus on quality rather than quantity has led to recent progress on SE strategies. New strategies and opportunities described below may support SE program development include.

- Alabama was not a participant in the Department of Health and Human Services Money Follows the Person Planning Grants during the initial offering round but ADRS has expressed intent of partnering with other state agencies in the next application cycle.
- The Alabama Department of Mental Health, Developmental Disabilities Division will discontinue supporting funding of sheltered placements effective October, 2012.
- The Medicaid waiver program is currently being expanded to include additional vocational services.
- ADRS has engaged in talks with Dartmouth to expand the evidenced-based model for SE to Alabama.
- ADRS has informally implemented a new procedure for transition-age youth with a SE goal that allows CRP job coaches to come into the schools potentially allowing for a seamless transition process to SE at the conclusion of the school year.

#### **4. Increase the strategic use of data.**

In order to increase agency effectiveness in presenting data to external and internal audiences, ADRS may wish to consider the following:

- Identify key stakeholders and the types of information and the presentation format they need.
- Create standardized data reporting tools and formats across ADRS programs so that:
  - reporting formats are consistent across agency activities; and
  - reporting formats are appropriate to the specific purpose being addressed.
- Use standardized agency measures for tracking agency progress and program progress.
- Develop evaluation strategies and models using program outcome data to compare ADRS [VR] programs' results over time and with other ADRS programs.

4.1. Create a standard template for reporting to state government offices.

4.2. Develop report templates, including graphics, for ADRS program reporting.

4.3. Develop report templates, including graphics, for ADRS agency level reporting.

4.4. Develop a multi-year plan for staff development for providing ADRS staff with skills and tools for analyzing and graphically presenting data to aid decision-making and to guide program improvement decisions.

**Status:** This goal was completed. A BI dashboard was developed based on a Microsoft SharePoint platform to monitor the performance of the agency, including qualitative and quantitative indicators for counselors, CRPs and finances. It was deployed to field staff in November, 2011, and initially based upon production data collections. Future modules will include leadership, SE, quality assurance and planning. ADRS received outside grant approval for further development and staff training during the onsite review (see Section 3: Emerging Practices).

## **Technical Assistance**

During the course of FY 2012 monitoring activities, RSA provided technical assistance to enable ADRS to implement accepted recommendations and resolve compliance findings identified through the FY 2007 review.

RSA provided TA to ADRS on strategies to maintain caseload size stability including use of monitoring triggers and reassignment of cases to maintain parity within and across offices.

RSA provided TA to ADRS supporting the philosophical shift from quantity to quality, pointing out the service delivery adjustments to serve individuals with the most significant disabilities; identification of quality measures; and expanded use of the BI dashboard to expand upon qualitative indicators.

## **SECTION 5: FOCUS AREAS**

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

The purpose of this focus area was to assess the compliance of ADRS with the federal requirements related to its organization within Alabama government and the ability of the ADRS to perform its non-delegable functions, including the determination of eligibility, the provision of VR services, the development of VR service policies, and the expenditure of funds. Specifically, RSA engaged in a review of:

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

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

- ADRS directors and senior managers;
- ADRS staff members responsible for the fiscal management of the VR program;
- SRC Chairpersons and members;
- Members of the Alabama Board of Rehabilitation Services;
- Client Assistance Program staff members; and
- TACE center representatives.

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

- diagrams and supporting documentation illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- diagrams and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- the number of full-time employees (FTEs) in each program, identifying the specific programs on which they work and the individuals to whom they report, specifically including:
  - individuals who spend 100 percent of their time working on the rehabilitation work of ADRS;

- individuals who work on rehabilitation work of the ADRS and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals under ADRS that do not work on VR or other rehabilitation within the DSU.
- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing Alabama’s procurement requirements and processes.

## **Overview**

The ADRS is the designated state agency and an independent department within the Alabama state government. Prior to 1995, ADRS was the Division of Rehabilitation Services within the state's Department of Education. The state legislature voted to create ADRS in May 1994 and officially commenced operations in January 1995.

The Board of Rehabilitation Services oversees ADRS. The board consists of seven members who represent each of Alabama's congressional districts and serve seven-year terms. Three members must have a disability and one member must have a child with a disability. The governor appoints members, but the board elects a chair and vice-chair from its membership. The ADRS commissioner is the board-appointed state director and is responsible for the supervision, management, maintenance, and improvement of the department.

ADRS operates four primary programs that serve different age groups: Early Intervention, Children's Rehabilitation Service, Vocational Rehabilitation Service, and Independent Living/Homebound Services. The Vocational Rehabilitation Service is the largest ADRS program with 442 employees, 416 of whom spend 100 percent of their time in the VR program. ADRS operates 21 statewide offices that provide vocational assessments, counseling, job training, assistive technology, orientation and mobility training, and job-placement assistance to adults and transition-age youth. The VR program serves all individuals in Alabama with disabilities. Specialty services help individuals with visual and hearing impairments and traumatic brain injuries obtain employment and live independently in their own homes. The Statewide Technology Access and Response System (STAR) program is also under the VR program. It operates three assistive technology centers in Alabama and provides assistive equipment and training to more than 400 individuals with disabilities each year.

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

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

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

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

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

To implement this focus area, RSA reviewed:

- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities; and
- third-party cooperative arrangements and other cooperative agreements.

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

- the agreement between the VR agency and the state education agency (SEA);
- sample agreements between the VR agency and local education agencies (LEA);
- samples of signed and implemented third-party cooperative agreements; and
- VR policies and procedures for the provision of transition services.

To assess the performance related to the provision of transition services and the outcomes achieved by youth with disabilities, RSA reviewed ADRS relevant data from FY 2006 through FY 2010, describing:

- the number and percentage of transition-age youth who exited the VR program at various stages of the process;
- the amount of time these individuals were engaged in the various stages of the VR process, including eligibility determination, development of the individualized plan for employment (IPE) and the provision of services;
- the number and percentage of transition-age youth receiving services, including assessment, university and vocational training, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by transition-age youth.

To provide context for the agency's performance in the area of transition, RSA also compared the performance of ADRS with the national average of all combined state agencies.

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

- ADRS commissioner;
- ADRS VR counselors (VRCs) and transition staff;
- ADRS transition coordinator serving as a liaison with the SEA and other agencies;
- Alabama Interagency Transition Team, including representatives of the Department of Health and Mental Retardation, the Alabama Council for Developmental Disabilities and the Auburn Transition Leadership institute;
- state and local school personnel, including Alabama Institute for the Deaf and Blind staff and special education teachers;
- LEA administrators and school based job coaches who are funded jointly by ADRS and the LEA; and
- Alabama Occupational Diploma and Career/Technical Education administrators.

RSA's review of transition services and employment outcomes achieved by youth with disabilities resulted in the identification of the following observations and recommendations. Appendix A of this report indicates whether or not the agency has requested technical assistance to enable it to implement any of the below recommendations.

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

### **5.B.1 Supported Employment Outcomes for Transition-Age Youth**

**Observation:** As shown in the table below, during the five-year review period, ADRS consistently achieved less than half the percentage of SE outcomes achieved by the average percentage for all combined agencies and experienced a downward trend in its own relative performance. ADRS achieved a low of 30.30 percent of the overall percentage for all combined agencies in FY 2008, and a high of 47.75 percent of the overall percentage for all combined agencies in FY 2007. In FY 2010, ADRS achieved 42.1 percent of the overall percentage for all combined agencies in that year. ADRS achieved 48 (29.45 percent) fewer SE outcomes for

transition-age youth in FY 2010 than it did in FY 2006, continuing the downward trend in performance related to SE outcomes. RSA identified factors below that may be contributing to these results.

- ADRS management and others reported that there are few vendors available to provide extended services accompanied by a lack of long-term funding. ADRS documents reviewed by RSA state that each of its 38 SE vendors statewide is required to facilitate extended services for all SE consumers served. Specifically, all SE vendors must: 1) make extended service contact with the SE consumer twice monthly for as long as the consumer is employed; 2) maintain an SE case file in which extended service contact is recorded for as long as the consumer is employed; and 3) report extended service contact to ADRS monthly for as long as the consumer is employed.
- ADRS’s current fee-for-service agreements for SE services are constructed in a manner that does not maximize additional support or follow-up services after employment is achieved.
- ADRS reported difficulties securing additional designated funding for long-term supports.
- During the onsite review RSA held extensive discussions with ADRS staff including multiple distinct meetings with VR counselors serving transition age youth and job coaches funded jointly by ADRS and the Alabama Department of Education. In addition RSA met with stakeholders, advocates and partners. During these meetings it was reported that SE services are delayed for numerous SE eligible consumers during their participation in their school program. Furthermore, some job coaches noted that some students are diverted to workshop-based training and others make a decision not to continue with VR based on family influence to stay home and continue to collect benefits.
- ADRS recently advised its transition staff that the agency is relaxing its longstanding practice of delaying provision of SE services until transition-age youth exit school unless costs are shared by the LEA. However, the details of this procedural change are still in development.

**Table 5.B.1**  
**Comparison of Percentage of Transition-Age Youth SE Outcomes in ADRS to Average Percentage for All Combined Agencies for FY 2006 through FY 2010**

<b>ADRS Versus All Combined Agencies</b>	<b>Number or Percent</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Change from FY 2006 to FY 2010</b>
ADRS—SE Outcomes	Number	163	165	120	125	115	-48
	Percent	4.06%	4.24%	3.10%	4.16%	4.59%	-29.45%
All Combined Agencies—SE Outcomes	Number	3,029	2,995	3,350	3,327	2,995	-34
	Percent	8.74%	8.88%	10.23%	11.59%	10.79%	-1.12%

**Recommendation 5.B.1:** RSA recommends that ADRS:

- 5.B.1.1 analyze its data related to SE service provision to determine which factors contribute to ADRS's lower percentage of SE outcomes for transition-age youth compared to SE outcomes for transition-age youth served by other VR agencies;
- 5.B.1.2 based on this analysis, develop measurable goals and strategies to expand SE service provision for transition-age youth with the most significant disabilities including addressing the quality of SE outcomes;
- 5.B.1.3 consider revising the SE fee schedule so that it extends a smaller proportion of the payments on the vocational assessment, and increases the percentages, respectively, for job placement, on-the-job supports, job retention and long-term support services;
- 5.B.1.4 pursue active partnerships to secure long-term support funding, such as Money Follows the Person, the Dartmouth SE Model and initiatives through the Alabama Department of Mental Health;
- 5.B.1.5 revise procedures and agreements with the Alabama Department of Education and LEAs regarding SE services for in-school transition-age youth to facilitate a smooth transition from school to work;
- 5.B.1.6 provide training and supervisory oversight to job coaches on VR services for transition-age youth with SE goals;
- 5.B.1.7 develop intake and outreach procedures with community organizations and advocates to facilitate SE service provision for transition-age youth with the most significant disabilities who have dropped out of the education system; and
- 5.B.1.8 fully develop and implement the practice of SE vendors working with in-school transition-age youth.

**5.B.2: Transition-Age Youth Assessment and Service Provision**

**Observation:** Review of ADRS transition-age youth data indicates a downward trend in the array of VR services provided to transition-age youth. In addition, ADRS served significantly fewer transition-age youth with the most significant disabilities than the average for all combined agencies during the performance period. ADRS offers assessment services to a notably lower percentage of transition-age youth than do combined agencies as a whole. Throughout the five-year period under review, ADRS reported that it relied significantly on assessments provided through LEAs as an alternative to traditional vocational assessment/evaluation. Additionally, in FY 2010, ADRS provided fewer services in 16 of the remaining 21 key transition-age youth VR service delivery areas when compared to all combined agencies. These limitations in service provision for transition-age youth may have contributed, in part, to the large number of transition-age youth whose cases remained inactive or who received insufficient assessments or services before they exited the system without successful employment outcomes. In FY 2010, ADRS implemented strategies to purge VR counselor caseloads, reduce caseload sizes and facilitate higher quality employment outcomes through more appropriate and comprehensive service provision, an effort that resulted in the closure of 9,000 transition-age youth cases without employment. This represented an anomaly in the rehabilitation rate for transition-age youth in FY 2010 of 25.55 percent.

- As shown in the table below, the percentage of individuals with no significant disability that achieved successful employment outcomes trended notably upward throughout the review period, ranging from a low of 11.48 percent in FY 2006 to a high of 15.06 percent in FY 2010. In comparison to the performance of all combined agencies during the period under review, ADRS, on average, closed over two and a half (2.61) times as many individuals with no significant disability.

**Table 5.B.2a**  
**Percentage of Transition-age Youth Employment Outcomes for Individuals Without a Significant Disability Compared to Transition-Age Youth Combined Agency Average for FY 2006 through FY 2010**

<b>ADRS Versus All Combined Agencies</b>	<b>Number or Percent</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Change from FY 2006 to FY 2010</b>
ADRS— No Significant Disability	Number	461	473	508	384	377	-84
	Percent	11.48%	12.16%	13.14%	12.77%	15.06%	-18.22%
All Combined Agencies— No Significant Disability	Number	1,854	1,738	1,707	1,397	1,424	-430
	Percent	5.35%	5.15%	5.21%	4.87%	5.13%	-23.19%

- Of the 11,504 transition-age youth whose cases were closed by ADRS in FY 2010, 9,802, or 85.52 percent, received services. Of the transition-age youth who received services, 57.75 percent (5,661) received assessment services, compared to 70.25 percent for all combined VR agencies. The percentage of transition-age youth who received assessment services in FY 2010 was below the agency’s previous four-year average of 61.76 percent.
- Diagnosis and treatment of impairment services provided for ADRS transition-age youth was provided to 10.43 percent of those served in FY 2010, compared to 30.03 percent for all combined agencies, approximately a third (34.73 percent) of what was provided overall by similar agencies.
- College or university training for transition-age youth trended downward throughout the review period and was provided to 10.94 percent of those served in FY 2010, compared to 19.44 percent for all combined agencies. In FY 2010, ADRS’s rate of college or university training for transition-age youth was essentially half (56.27 percent) of that for all combined agencies.
- Occupational skills training for transition-age youth was provided to 2.95 percent of those served in FY 2010, compared to 14.3 percent for all combined agencies. In FY 2010, ADRS provided occupational skills training for transition-age youth at a rate that was only 20.62 percent or one-fifth of the provision rate of all combined agencies.
- Transportation services for transition-age youth trended downward during the review period and were provided to 12.78 percent of those served in FY 2010, compared to 27.97 percent for combined agencies. In FY 2010, ADRS provided transportation services at a rate that was less than half (45.69 percent) of the average rate for all combined agencies.

**Table 5.B.2b  
ADRS Transition-Age Youth Services Provided**

<b>Services Provided</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>Agency Type FY 2010</b>
Assessment services	61.28%	62.24%	62.90%	60.61%	57.75%	70.25%
Diagnosis and Treatment of Impairments	15.76%	16.74%	18.15%	11.66%	10.43%	30.03%
College or University Training	13.09%	14.69%	16.23%	14.63%	10.94%	19.44%
Occupational/Vocational Training	4.49%	4.33%	4.36%	3.71%	2.95%	14.30%
Transportation	20.44%	20.85%	18.69%	13.85%	12.78%	27.97%

- The agency’s strategic decision to reduce VR counselor goals for employment outcomes and management’s development of a state-of-the-art business intelligence dashboard to track both caseload production and qualitative indicators has set the stage for the development of a VR program with a quality focus. Additionally, during the first quarter of FY 2012, ADRS instituted an electronic functional assessment tool to more accurately determine the categorical assessment of disability related to functional limitations across weighted domain areas in keeping with the agency’s goal of increasing services to individuals with the most significant disabilities.

**Recommendation 5.B.2:** RSA recommends that ADRS:

- 5.B.2.1 assess, adjust and provide further training, as needed, with respect to the agency’s new electronic functional assessment tool, paying particular attention to VR counselor feedback regarding whether this tool provides the requisite level of detail and diagnostics to categorize individuals’ level of significant disability and implement an IPE;
- 5.B.2.2 develop and implement a comprehensive vocational evaluation process that assesses individuals’ job readiness with the requisite level of detail and diagnostics to implement an IPE;
- 5.B.2.3 effectively promote the development of IPEs based upon each transition-age youth’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;
- 5.B.2.4 expand the VR service delivery system to include or increase the use of occupational skills training, college and university training, and related services to improve the quality of employment outcomes;
- 5.B.2.5 develop quality indicators by measuring hourly wages, hours worked per week, health benefits and SGA level; and
- 5.B.2.6 develop measurable goals and strategies to expand SE service provision for transition-age youth with the most significant disabilities.

## C. Fiscal Integrity of the Vocational Rehabilitation Program

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

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

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

- the federal FY 2007 monitoring report issued pursuant to Section 107 of the Rehabilitation Act (see Section 4 above for a report of the agency's progress toward implementation of recommendations and resolution of findings);
- A-133 audit findings and corrective actions;
- state/agency allotment/budget documents and annual federal fiscal reports;
- grant award, match, MOE, and program income documentation;
- agency policies, procedures, and forms (e.g., monitoring, personnel certifications, procurement and personnel activity reports), as needed; and
- documentation of expenditures including contracts, purchase orders and invoices.

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

- third-party cooperative arrangements;
- internal agency fiscal reports and other fiscal supporting documentation, as needed; and
- VR agency cost benefit analysis reports.

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

## **SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS**

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

ADRS 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 ADRS to develop the plan and undertake the corrective actions.

RSA reserves the right to pursue enforcement action related to this/these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 80.43 and 34 CFR part 81 of EDGAR.

### **1. Third-Party Cooperative Arrangements—Jointly Funded Job Coach Agreements**

#### **Legal Requirements:**

- Rehabilitation Act—Section 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.28, 34 CFR 361.60(b)(1) and 34 CFR 361.63
- EDGAR—34 CFR 80.24(a) and 34 CFR 80.25

#### **Finding:**

ADRS is not in compliance with the requirements of 34 CFR 361.28 setting forth the criteria for third-party cooperative arrangements (TPCA) with respect to its 67 agreements to provide services to transition-age youth because:

- 1) 14 of the agreements are not properly structured for the purpose of obtaining the non-federal share of expenditures associated with the programming; and
- 2) the services provided are duplicative of those provided to the students participating in the Alabama Occupational Diploma (AOD) program.

In addition, because these 67 arrangements do not meet all the requirements for third-party cooperative arrangements and, thus, the expenditure of VR program funds associated with them is not allowable, the corresponding non-federal expenditures resulting from the arrangements are not a permissible source of match for the program in accordance with regulations at 34 CFR 361.60(b)(1) and 34 CFR 80.24(a).

## **A. Unallowable Third-Party Cooperative Arrangements**

VR agencies and other state and local public agencies can enhance and improve the provision of services to individuals with disabilities by entering into third-party cooperative arrangements. However, they must adhere to the following requirements set forth in regulations at 34 CFR 361.28.

1. The cooperating agency must provide part or all of the non-federal share of the costs of the arrangement (34 CFR 361.28(a)).
2. The services provided by the cooperating agency through the arrangement must be new, expanded or modified to include a VR focus. The services cannot be those typically or customarily provided by the cooperating agency (34 CFR 361.28(a)(1)).
3. The services provided through the cooperative arrangement must be provided only to individuals who are applicants for, or eligible to receive, VR services (34 CFR 361.28(a)(2)).
4. The VR agency must maintain administrative control over the services provided and the personnel providing the services (34 CFR 361.28(a)(3)).
5. The provision of services through the cooperative arrangement must be consistent with the VR State Plan, including the implementation of an order of selection (34 CFR 361.28(a)(4)).
6. The services must be provided statewide, unless the VR agency receives a waiver of statewideness pursuant to regulations at 34 CFR 361.26 (34 CFR 361.28(b)).

Since 2003, ADRS has entered into TPCAs in local school districts that are designed to provide VR services through jointly funded “job coaches” to in-school transition youth during their exiting year who cannot “benefit from existing school programs (i.e., Career/Technical Education (CTE) programs, co-op programs, etc.), with or without modifications” (TPCA template, Page 1). As described below, the transition “job coaches” hired through these arrangements deliver a variety of employment-related services beyond the on-the-job assistance and support typically provided by job coaches in the context of supported employment.

At the time of the review, ADRS had entered into 67 of these arrangements, 14 with community rehabilitation programs (CRP) on behalf of local school districts and 53 with the school districts themselves. To determine if these arrangements are in compliance with 34 CFR 361.28, RSA reviewed both the TPCA contract template and several signed agreements during the monitoring process. Although the terms of each of the arrangements can vary, all current agreements were developed using the template and are similar in those aspects essential to the determination of compliance with federal requirements. Therefore, the analysis below relies upon the TPCA template and several written agreements, including those executed separately with the DeKalb County Board of Education and Easter Seals of West Alabama on October 1, 2010, along with two arrangements entered into by ADRS with the Baldwin County and the Andalusia City

Boards of Education on October 1, 2011. In addition, RSA met with a variety of ADRS staff, job coaches employed through the arrangements, CTE staff and other education officials to discuss the manner in which the terms of the written agreements are put into practice. Based on this review, RSA finds that these TPCAs implementing the provision of services by jointly funded job coaches are not in compliance with pertinent federal requirements as set forth below.

#### Non-Federal Share from Local Public Agencies

Regulations at 34 CFR 361.28(a) state that, “The designated State unit may enter into a third-party cooperative arrangement for providing or administering [VR] services with another State agency or a local public agency that is furnishing part or all of the non-Federal share...” Accordingly, the cooperating agency, i.e., that providing the services, must contribute part or all of the non-federal expenditures associated with the cost of the arrangements and that agency must be a state or a local public entity.

In 14 of the 67 arrangements, CRPs provide the transition services, described in more detail below, to high school students with disabilities in the school districts through contracts with ADRS. ADRS considers these CRPs to act as “fiscal agents” on behalf of the school districts. However, the CRPs hire the job coaches to provide the services. Prior to contracting with the CRPs, ADRS negotiates agreements with the local school districts to reimburse ADRS for the non-federal share of the total cost of the programming. ADRS pays the full cost of the contracts to the CRPs and then bills the local school districts for the non-federal share of the costs. The school districts do not enter into agreements directly with the CRPs for the provision of the transition services.

Because it is the CRPs with which the 14 school districts have no direct relationships that provide the services, the school districts cannot be deemed to be the cooperating agency within the meaning of 34 CFR 361.28. Consequently, ADRS has entered into separate and distinct agreements in each of these school districts—one with a CRP for the procurement of the services and another with the school district for the reimbursement of a portion of the costs associated with the provision of the services—neither of which satisfies the criteria of a TPCA. Therefore, ADRS improperly uses the non-federal funds received from these 14 local school districts as match for the VR program.

Instead, these funds must be treated as program income received as a result of activities carried out through the program. Federal regulations define “program income” as gross income received by the state that is directly generated by an activity supported under the program (34 CFR 80.25; 34 CFR 361.63). Furthermore, ADRS is not in compliance with 34 CFR 361.63(c)(4), which states that program income cannot be used to meet the non-federal share requirement under 34 CFR 361.60.

#### New, Expanded or Modified Services with a VR Focus

When engaging in a third-party cooperative arrangement, a VR agency must ensure that, “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 (34 CFR 361.28(a)(1)). To determine if the services provided through the 67 arrangements, including the 14 with CRPs, meet this requirement, RSA first reviewed the written agreements. Exhibit B to the TPCA agreements indicates that the job coaches provide services within five general categories, including consumer assessment, job development, job placement within the community, on-site job skill training and the development of job-related supports. A similar exhibit is attached to each agreement implementing the TPCAs. However, based on a review of both the template and written agreements identified above, i.e., those with the Dekalb County, Baldwin County, and the Andalusia City Boards of Education and Easter Seals of West Alabama, the written agreements do not further specify the services to be delivered under each arrangement, nor do the written agreements indicate the manner in which the services are different from those customarily or typically provided by the school districts to the individuals served under the TPCAs. Consequently, RSA could not determine solely based upon the contract language whether the services provided were new services with a VR focus, or were existing services that have been expanded or modified to include a VR focus, in accordance with 34 CFR 361.28(a)(1).

To aid in its review, RSA used information obtained through interviews with staff implementing the TPCAs and supplemental written documentation to determine the scope of services provided. RSA learned through discussions with education officials, along with a review of available CTE and AOD operating manuals, that an AOD option is available to all students with disabilities who have an individual education plan (IEP) and are enrolled in the CTE program. Students pursuing an AOD receive job readiness services, skills training in specific career clusters, vocational exploration services and assessment or training through community-based worksites under the general supervision of public school personnel. All students pursuing an AOD also must complete a minimum of 270 hours of paid work experience. Their CTE designees or teachers provide these, as well as other job coaching services as needed. The AOD-related services, such as community-based work experiences, are similar to those described in the exhibits to the TPCA agreements.

As stated above, the TPCA services are not to be provided to students participating in the CTE and co-op programs (TPCA template, Page 1). This was reinforced by SEA personnel responsible for the administration of the CTE program who stated during discussions with RSA staff, ADRS management and representatives of local school districts, that CTE students pursuing an AOD are not to receive services from the TPCA job coaches because they can already receive such services through the AOD program itself. The option of pursuing an AOD is available to all CTE students with a disability who have an individual education plan (IEP). “Students with disabilities shall have an assessment prior to placement into a CTE program that identifies interest and aptitude. Assessment data shall be reflected in the IEP for placement into CTE” (CTE Methods of Administration Manual, Page 16). Vocational exploration, vocational training, community-based work training and paid cooperative education are standard components of the AOD option for CTE students (AOD Manual, pages 4 - 14).

Nonetheless, the TPCA job coaches consistently reported during multiple discussions with RSA staff that they do in fact provide services to AOD students similar to those available through the AOD program. These statements are supported by information contained in the ADRS monitoring reports for the TPCAs. For example, the report of monitoring visits for the TPCAs

with the Bibb County Public School District, the Lauderdale County School District and the Muscle Shoals City School District, each dated December 1, 2011, reported, in subparts three and four of Section I titled “Caseload Description,” that the assigned transition job coaches work with AOD students and that the AOD students are given the highest priority amongst those students in their respective caseloads. AOD students were consistently coded with a “priority rank” of one. In comparison, students seeking a school completion certificate, if any, were consistently coded with a “priority rank” of two, and those students pursuing a regular high school diploma, with or without a 504 Plan, if any, were consistently coded with a “priority rank” of three. RSA discussions with job coaches confirmed that they prioritize services to AOD students over more significantly disabled transition-age youth with IEPs who choose not to, or are not able to, participate in the AOD program. Such students are pursuing school completion certificates rather than an AOD, and their IPE’s frequently include supported employment as an essential service.

Based on the foregoing, the services provided by the TPCA job coaches are also available through the AOD program and are considered duplicative of such services when provided under the TPCAs. Thus, ADRS has not ensured that the services provided by the local school districts (or the CRPs in the case of the 14 agreements described above) are not those customarily or typically made available to AOD students as required by 34 CFR 361.28(a)(1). Although the TPCA services do not meet the criteria of this regulatory provision when provided to CTE students pursuing an AOD, they may do so with respect to other students with disabilities, such as those obtaining a certificate of completion or regular high school diploma, if the services are not otherwise available in the local school districts.

## **B. Unallowable Source of Match**

ADRS may use non-federal expenditures to satisfy its match requirement under the VR program, so long as those expenditures are for allowable costs under the VR program, which include expenditures for the cost of providing VR services and the cost for administering the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3 and 361.60(b)(1); and 34 CFR 80.24(a)). More specifically, ADRS may use non-federal expenditures incurred by a local public agency, including local school districts, for the provision of VR services through TPCAs to satisfy its match requirement under the VR program if those expenditures are for allowable costs under the VR program. ADRS negotiates the amount of match each cooperating agency provides under the TPCA. As a result, the percentage of match provided by the cooperating agency under the TPCAs varies. For the reasons provided throughout this finding, the TPCA costs were not allowable under the VR program and the non-federal share of those expenditures were not an allowable source of match under the VR program. Consequently, there was no legal basis for ADRS to count the non-federal share of those costs toward satisfying its match requirement under the VR program (34 CFR 361.60(b)).

### **Corrective Action 1: ADRS must:**

- 1.1 cease using federal VR funds to pay for TPCA costs and using non-federal funds provided by the local school districts to meet ADRS’s matching requirement for the VR program until the TPCAs meet all the requirements of 34 CFR 361.28; and

- 1.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that ADRS will:
- A. comply with all requirements governing third-party cooperative arrangements as set forth in 34 CFR 361.28; and
  - B. ensure non-federal expenditures used for satisfying VR match requirements, such as those incurred through the TPCAs, are for allowable expenditures under the VR program, including expenditures for the cost of providing VR services and the cost for administering the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3 and 361.60(b)(1); and 34 CFR 80.24(a)).

**2. Use of Randolph-Sheppard Set-Aside Funds as Match**

**Legal Requirements:**

- VR Program Regulations—34 CFR 361.49(a)(5)
- Randolph-Sheppard Vending Facility Program Regulations—34 CFR 395.9
- EDGAR—34 CFR 80.24(a)(1)
- Subregulatory Guidance—RSA-PAC-89-02; RSA-PD-99-05

**Finding:**

ADRS is not in compliance with 34 CFR 80.24(a)(1) and RSA PAC-89-02 because it used set-aside fund expenditures as match for the VR program that were allowable under the Randolph-Sheppard program under 34 CFR 395.9 but not allowable for purposes of match under the VR program. Table 6.1 below details the amounts used as match.

**Table 6.1  
Unallowable VR Program Match from Randolph-Sheppard Program  
Set-Aside Expenditures**

<b>Fiscal Year</b>	<b>Vacation</b>	<b>Liability Insurance</b>	<b>Total</b>
2011	20,880		20,880
2010	25,520		25,520
2009	25,810	1,906	27,716
2008	25,810	1,906	27,716
2007	?	?	
<b>Total</b>	<b>98,020</b>	<b>3,812</b>	<b>101,832</b>

Randolph-Sheppard Vending Facility Program regulations at 34 CFR 395.9(b) state that set-aside funds may be used only for the purposes of:

- (1) Maintenance and replacement of equipment;
- (2) The purchase of new equipment;
- (3) Management services;

- (4) Assuring a fair minimum of return to vendors; or
- (5) The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time.

In accordance with VR regulations at 34 CFR 361.49(a)(5), the following services to groups are allowable VR costs for any small business enterprise operated by individuals with significant disabilities under the supervision of the designated State unit, including enterprises established under the Randolph-Sheppard program: management services and supervision provided by the State unit along with the acquisition by the State unit of vending facilities or other equipment, initial stocks and supplies, and initial operating expenses. Further, RSA-PD-99-05 clarifies the allowable use of VR funds for the maintenance and repair of equipment under the Randolph-Sheppard Act.

RSA-PAC-89-02 states that “establishment and maintenance of retirement or pension funds, health insurance contributions and provision for paid vacation for blind vendors” may not be used for federal match. Therefore, although these are allowable expenditures made from set-aside funds under the Randolph-Sheppard Vending Facility Program, these are unallowable costs for purposes of match for the VR program.

During the period FY 2007 to FY 2011, ADRS used expenditures from Randolph-Sheppard program set-aside funds for vacation and liability insurance to meet its non-federal share for the VR program. RSA further notes that the use of set-aside funds for liability insurance noted in Table 6.1 is not one of the allowable purposes in 34 CFR 395.9.

**Corrective Action 2:** ADRS must:

- 2.1 cease using expenditures from set-aside funds under the Randolph-Sheppard program for vendor benefits and liability insurance as match for the VR program in accordance with 34 CFR 361.49 and RSA-PAC-89-02;
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that ADRS will use only expenditures from set-aside funds under the Randolph Sheppard program that are allowable for purposes of VR program match in accordance with 34 CFR 361.49, 34 CFR 80.24(a)(1), RSA-PAC-89-02, and RSA PD-99-05; and
- 2.3 develop and implement procedures to ensure that set-aside funds used as match for the VR program include only allowable expenditures under the VR program.

**3. Unallowable Expenditures and Source of Match - AIDB**

**Legal Requirements:**

- Rehabilitation Act—Section 7(38), Section 103(a) and (b), Section 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.5(b)(58), 34 CFR 361.12, 34 CFR 361.48, 34 CFR 361.49, 34 CFR 361.60, 34 CFR 361.63
- EDGAR—34 CFR 80.20(a), 34 CFR 80.24(a)(1), 34 CFR 80.24(b)(6), 34 CFR 80.25
- OMB Circulars—2 CFR 225, Appendix A, C.1., C.2 & 3.a.

**Finding:**

The expenditure of VR program funds by ADRS for the provision of services through a contract with the Alabama Institute for Deaf and Blind, E.H. Gentry Technical Facility (AIDB) CRP is not either allowable and/or allocable to the VR program to the degree that such expenditures are not sufficiently traceable, through appropriate supporting documentation, to the provision of VR services to applicants, individuals determined eligible for VR services, or an authorized group as required by Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3 and 34 CFR 361.12; and 34 CFR 80.20(a). In addition, the non-federal share associated with these non-allowable and/or allocable expenditures and provided by AIDB to ADRS is not a permissible source of match in accordance with 34 CFR 361.60(b)(1) and 34 CFR 80.24(a).

As a recipient of Title I VR funds, ADRS 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)). ADRS must ensure that VR funds are spent solely on the provision of VR services and the administration of the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3). The Federal cost principles require that federal funds be spent solely on allowable and allocable costs. To be allowable, costs must be necessary and reasonable for carrying out the federal program (2 CFR 225, Appendix A, C.1.a). To be considered reasonable, the cost must be one that would be incurred by a prudent person (2 CFR 225, Appendix A, C.2). To be allocable to the VR program, the cost must be proportional to the benefit received by the federal program (2 CFR 225, Appendix A, C.3.a).

For FY 2011, the total amount of the ADRS's contract with AIDB was \$7,495,490. ADRS was responsible for \$2,894,610 and AIDB was responsible for \$4,600,880. ADRS reimburses its share of consumer service costs monthly to AIDB based upon an approved invoice. ADRS uses the unreimbursed AIDB share of the invoiced costs to meet ADRS's non-federal share for the VR program. Contracts with AIDB were in place for each of the fiscal years reviewed by RSA.

The amount AIDB invoiced monthly was based upon 1/12<sup>th</sup> of the entire contract amount. The costs AIDB charged for contract services were adjusted to ensure the monthly invoice amount was equal to 1/12<sup>th</sup> of the contract. During an onsite review of AIDB, RSA learned that the amount billed was primarily based upon budgeted percentages rather than actual expenditures for the provision of VR services to VR applicants and consumers. The amount AIDB invoiced was not reduced for staffing vacancies, changes in actual expenditures, etc. Additionally, AIDB did not track costs on an individual basis to ensure the costs were directly related to the provision of VR services. According to AIDB staff, it would be difficult for them to track expenditures to an individual level based upon the manner in which AIDB accounts for and tracks funds. This was confirmed during an onsite conference call with AIDB, RSA, and ADRS staff and during meetings with AIDB staff during RSA's onsite monitoring visit to the AIDB campus.

To constitute an allowable expenditure as a VR service, the costs must be incurred in the provision of VR services to individuals in accordance with their approved IPEs, pursuant to Section 103(a) of the Rehabilitation Act and 34 CFR 361.48, or to groups of individuals with disabilities, pursuant to Section 103(b) of the Act and 34 CFR 361.49 (Section 7(38) of the Rehabilitation Act; 34 CFR 361.5(b)(58)). The contract with AIDB did not require that the

individuals to whom services would be provided be either applicants for or eligible to receive VR services.

ADRS did not ensure it expended and accounted for all VR grant funds in accordance with pertinent laws and procedures as required by 34 CFR 80.20(a). Therefore, the non-federal share associated with these non-allowable and/or allocable expenditures and provided by AIDB to ADRS is not a permissible source of match in accordance with 34 CFR 361.60(b)(1) and 34 CFR 80.24(a).

**Corrective Action 3:** ADRS must:

- 3.1 cease using program income and any costs for match purposes under the VR program that are not allowable and verifiable from the records maintained by ADRS and its contractors in accordance with 34 CFR 361.63(c)(4), 34 CFR 361.3 and 34 CFR 80.24(b)(6);
- 3.2 discontinue the use of program income or any other costs for match purposes under the VR program that are not allowable and verifiable from the records maintained ADRS and its contractors in accordance with 34 CFR 361.63(c)(4), 34 CFR 361.3 and 34 CFR 80.24(b)(6); and
- 3.3 ensure that contract costs used as VR match are allowable VR costs and verifiable from the records maintained by ADRS and its contractors.

**4. Internal Controls and Contract Management**

**Legal Requirements:**

- Rehabilitation Act—Section 111(a)(1)
- VR Program Regulations—34 CFR 361.3, 34 CFR 361.12
- EDGAR—34 CFR 80.20(a)

**Findings:** ADRS is not in compliance with Section 111(a)(1) of the Rehabilitation Act, and regulations at 34 CFR 361.3, 34 CFR 361.12, and 34 CFR 80.20(a) because it did not ensure that VR funds were used properly and efficiently and only for allowable VR expenditures. Furthermore, ADRS does not have fiscal controls in place that enable it to expend and account for 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.

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

- 1) administer the program properly and efficiently (34 CFR 361.12);
- 2) ensure that VR funds are properly accounted for and that accurate data are collected and reported (34 CFR 80.20(a)); and
- 3) ensure that VR funds are spent solely on the provision of VR services and the administration of the VR program (Section 111(a)(1) of the Rehabilitation Act and 34 CFR 361.3).

Federal regulations require ADRS to have methods of administration to ensure financial accountability for the efficient administration of the State Plan and VR program and to ensure accurate accounting of allowable expenditures for the VR program.

### **A. ADRS Revolving Fund**

ADRS utilizes a revolving fund to purchase “services that are necessary and reasonable for the rehabilitation and employability of ADRS consumers that cannot be purchased through the Vocational Rehabilitation Client Services Vendor system on a timely basis.” In FY 2010, ADRS reimbursed the revolving fund \$977,200.86 for payments made for VR services. Revolving funds are managed at a local level by check-writing custodians that issue checks. Checks are frequently made out to the consumer and the only supporting documentation is the authorization issuing the payment and the consumer’s signature that the check was received. RSA noted that some of the check receipts reviewed were signed by the VR counselor or designee. Receipts ensuring that the funds issued to the consumer were used to purchase the authorized service were sometimes missing. Additionally, ADRS does not require consumers to maintain mileage logs or provide receipts for taxi rides or meals. The lack of such receipts prohibits ADRS from ensuring such funds were used for an allowable purpose.

In one file reviewed, the ADRS counselor purchased a piece of equipment for a VR consumer and then submitted the receipt for reimbursement to the check-writing custodian. A check from the revolving fund was issued to the VR counselor for the amount of the purchase, and the VR counselor signed the check receipt. While the receipt was in the consumer’s file, there was no signature from the VR consumer indicating they actually received the equipment. Additionally, the VR counselor backdated the authorization to the revolving fund for the purchase. In another file reviewed, the VR counselor instructed the consumer to purchase clothes with their own funds and then bring in the receipt. When the VR consumer provided the receipt to the counselor, the counselor completed an authorization to reimburse the consumer for the clothes that were purchased one month earlier. The November 7, 2011 VR Policy Manual 8.4 states “A written authorization for services shall be made either before or within seven days of beginning of services. When necessary, an authorization may be made orally. Written authorization will be within seven days and forwarded to the provider of services.” Permitting the backdating of authorizations and the use of verbal authorizations represents a lack of internal controls necessary to ensure accountability for funds expended through the revolving fund and the regular authorization process.

ADRS uses the revolving fund to pay for a variety of services, including renting buses and paying for meals for consumers to attend annual ADRS sponsored activities that should be purchased through the established vendor authorization process. Given the significant amount of funds expended through the revolving fund outside of the vendor process, RSA is uncertain how ADRS ensures appropriate tax reporting and accountability for payments issued.

The revolving fund process lacks the internal controls necessary to ensure that the funds expended are for allowable VR services. Additionally, ADRS’s practice and policy allowing VR counselors to backdate authorizations and provide a verbal authorization to vendors does not ensure that authorizations are completed prior to services being provided. This practice is also

inconsistent with requirements set forth in the consumer's IPE. Page 4 of the IPE requires the consumer to attest to the understanding that "all services must be pre-approved and pre-authorized by the AVR [VR] counselor." Entering an authorization into the case management system before the service is provided represents a critical internal control.

## **B. Contract Development and Oversight**

1. With regard to the AIDB contract mentioned in Finding 3 above:
  - ADRS did not ensure that the AIDB contract performance measures were met. The contract required AIDB to provide activities and services described in the contract to enable 175 persons with disabilities to obtain vocational evaluation and 100 persons with disabilities to obtain and maintain employment for at least 90 days. AIDB did not meet the performance levels for the FY 2011 contract. There is no contract provision requiring corrective actions or imposing conditions when AIDB fails to meet the contract performance requirements.
  - ADRS did not monitor the AIDB contract to ensure that funds were expended and accounted for to such a degree that it could trace the funds for each activity to ensure the funds were expended in accordance with federal requirements.
  
2. With regard to the Job Coach Contracts detailed in Finding 1 above:
  - Job coach contracts state that the purpose of the contract is to cooperatively fund the following professional services "one full-time transition job coach who will provide job coach services to selected secondary students with disabilities enrolled in ...school systems who are (a) in their exiting year of school..." Monitoring reports and interviews with job coaches confirmed that students as early as their sophomore year are being served under these contracts. Additionally, the contracts did not define the term "full-time." Job coaches were being employed in full-time positions for various terms (9, 10, or 12 months). The contracts did not specify the number of months of employment required for a full-time position purchased under the contract.
  - The contracts did not contain a process to ensure that conference and travel expenses were allowable expenses. ADRS staff stated that contractors are required to obtain permission from ADRS before expending funds for conferences. However, this requirement was not included in the contract.
  - The contract states that only VR consumers in their exiting year of school will be served. Contractors interpreted the student's exiting year of school differently. Some started services at the beginning of the student's senior year. Others started services at the end of the student's junior year. In addition, some job coaches were serving sophomores under the contract.
  - The job coach contracts did not specify supervisory responsibilities. Some job coaches served a number of schools and it was not always clear who supervised their daily activities.
  - Costs are negotiated on a contract by contract basis based upon an individual school district's willingness to participate in cost sharing. There is no uniform basis for determining the contract cost or ensuring the cost is proportional to the benefit received by the VR program. ADRS states that the VR portion of the job coach

position is not to exceed \$20,000. However, there is nothing in the contract or policy documentation to support this limit.

ADRS is responsible for ensuring that contracts are implemented in accordance with terms, conditions and specifications contained in the contract. In addition, the contracts must ensure financial accountability for the efficient administration and accurate accounting of allowable expenditures for the VR program.

**Corrective Action 4:** ADRS must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure VR funds are used properly and efficiently and only for allowable VR expenditures and that fiscal controls enable ADRS to expend and account for funds to such a degree that it can trace the funds for each activity to ensure the funds were expended in accordance with federal requirements as required by 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and
- 4.2 develop and implement policies and procedures to ensure that:
  - A. verifiable supporting documentation is available for expenditures satisfying a cost sharing or matching requirement;
  - B. VR funds are used properly and efficiently and only for allowable VR expenditures; and
  - C. fiscal controls enable ADRS to expend and account for funds to such a degree that it can trace the funds for each activity to ensure the funds were expended in accordance with federal requirements.

## APPENDIX A: AGENCY RESPONSE

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### Section 5: Focus Areas

#### Transition Services and Employment Outcomes for Youth with Disabilities

##### Observation 5.B.1: Supported Employment Outcomes for Transition-Age Youth

**Recommendation 5.B.1:** RSA recommends that ADRS:

- 5.B.1.1 analyze its data related to SE service provision to determine which factors contribute to ADRS's lower percentage of SE outcomes for transition-age youth compared to SE outcomes for transition-age youth served by other VR agencies;
- 5.B.1.2 based on this analysis, develop measurable goals and strategies to expand SE service provision for transition-age youth with the most significant disabilities including addressing the quality of SE outcomes;
- 5.B.1.3 consider revising the SE fee schedule so that it extends a smaller proportion of the payments on the vocational assessment, and increases the percentages, respectively, for job placement, on-the-job supports, job retention and long-term support services;
- 5.B.1.4 pursue active partnerships to secure long-term support funding, such as Money Follows the Person, the Dartmouth SE Model and initiatives through the Alabama Department of Mental Health;
- 5.B.1.5 revise procedures and agreements with the Alabama Department of Education and LEAs regarding SE services for in-school transition-age youth to facilitate a smooth transition from school to work;
- 5.B.1.6 provide training and supervisory oversight to job coaches on VR services for transition-age youth with SE goals;
- 5.B.1.7 develop intake and outreach procedures with community organizations and advocates to facilitate SE service provision for transition-age youth with the most significant disabilities who have dropped out of the education system; and
- 5.B.1.8 fully develop and implement the practice of SE vendors working with in-school transition-age youth.

**Agency Response:** ADRS does not object to the RSA recommendations and accepts them. However, ADRS does take exception to some of the observations cited in the monitoring document that led to the recommendations above.

In the second bullet of the observation on page 21, ADRS expressed concern about RSA's characterization of its SE agreements are "frontloaded." In the SE Milestone fee-for-service agreement structure, if the special assessment of Discovery is not specifically authorized by a rehabilitation counselor, only 20 percent of the total fee is paid for front-end assessment services, with the remaining 80 percent of payments made for employment, job retention, and closure.

ADRS VR program funds can pay for time-limited SE services, but cannot pay for necessary SE extended-support services.

In the fourth bullet of the observation on page 21, ADRS does not challenge RSA’s assertion that one or more job coaches made such statements in conversations with RSA. However, we are unaware of any specific situations these statements are referencing, especially as they relate to “unavailable SE services and/or a delay by ADRS to provide SE services.” We have seen no information or documentation that any of the assertions contained in these statements are accurate and no information or documentation on the context in which they were made.

**RSA Response:** In consideration of the agency’s comments, RSA modified the observation related to these recommendations.

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

### **Observation 5.B.2: Transition-Age Youth Assessment and Service Provision**

**Recommendation 5.B.2:** RSA recommends that ADRS:

- 5.B.2.1 assess, adjust and provide further training, as needed, with respect to the agency’s new electronic functional assessment tool; paying particular attention to VR counselorfeedback regarding whether this tool provides the requisite level of detail and diagnostics to categorize individuals’ level of significant disability and implement an IPE;
- 5.B.2.2 develop and implement a comprehensive vocational evaluation process that assesses individuals’ job readiness with the requisite level of detail and diagnostics to implement an IPE;
- 5.B.2.3 effectively promote the development of IPEs based upon each transition-age youth’s unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice;
- 5.B.2.4 expand the VR service delivery system to include the use of occupational skills training, college and university training, and related services to improve the quality of employment outcomes;
- 5.B.2.5 develop quality indicators by measuring hourly wages, hours worked per week, health benefits and SGA level; and
- 5.B.2.6 develop measurable goals and strategies to expand SE service provision for transition-age youth with the most significant disabilities.

**Agency Response:** ADRS does not object to the RSA recommendations and accepts them. However, ADRS does take exception to some of the observations cited in the monitoring document that led to the RSA recommendations above.

The observation, as written in the draft report ignores the recent efforts by ADRS to focus on better aligning services to serve individuals with the most-significant disabilities. RSA’s own comment on Page 15, paragraph one, of the draft report reads, “ADRS’s philosophical change to a focus on quality rather than quantity has led to recent progress on SE strategies,” which contradicts this draft report statement.

In addition, the low-employment rate in fiscal year 2010 was an anomaly because of our inactive case closure initiative. ADRS knew the initiative would decimate the employment rate; however, the agency determined this was the appropriate thing to do to reduce caseload size and ensure a greater balance of quantity and quality in our program.

ADRS requests that the observation be modified so that it does not overemphasize the FY 2010 employment rate. The other years in the period reviewed were not at the same low rate. Because 2010's low employment rate is the exception rather than the rule within the entire monitoring period, the agency is confident that the inactive case closure initiative is the single reason for the rate of 25.55.

**RSA Response:** In consideration of the agency's response, RSA modified this observation to address the agency's concerns, including the anomaly related to the FY 2010 employment rate for transition-age youth.

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

## **Section 6: Compliance Findings and Corrective Actions**

### **1. Third-Party Cooperative Arrangements—Jointly Funded Job Coach Agreements**

**Corrective Action 1:** ADRS must:

- 1.1 cease using federal VR funds to pay for TPCA costs and using non-federal funds provided by the local school districts to meet ADRS's matching requirement for the VR program until the TPCAs meet all the requirements of 34 CFR 361.28; and
- 1.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that ADRS will:
  - A. comply with all requirements governing third-party cooperative arrangements as set forth in 34 CFR 361.28; and
  - B. ensure non-federal expenditures used for satisfying VR match requirements, such as those incurred through the TPCAs, are for allowable expenditures under the VR program, including expenditures for the cost of providing VR services and the cost for administering the VR program (Section 111(a)(1) of the Rehabilitation Act; 34 CFR 361.3 and 361.60(b)(1); and 34 CFR 80.24(a)).

**Agency Response:** ADRS concurs with these findings.

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

## **2. Use of Randolph-Sheppard Set-Aside Funds as Match**

**Corrective Action 2:** ADRS must:

- 2.1 cease using expenditures from set-aside funds under the Randolph-Sheppard program for vendor benefits and liability insurance as match for the VR program in accordance with 34 CFR 361.49 and RSA-PAC-89-02;
- 2.2 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that ADRS will use only expenditures from set-aside funds under the Randolph Sheppard program that are allowable for purposes of VR program match in accordance with 34 CFR 361.49, 34 CFR 80.24(a)(1), RSA-PAC-89-02, and RSA PD-99-05; and
- 2.3 develop and implement procedures to ensure that set-aside funds used as match for the VR program include only allowable expenditures under the VR program.

**Agency Response:** ADRS concurs with these findings.

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

## **3. Unallowable Expenditures and Source of Match - AIDB**

**Corrective Action 3:** DRS must:

- 3.1 cease using program income and any costs for match purposes under the VR program that are not allowable and verifiable from the records maintained by ADRS and its contractors in accordance with 34 CFR 361.63(c)(4), 34 CFR 361.3 and 34 CFR 80.24(b)(6);
- 3.2 discontinue the use of program income or any other costs for match purposes under the VR program that are not allowable and verifiable from the records maintained ADRS and its contractors in accordance with 34 CFR 361.63(c)(4), 34 CFR 361.3 and 34 CFR80.24(b)(6); and
- 3.3 ensure that contract costs used as VR match are allowable VR costs and verifiable from the records maintained by ADRS and its contractors.

**Agency Response:** ADRS accepts RSA's corrective actions as written. However, ADRS objects to a statement contained in the finding related to a comment made by one AIDB staff.

Paragraph 4 of the finding on page 34 referenced a comment from one AIDB staff member and does not accurately reflect the position of the leadership of the Alabama Institute for Deaf and Blind. ADRS was immediately assured by the AIDB president and vice president that AIDB would "do whatever it takes" to correct this situation and would change their process as necessary to meet the requirements of the corrective action outlined in the Monitoring Report. Changes are already being made, and adding the single comment of one individual does not add value to the report and reflects a negative view clearly not shared by our partners at AIDB.

This statement creates an inaccurate negative perception of AIDB and their commitment to doing the right thing, and we request that it be removed from the final report.

**RSA Response:** RSA appreciates the steps that ADRS and AIDB are taking to address this finding. In response to the agency’s concerns regarding statements used to support the finding, RSA has added additional language to clarify that on multiple occasions AIDB staff presented the information concerning the difficulty related to tracking of expenditures to an individual level at the time of the review.

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

#### **4. Internal Controls and Contract Management**

**Corrective Action 4:** ADRS must:

- 4.1 submit a written assurance to RSA within 10 days of receipt of the final monitoring report that it will ensure VR funds are used properly and efficiently and only for allowable VR expenditures and that fiscal controls enable ADRS to expend and account for funds to such a degree that it can trace the funds for each activity to ensure the funds were expended in accordance with federal requirements as required by 34 CFR 361.3, 34 CFR 361.12 and 34 CFR 80.20(a); and
- 4.2 develop and implement policies and procedures to ensure that:
  - A. verifiable supporting documentation is available for expenditures satisfying a cost sharing or matching requirement;
  - B. VR funds are used properly and efficiently and only for allowable VR expenditures;and
  - C. fiscal controls enable ADRS to expend and account for funds to such a degree that it can trace the funds for each activity to ensure the funds were expended in accordance with federal requirements.

**Agency Response:** ADRS accepts RSA’s corrective actions as written. However, ADRS does take exception to statements contained in the finding related to this issue. Specifically, the following statements:

On page 37, the bullet referencing the AIDB contract states “the contract was not monitored for performance.” Counselors receive monthly progress reports for their respective consumers attending the program, and monthly and quarterly aggregate reports are sent to the assistant commissioner for Blind and Deaf Services through the Gateway to Rehabilitation Information Network (GRIN) system. Both ADRS and AIDB staff were available to demonstrate and discuss GRIN as a part of the Gentry review; however, the monitors did not view the system.

ADRS requests that the bulleted statement discussed above be modified.

**RSA Response:** RSA revised the language in the referenced bullet and added an additional bullet to clearly distinguish between the requirements to monitor the performance of contracts and the need to ensure that funds are expended and accounted for to such a degree that they can be traced for each activity.

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

## APPENDIX B: LEGAL REQUIREMENTS

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

### Rehabilitation Act of 1973, as amended

Section 7 For the purposes of this Act:

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

Section 103 Vocational Rehabilitation Services

(a) Vocational Rehabilitation Services for Individuals

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

- (1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;
- (2) counseling and guidance, including information and support services to assist an individual in exercising informed choice consistent with the provisions of section 102(d);
- (3) referral and other services to secure needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this title;
- (4) job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services;
- (5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials, except that no training services provided at an institution of higher education shall be paid for with funds under this title unless maximum efforts have been made by the designated State unit and the individual to secure grant assistance, in whole or in part, from other sources to pay for such training;
- (6) to the extent that financial support is not readily available from a source (such as through health insurance of the individual or through comparable services and benefits consistent

with section 101(a)(8)(A)), other than the designated State unit, diagnosis and treatment of physical and mental impairments, including--

- (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition that constitutes a substantial impediment to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or reduce such impediment to employment within a reasonable length of time;
- (B) necessary hospitalization in connection with surgery or treatment;
- (C) prosthetic and orthotic devices;
- (D) eyeglasses and visual services as prescribed by qualified personnel who meet State licensure laws and who are selected by the individual;
- (E) special services (including transplantation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals with end-stage renal disease; and
- (F) diagnosis and treatment for mental and emotional disorders by qualified personnel who meet State licensure laws;
- (7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an individualized plan for employment;
- (8) transportation, including adequate training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to achieve an employment outcome;
- (9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;
- (10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind, after an examination by qualified personnel who meet State licensure laws;
- (11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;
- (12) occupational licenses, tools, equipment, and initial stocks and supplies;
- (13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

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

(b) Vocational Rehabilitation Services for Groups of Individuals

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

- (1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by the designated State agency, the provision of such services and supervision, along or together with the acquisition by the designated State agency of vending facilities or other equipment and initial stocks and supplies.
- (2)(A) The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility. Such programs shall be used to provide services that promote integration and competitive employment.
- (B) The provision of other services, that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any 1 individual with a disability.
- (3) The use of telecommunications systems (including telephone, television, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities.
- (4)(A) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media.
- (B) Captioned television, films, or video cassettes for individuals who are deaf or hard of hearing.

- (C) Tactile materials for individuals who are deaf-blind.
- (D) Other special services that provide information through tactile, vibratory, auditory, and visual media.
- (5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.
- (6) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

## Section 111

### (a)(1)

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

## **VR program regulations**

### 34 CFR 361.3

The Secretary makes payments to a State to assist in—

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

### 34 CFR 361.5(b)(58)

(58) Vocational rehabilitation services—

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

### 34 CFR 361.12

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

## 34 CFR 361.13

- (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.
    - (ii) The determination to close the record of services of an individual who has achieved an employment outcome in accordance with 361.56.
    - (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.
  - (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 361.22

- (a) Plans, policies, and procedures.
  - (1) The State plan must contain plans, policies, and procedures for coordination between the designated State agency and education officials responsible for the public education of students with disabilities that are designed to facilitate the transition of students with disabilities from the receipt of educational services in school to the receipt of vocational rehabilitation services under the responsibility of the designated State agency.
  - (2) These plans, policies, and procedures in paragraph (a)(1) of this section must provide for the development and approval of an individualized plan for employment in accordance with 361.45 as early as possible during the transition planning process but, at the latest, by the time each student determined to be eligible for vocational rehabilitation services leaves the school setting or, if the designated State unit is operating under an order of selection, before each eligible student able to be served under the order leaves the school setting.
- (b) Formal interagency agreement. The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—
  - (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
  - (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;
  - (3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and

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

#### 34 CFR 361.23

- (a) Responsibilities as a partner of the One-Stop service delivery system. As a required partner in the One-Stop service delivery system (which is part of the statewide workforce investment system under Title I of the Workforce Investment Act of 1998), the designated State unit must carry out the following functions consistent with the Act, this part, Title I of the Workforce Investment Act of 1998, and the regulations in 20 CFR part 662:
  - (1) Make available to participants through the One-Stop service delivery system the core services (as described in 20 CFR 662.240) that are applicable to the Program administered by the designated State unit under this part.
  - (2) Use a portion of funds made available to the Program administered by the designated State unit under this part, consistent with the Act and this part, to—
    - (i) Create and maintain the One-Stop service delivery system; and
    - (ii) Provide core services (as described in 20 CFR 662.240).
  - (3) Enter into a memorandum of understanding (MOU) with the Local Workforce Investment Board under section 117 of the Workforce Investment Act of 1998 relating to the operation of the One-Stop service delivery system that meets the requirements of section 121(c) of the Workforce Investment Act and 20 CFR 662.300, including a description of services, how the cost of the identified services and operating costs of the system will be funded, and methods for referrals.
  - (4) Participate in the operation of the One-Stop service delivery system consistent with the terms of the MOU and the requirements of the Act and this part.
  - (5) Provide representation on the Local Workforce Investment Board under section 117 of the Workforce Investment Act of 1998.
- (b) Cooperative agreements with One-Stop partners.
  - (1) The State plan must assure that the designated State unit or the designated State agency enters into cooperative agreements with the other entities that are partners under the One-Stop service delivery system under Title I of the Workforce Investment Act of 1998 and replicates those agreements at the local level between individual offices of the designated State unit and local entities carrying out the One-Stop service delivery system or other activities through the statewide workforce investment system.
  - (2) Cooperative agreements developed under paragraph (b)(1) of this section may provide for—
    - (i) Intercomponent training and technical assistance regarding—
      - (A) The availability and benefits of, and information on eligibility standards for, vocational rehabilitation services; and
      - (B) The promotion of equal, effective and meaningful participation by individuals with disabilities in the One-Stop service delivery system and other workforce investment activities through the promotion of program accessibility consistent

with the requirements of the Americans with Disabilities Act of 1990 and section 504 of the Act, the use of nondiscriminatory policies and procedures, and the provision of reasonable accommodations, auxiliary aids and services, and rehabilitation technology for individuals with disabilities;

- (ii) The use of information and financial management systems that link all of the partners of the One-Stop service delivery system to one another and to other electronic networks, including nonvisual electronic networks, and that relate to subjects such as employment statistics, job vacancies, career planning, and workforce investment activities;
- (iii) The use of customer service features such as common intake and referral procedures, customer databases, resource information, and human services hotlines;
- (iv) The establishment of cooperative efforts with employers to facilitate job placement and carry out other activities that the designated State unit and the employers determine to be appropriate;
- (v) The identification of staff roles, responsibilities, and available resources and specification of the financial responsibility of each partner of the One-Stop service delivery system with respect to providing and paying for necessary services, consistent with the requirements of the Act, this part, other Federal requirements, and State law; and
- (vi) The specification of procedures for resolving disputes among partners of the One-Stop service delivery system.

34 CFR 361.28 Third-party cooperative arrangements involving funds from other public agencies.

- (a) The designated State unit may enter into a third-party cooperative arrangement for providing or administering vocational rehabilitation services with another State agency or a local public agency that is furnishing 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 vocational rehabilitation focus or existing services that have been modified, adapted, expanded, or reconfigured to have a vocational rehabilitation focus;
  - (2) The services provided by the cooperating agency are only available to applicants for, or recipients of, services from the designated State unit;
  - (3) Program expenditures and staff providing services under the cooperative arrangement are under the administrative supervision of the designated State unit; and
  - (4) All State plan requirements, including a State's order of selection, will apply to all services provided under the cooperative program.
- (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.

- (a) Comprehensive statewide assessment.
  - (1) The State plan must include—
    - (i) The results of a comprehensive, statewide assessment, jointly conducted by the designated State unit and the State Rehabilitation Council (if the State unit has a Council) every 3 years describing the rehabilitation needs of individuals with disabilities residing within the State, particularly the vocational rehabilitation services needs of—
      - (A) Individuals with the most significant disabilities, including their need for supported employment services;
      - (B) Individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program carried out under this part; and
      - (C) Individuals with disabilities served through other components of the statewide workforce investment system as identified by those individuals and personnel assisting those individuals through the components of the system; and
    - (ii) An assessment of the need to establish, develop, or improve community rehabilitation programs within the State.
  - (2) The State plan must assure that the State will submit to the Secretary a report containing information regarding updates to the assessments under paragraph (a) of this section for any year in which the State updates the assessments.
- (b) Annual estimates. The State plan must include, and must assure that the State will annually submit a report to the Secretary that includes, State estimates of—
  - (1) The number of individuals in the State who are eligible for services under this part;
  - (2) The number of eligible individuals who will receive services provided with funds provided under part B of Title I of the Act and under part B of Title VI of the Act, including, if the designated State agency uses an order of selection in accordance with 361.36, estimates of the number of individuals to be served under each priority category within the order; and
  - (3) The costs of the services described in paragraph (b)(1) of this section, including, if the designated State agency uses an order of selection, the service costs for each priority category within the order.
- (c) Goals and priorities—
  - (1) In general. The State plan must identify the goals and priorities of the State in carrying out the program.
  - (2) Council. The goals and priorities must be jointly developed, agreed to, reviewed annually, and, as necessary, revised by the designated State unit and the State Rehabilitation Council, if the State unit has a Council.
  - (3) Submission. The State plan must assure that the State will submit to the Secretary a report containing information regarding revisions in the goals and priorities for any year in which the State revises the goals and priorities.
  - (4) Basis for goals and priorities. The State goals and priorities must be based on an analysis of—
    - (i) The comprehensive statewide assessment described in paragraph (a) of this section, including any updates to the assessment;

- (ii) The performance of the State on the standards and indicators established under section 106 of the Act; and
  - (iii) Other available information on the operation and the effectiveness of the vocational rehabilitation program carried out in the State, including any reports received from the State Rehabilitation Council under 361.17(h) and the findings and recommendations from monitoring activities conducted under section 107 of the Act.
- (5) Service and outcome goals for categories in order of selection. If the designated State agency uses an order of selection in accordance with 361.36, the State plan must identify the State's service and outcome goals and the time within which these goals may be achieved for individuals in each priority category within the order.
- (d) Strategies. The State plan must describe the strategies the State will use to address the needs identified in the assessment conducted under paragraph (a) of this section and achieve the goals and priorities identified in paragraph (c) of this section, including—
- (1) The methods to be used to expand and improve services to individuals with disabilities, including how a broad range of assistive technology services and assistive technology devices will be provided to those individuals at each stage of the rehabilitation process and how those services and devices will be provided to individuals with disabilities on a statewide basis;
  - (2) Outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation program;
  - (3) As applicable, the plan of the State for establishing, developing, or improving community rehabilitation programs;
  - (4) Strategies to improve the performance of the State with respect to the evaluation standards and performance indicators established pursuant to section 106 of the Act; and
  - (5) Strategies for assisting other components of the statewide workforce investment system in assisting individuals with disabilities.
- (e) Evaluation and reports of progress.
- (1) The State plan must include—
    - (i) The results of an evaluation of the effectiveness of the vocational rehabilitation program; and
    - (ii) A joint report by the designated State unit and the State Rehabilitation Council, if the State unit has a Council, to the Secretary on the progress made in improving the effectiveness of the program from the previous year. This evaluation and joint report must include—
      - (A) An evaluation of the extent to which the goals and priorities identified in paragraph (c) of this section were achieved;
      - (B) A description of the strategies that contributed to the achievement of the goals and priorities;
      - (C) To the extent to which the goals and priorities were not achieved, a description of the factors that impeded that achievement; and
      - (D) An assessment of the performance of the State on the standards and indicators established pursuant to section 106 of the Act.

- (2) The State plan must assure that the designated State unit and the State Rehabilitation Council, if the State unit has a Council, will jointly submit to the Secretary an annual report that contains the information described in paragraph (e)(1) of this section.

#### 34 CFR 361.35

- (a) The State plan must assure that the State will reserve and use a portion of the funds allotted to the State under section 110 of the Act—
  - (1) For the development and implementation of innovative approaches to expand and improve the provision of vocational rehabilitation services to individuals with disabilities, particularly individuals with the most significant disabilities, consistent with the findings of the comprehensive, statewide assessment of the rehabilitation needs of individuals with disabilities under 361.29(a) and the State's goals and priorities under 361.29(c); and
  - (2) To support the funding of—
    - (i) The State Rehabilitation Council, if the State has a Council, consistent with the resource plan identified in 361.17(i); and
    - (ii) The Statewide Independent Living Council, consistent with the plan prepared under 34 CFR 364.21(i).

#### 34 CFR 361.45

- (a) General requirements. The State plan must assure that—
  - (1) An individualized plan for employment (IPE) meeting the requirements of this section and 361.46 is developed and implemented in a timely manner for each individual determined to be eligible for vocational rehabilitation services or, if the designated State unit is operating under an order of selection in accordance with 361.36, for each eligible individual to whom the State unit is able to provide services; and
  - (2) Services will be provided in accordance with the provisions of the IPE.
- (b) Purpose.
  - (1) The designated State unit must conduct an assessment for determining vocational rehabilitation needs, if appropriate, for each eligible individual or, if the State is operating under an order of selection, for each eligible individual to whom the State is able to provide services. The purpose of this assessment is to determine the employment outcome, and the nature and scope of vocational rehabilitation services to be included in the IPE.
  - (2) The IPE must be designed to achieve a specific employment outcome, as defined in 361.5(b)(16), that is selected by the individual consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.
- (c) Required information. The State unit must provide the following information to each eligible individual or, as appropriate, the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or the individual's representative:

- (1) Options for developing an IPE. Information on the available options for developing the IPE, including the option that an eligible individual or, as appropriate, the individual's representative may develop all or part of the IPE—
  - (i) Without assistance from the State unit or other entity; or
  - (ii) With assistance from—
    - (A) A qualified vocational rehabilitation counselor employed by the State unit;
    - (B) A qualified vocational rehabilitation counselor who is not employed by the State unit; or
    - (C) Resources other than those in paragraph (A) or (B) of this section.
- (2) Additional information. Additional information to assist the eligible individual or, as appropriate, the individual's representative in developing the IPE, including—
  - (i) Information describing the full range of components that must be included in an IPE;
  - (ii) As appropriate to each eligible individual—
    - (A) An explanation of agency guidelines and criteria for determining an eligible individual's financial commitments under an IPE;
    - (B) Information on the availability of assistance in completing State unit forms required as part of the IPE; and
    - (C) Additional information that the eligible individual requests or the State unit determines to be necessary to the development of the IPE;
  - (iii) A description of the rights and remedies available to the individual, including, if appropriate, recourse to the processes described in 361.57; and
  - (iv) A description of the availability of a client assistance program established under 34 CFR part 370 and information on how to contact the client assistance program.
- (d) Mandatory procedures. The designated State unit must ensure that—
  - (1) The IPE is a written document prepared on forms provided by the State unit;
  - (2) The IPE is developed and implemented in a manner that gives eligible individuals the opportunity to exercise informed choice, consistent with 361.52, in selecting—
    - (i) The employment outcome, including the employment setting;
    - (ii) The specific vocational rehabilitation services needed to achieve the employment outcome, including the settings in which services will be provided;
    - (iii) The entity or entities that will provide the vocational rehabilitation services; and
    - (iv) The methods available for procuring the services;
  - (3) The IPE is—
    - (i) Agreed to and signed by the eligible individual or, as appropriate, the individual's representative; and
    - (ii) Approved and signed by a qualified vocational rehabilitation counselor employed by the designated State unit;
  - (4) A copy of the IPE and a copy of any amendments to the IPE are provided to the eligible individual or, as appropriate, to the individual's representative, in writing and, if appropriate, in the native language or mode of communication of the individual or, as appropriate, the individual's representative;
  - (5) The IPE is reviewed at least annually by a qualified vocational rehabilitation counselor and the eligible individual or, as appropriate, the individual's representative to assess the eligible individual's progress in achieving the identified employment outcome;

- (6) The IPE is amended, as necessary, by the individual or, as appropriate, the individual's representative, in collaboration with a representative of the State unit or a qualified vocational rehabilitation counselor (to the extent determined to be appropriate by the individual), if there are substantive changes in the employment outcome, the vocational rehabilitation services to be provided, or the providers of the vocational rehabilitation services;
- (7) Amendments to the IPE do not take effect until agreed to and signed by the eligible individual or, as appropriate, the individual's representative and by a qualified vocational rehabilitation counselor employed by the designated State unit; and
- (8) An IPE for a student with a disability receiving special education services is developed—
  - (i) In consideration of the student's IEP; and
  - (ii) In accordance with the plans, policies, procedures, and terms of the interagency agreement required under 361.22.
- (e) Standards for developing the IPE. The designated State unit must establish and implement standards for the prompt development of IPEs for the individuals identified under paragraph (a) of this section, including timelines that take into consideration the needs of the individuals.
- (f) Data for preparing the IPE—
  - (1) Preparation without comprehensive assessment. To the extent possible, the employment outcome and the nature and scope of rehabilitation services to be included in the individual's IPE must be determined based on the data used for the assessment of eligibility and priority for services under 361.42.
  - (2) Preparation based on comprehensive assessment.
    - (i) If additional data are necessary to determine the employment outcome and the nature and scope of services to be included in the IPE of an eligible individual, the State unit must conduct a comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment services, of the eligible individual, in the most integrated setting possible, consistent with the informed choice of the individual in accordance with the provisions of 361.5(b)(6)(ii).
    - (ii) In preparing the comprehensive assessment, the State unit must use, to the maximum extent possible and appropriate and in accordance with confidentiality requirements, existing information that is current as of the date of the development of the IPE, including—
      - (A) Information available from other programs and providers, particularly information used by education officials and the Social Security Administration;
      - (B) Information provided by the individual and the individual's family; and
      - (C) Information obtained under the assessment for determining the individual's eligibility and vocational rehabilitation needs.

- (a) Mandatory components. Regardless of the approach in 361.45(c)(1) that an eligible individual selects for purposes of developing the IPE, each IPE must include—
  - (1) A description of the specific employment outcome, as defined in 361.5(b)(16), that is chosen by the eligible individual and is consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, career interests, and informed choice.
  - (2) A description of the specific rehabilitation services under 361.48 that are—
    - (i) Needed to achieve the employment outcome, including, as appropriate, the provision of assistive technology devices, assistive technology services, and personal assistance services, including training in the management of those services; and
    - (ii) Provided in the most integrated setting that is appropriate for the services involved and is consistent with the informed choice of the eligible individual;
  - (3) Timelines for the achievement of the employment outcome and for the initiation of services;
  - (4) A description of the entity or entities chosen by the eligible individual or, as appropriate, the individual's representative that will provide the vocational rehabilitation services and the methods used to procure those services;
  - (5) A description of the criteria that will be used to evaluate progress toward achievement of the employment outcome; and
  - (6) The terms and conditions of the IPE, including, as appropriate, information describing—
    - (i) The responsibilities of the designated State unit;
    - (ii) The responsibilities of the eligible individual, including—
      - (A) The responsibilities the individual will assume in relation to achieving the employment outcome;
      - (B) If applicable, the extent of the individual's participation in paying for the cost of services; and
      - (C) The responsibility of the individual with regard to applying for and securing comparable services and benefits as described in 361.53; and
    - (iii) The responsibilities of other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 361.53.
- (b) Supported employment requirements. An IPE for an individual with a most significant disability for whom an employment outcome in a supported employment setting has been determined to be appropriate must—
  - (1) Specify the supported employment services to be provided by the designated State unit;
  - (2) Specify the expected extended services needed, which may include natural supports;
  - (3) Identify the source of extended services or, to the extent that it is not possible to identify the source of extended services at the time the IPE is developed, include a description of the basis for concluding that there is a reasonable expectation that those sources will become available;

- (4) Provide for periodic monitoring to ensure that the individual is making satisfactory progress toward meeting the weekly work requirement established in the IPE by the time of transition to extended services;
  - (5) Provide for the coordination of services provided under an IPE with services provided under other individualized plans established under other Federal or State programs;
  - (6) To the extent that job skills training is provided, identify that the training will be provided on site; and
  - (7) Include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of individuals with the most significant disabilities.
- (c) Post-employment services. The IPE for each individual must contain, as determined to be necessary, statements concerning—
- (1) The expected need for post-employment services prior to closing the record of services of an individual who has achieved an employment outcome;
  - (2) A description of the terms and conditions for the provision of any post-employment services; and
  - (3) If appropriate, a statement of how post-employment services will be provided or arranged through other entities as the result of arrangements made pursuant to the comparable services or benefits requirements in 361.53.
- (d) Coordination of services for students with disabilities who are receiving special education services. The IPE for a student with a disability who is receiving special education services must be coordinated with the IEP for that individual in terms of the goals, objectives, and services identified in the IEP.

#### 34 CFR 361.48

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

- (a) Assessment for determining eligibility and priority for services by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 361.42.
- (b) Assessment for determining vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology, in accordance with 361.45.
- (c) Vocational rehabilitation counseling and guidance, including information and support services to assist an individual in exercising informed choice in accordance with 361.52.
- (d) Referral and other services necessary to assist applicants and eligible individuals to secure needed services from other agencies, including other components of the statewide workforce investment system, in accordance with 361.23, 361.24, and 361.37, and to advise those individuals about client assistance programs established under 34 CFR part 370.

- (e) In accordance with the definition in 361.5(b)(40), physical and mental restoration services, to the extent that financial support is not readily available from a source other than the designated State unit (such as through health insurance or a comparable service or benefit as defined in 34 CFR 361.5(b)(10).
- (f) Vocational and other training services, including personal and vocational adjustment training, books, tools, and other training materials, except that no training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) may be paid for with funds under this part unless maximum efforts have been made by the State unit and the individual to secure grant assistance in whole or in part from other sources to pay for that training.
- (g) Maintenance, in accordance with the definition of that term in 361.5(b)(35).
- (h) Transportation in connection with the rendering of any vocational rehabilitation service and in accordance with the definition of that term in 361.5(b)(57).
- (i) Vocational rehabilitation services to family members, as defined in 361.5(b)(23), of an applicant or eligible individual if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (j) Interpreter services, including sign language and oral interpreter services, for individuals who are deaf or hard of hearing and tactile interpreting services for individuals who are deaf-blind provided by qualified personnel.
- (k) Reader services, rehabilitation teaching services, and orientation and mobility services for individuals who are blind.
- (l) Job-related services, including job search and placement assistance, job retention services, follow-up services, and follow-along services.
- (m) Supported employment services in accordance with the definition of that term in 34 CFR 361.5(b)(54)
- (n) Personal assistance services in accordance with the definition of that term in 361.5(b)(39).
- (o) Post-employment services in accordance with the definition of that term in 361.5(b)(42).
- (p) Occupational licenses, tools, equipment, initial stocks, and supplies.
- (q) Rehabilitation technology in accordance with the definition of that term in 361.5(b)(45), including vehicular modification, telecommunications, sensory, and other technological aids and devices.
- (r) Transition services in accordance with the definition of that term in 361.5(b)(55).
- (s) Technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent those resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome.
- (t) Other goods and services determined necessary for the individual with a disability to achieve an employment outcome.

#### 34 CFR 361.49

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

- (1) The establishment, development, or improvement of a public or other nonprofit community rehabilitation program that is used to provide vocational rehabilitation services that promote integration and competitive employment, including, under special circumstances, the construction of a facility for a public or nonprofit community rehabilitation program. Examples of “special circumstances” include the destruction by natural disaster of the only available center serving an area or a State determination that construction is necessary in a rural area because no other public agencies or private nonprofit organizations are currently able to provide vocational rehabilitation services to individuals.
- (2) Telecommunications systems that have the potential for substantially improving vocational rehabilitation service delivery methods and developing appropriate programming to meet the particular needs of individuals with disabilities, including telephone, television, video description services, satellite, tactile-vibratory devices, and similar systems, as appropriate.
- (3) Special services to provide nonvisual access to information for individuals who are blind, including the use of telecommunications, Braille, sound recordings, or other appropriate media; captioned television, films, or video cassettes for individuals who are deaf or hard of hearing; tactile materials for individuals who are deaf-blind; and other special services that provide information through tactile, vibratory, auditory, and visual media.
- (4) Technical assistance and support services to businesses that are not subject to Title I of the Americans with Disabilities Act of 1990 and that are seeking to employ individuals with disabilities.
- (5) In the case of any small business enterprise operated by individuals with significant disabilities under the supervision of the designated State unit, including enterprises established under the Randolph-Sheppard program, management services and supervision provided by the State unit along with the acquisition by the State unit of vending facilities or other equipment, initial stocks and supplies, and initial operating expenses, in accordance with the following requirements:
  - (i) “Management services and supervision” includes inspection, quality control, consultation, accounting, regulating, in-service training, and related services provided on a systematic basis to support and improve small business enterprises operated by individuals with significant disabilities. “Management services and supervision” may be provided throughout the operation of the small business enterprise.
  - (ii) “Initial stocks and supplies” includes those items necessary to the establishment of a new business enterprise during the initial establishment period, which may not exceed 6 months.
  - (iii) Costs of establishing a small business enterprise may include operational costs during the initial establishment period, which may not exceed 6 months.
  - (iv) If the designated State unit provides for these services, it must ensure that only individuals with significant disabilities will be selected to participate in this supervised program.
  - (v) If the designated State unit provides for these services and chooses to set aside funds from the proceeds of the operation of the small business enterprises, the State unit must maintain a description of the methods used in setting aside funds

and the purposes for which funds are set aside. Funds may be used only for small business enterprises purposes, and benefits that are provided to operators from set-aside funds must be provided on an equitable basis.

- (6) Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual. Examples of those other services might include the purchase or lease of a bus to provide transportation to a group of applicants or eligible individuals or the purchase of equipment or instructional materials that would benefit a group of applicants or eligible individuals.
  - (7) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.
- (b) If the designated State unit provides for vocational rehabilitation services for groups of individuals, it must—
- (1) Develop and maintain written policies covering the nature and scope of each of the vocational rehabilitation services it provides and the criteria under which each service is provided; and
  - (2) Maintain information to ensure the proper and efficient administration of those services in the form and detail and at the time required by the Secretary, including the types of services provided, the costs of those services, and, to the extent feasible, estimates of the numbers of individuals benefiting from those services.

#### 34 CFR 361.53

- (d) Interagency coordination.
- (1) The State plan must assure that the Governor, in consultation with the entity in the State responsible for the vocational rehabilitation program and other appropriate agencies, will ensure that an interagency agreement or other mechanism for interagency coordination takes effect between the designated State vocational rehabilitation unit and any appropriate public entity, including the State entity responsible for administering the State Medicaid program, a public institution of higher education, and a component of the statewide workforce investment system, to ensure the provision of vocational rehabilitation services (other than those services listed in paragraph (b) of this section) that are included in the IPE, including the provision of those vocational rehabilitation services during the pendency of any interagency dispute in accordance with the provisions of paragraph (d)(3)(iii) of this section.
  - (2) The Governor may meet the requirements of paragraph (d)(1) of this section through—
    - (i) A State statute or regulation;
    - (ii) A signed agreement between the respective officials of the public entities that clearly identifies the responsibilities of each public entity for the provision of the services; or
    - (iii) Another appropriate mechanism as determined by the designated State vocational rehabilitation unit.

- (3) The interagency agreement or other mechanism for interagency coordination must include the following:
- (i) Agency financial responsibility. An identification of, or description of a method for defining, the financial responsibility of the public entity for providing the vocational rehabilitation services other than those listed in paragraph (b) of this section and a provision stating the financial responsibility of the public entity for providing those services.
  - (ii) Conditions, terms, and procedures of reimbursement. Information specifying the conditions, terms, and procedures under which the designated State unit must be reimbursed by the other public entities for providing vocational rehabilitation services based on the terms of the interagency agreement or other mechanism for interagency coordination.
  - (iii) Interagency disputes. Information specifying procedures for resolving interagency disputes under the interagency agreement or other mechanism for interagency coordination, including procedures under which the designated State unit may initiate proceedings to secure reimbursement from other public entities or otherwise implement the provisions of the agreement or mechanism.
  - (iv) Procedures for coordination of services. Information specifying policies and procedures for public entities to determine and identify interagency coordination responsibilities of each public entity to promote the coordination and timely delivery of vocational rehabilitation services other than those listed in paragraph (b) of this section.

34 CFR 34 CFR 361.60

- (a) Federal share—
- (1) General. Except as provided in paragraph (a)(2) of this section, the Federal share for expenditures made by the State under the State plan, including expenditures for the provision of vocational rehabilitation services and the administration of the State plan, is 78.7 percent.
  - (2) Construction projects. The Federal share for expenditures made for the construction of a facility for community rehabilitation program purposes may not be more than 50 percent of the total cost of the project.
- (b) Non-Federal share—
- (1) General. Except as provided in paragraph (b)(2) and (3) of this section, expenditures made under the State plan to meet the non-Federal share under this section must be consistent with the provisions of 34 CFR 80.24.
  - (2) Third party in-kind contributions. Third party in-kind contributions specified in 34 CFR 80.24(a)(2) may not be used to meet the non-Federal share under this section.
  - (3) Contributions by private entities. Expenditures made from contributions by private organizations, agencies, or individuals that are deposited in the account of the State agency or sole local agency in accordance with State law and that are earmarked, under a condition imposed by the contributor, may be used as part of the non-Federal share under this section if the funds are earmarked for—

- (i) Meeting in whole or in part the State's share for establishing a community rehabilitation program or constructing a particular facility for community rehabilitation program purposes;
- (ii) Particular geographic areas within the State for any purpose under the State plan, other than those described in paragraph (b)(3)(i) of this section, in accordance with the following criteria:
  - (A) Before funds that are earmarked for a particular geographic area may be used as part of the non-Federal share, the State must notify the Secretary that the State cannot provide the full non-Federal share without using these funds.
  - (B) Funds that are earmarked for a particular geographic area may be used as part of the non-Federal share without requesting a waiver of statewideness under 361.26.
  - (C) Except as provided in paragraph (b)(3)(i) of this section, all Federal funds must be used on a statewide basis consistent with 361.25, unless a waiver of statewideness is obtained under 361.26; and
- (iii) Any other purpose under the State plan, provided the expenditures do not benefit in any way the donor, an individual to whom the donor is related by blood or marriage or with whom the donor has a close personal relationship, or an individual, entity, or organization with whom the donor shares a financial interest. The Secretary does not consider a donor's receipt from the State unit of a grant, subgrant, or contract with funds allotted under this part to be a benefit for the purposes of this paragraph if the grant, subgrant, or contract is awarded under the State's regular competitive procedures.  
(Authority: Sections 7(14), 101(a)(3), 101(a)(4) and 104 of the Act; 29 U.S.C. 706(14), 721(a)(3), 721(a)(4) and 724))

Example for paragraph (b)(3): Contributions may be earmarked in accordance with 361.60(b)(3)(iii) for providing particular services ( e.g., rehabilitation technology services); serving individuals with certain types of disabilities ( e.g., individuals who are blind), consistent with the State's order of selection, if applicable; providing services to special groups that State or Federal law permits to be targeted for services ( e.g., students with disabilities who are receiving special education services), consistent with the State's order of selection, if applicable; or carrying out particular types of administrative activities permissible under State law. Contributions also may be restricted to particular geographic areas to increase services or expand the scope of services that are available statewide under the State plan in accordance with the requirements in 361.60(b)(3)(ii).

#### 34 CFR 361.62

##### (a) General requirements.

- (1) The Secretary reduces the amount otherwise payable to a State for a fiscal year by the amount by which the total expenditures from non-Federal sources under the State plan for the previous fiscal year were less than the total of those expenditures for the fiscal year 2 years prior to the previous fiscal year.

Example: For fiscal year 2001, a State's maintenance of effort level is based on the amount of its expenditures from non-Federal sources for fiscal year 1999. Thus, if the State's non-Federal expenditures in 2001 are less than they were in 1999, the State has a maintenance of effort deficit, and the Secretary reduces the State's allotment in 2002 by the amount of that deficit.

- (2) If, at the time the Secretary makes a determination that a State has failed to meet its maintenance of effort requirements, it is too late for the Secretary to make a reduction in accordance with paragraph (a)(1) of this section, then the Secretary recovers the amount of the maintenance of effort deficit through audit disallowance.

#### 34 CFR 361.63

- (a) *Definition.* For purposes of this section, *program income* means gross income received by the State that is directly generated by an activity supported under this part.
- (b) *Sources.* Sources of program income include, but are not limited to, payments from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes, 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.
- (c) *Use of program income.*
  - (1) Except as provided in paragraph (c)(2) of this section, program income, whenever earned, must be used for the provision of vocational rehabilitation services and the administration of the State plan. Program income is considered earned when it is received.
  - (2) Payments provided to a State from the Social Security Administration for assisting Social Security beneficiaries and recipients to achieve employment outcomes may also be used to carry out programs under part B of Title I of the Act (client assistance), part B of Title VI of the Act (supported employment), and Title VII of the Act (independent living).
  - (3) The State is authorized to treat program income as—
    - (i) An addition to the grant funds to be used for additional allowable program expenditures, in accordance with 34 CFR 80.25(g)(2); or
    - (ii) A deduction from total allowable costs, in accordance with 34 CFR 80.25(g)(1).
  - (4) Program income cannot be used to meet the non-Federal share requirement under

#### 34 CFR 361.64

- (a) Except as provided in paragraph (b) of this section, any Federal funds, including reallotted funds, that are appropriated for a fiscal year to carry out a program under this part that are not obligated by the State by the beginning of the succeeding fiscal year and any program income received during a fiscal year that is not obligated by the State by the beginning of the succeeding fiscal year remain available for obligation by the State during that succeeding fiscal year.
- (b) Federal funds appropriated for a fiscal year remain available for obligation in the succeeding fiscal year only to the extent that the State met the matching requirement for

those Federal funds by obligating, in accordance with 34 CFR 76.707, the non-Federal share in the fiscal year for which the funds were appropriated.

## **Randolph-Sheppard Vending Facility Program Regulations**

34 CFR 395.9 The setting aside of funds by the State licensing agency.

- (a) The State licensing agency shall establish in writing the extent to which funds are to be set aside or caused to be set aside from the net proceeds of the operation of the vending facilities and, to the extent applicable, from vending machine income under §395.8(c) in an amount determined by the Secretary to be reasonable.
- (b) Funds may be set aside under paragraph (a) of this section only for the purposes of:
  - (1) Maintenance and replacement of equipment;
  - (2) The purchase of new equipment;
  - (3) Management services;
  - (4) Assuring a fair minimum of return to vendors; or
  - (5) The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.
- (c) The State licensing agency shall further set out the method of determining the charge for each of the above purposes listed in paragraph (b) of this section, which will be determined with the active participation of the State Committee of Blind Vendors and which will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose. The State licensing agency shall maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this section, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

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

34 CFR 80.3 Changes

- (a) *General.* Grantees and subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, unless waived by the awarding agency, certain types of post-award changes in budgets and projects shall require the prior written approval of the awarding agency.
- (b) *Relation to cost principles.* The applicable cost principles (see §80.22) contain requirements for prior approval of certain types of costs. Except where waived, those requirements apply to all grants and subgrants even if paragraphs (c) through (f) of this section do not.

- (c) *Budget changes*—
- (1) *Nonconstruction projects.* Except as stated in other regulations or an award document, grantees or subgrantees shall obtain the prior approval of the awarding agency whenever any of the following changes is anticipated under a nonconstruction award:
    - (i) Any revision which would result in the need for additional funding.
    - (ii) Unless waived by the awarding agency, cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
    - (iii) Transfer of funds allotted for training allowances (i.e., from direct payments to trainees to other expense categories).
  - (2) *Construction projects.* Grantees and subgrantees shall obtain prior written approval for any budget revision which would result in the need for additional funds.
  - (3) *Combined construction and nonconstruction projects.* When a grant or subgrant provides funding for both construction and nonconstruction activities, the grantee or subgrantee must obtain prior written approval from the awarding agency before making any fund or budget transfer from nonconstruction to construction or vice versa.
- (d) *Programmatic changes.* Grantees or subgrantees must obtain the prior approval of the awarding agency whenever any of the following actions is anticipated:
- (1) Any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision requiring prior approval).
  - (2) Need to extend the period of availability of funds.
  - (3) Changes in key persons in cases where specified in an application or a grant award. In research projects, a change in the project director or principal investigator shall always require approval unless waived by the awarding agency.
  - (4) Under nonconstruction projects, contracting out, subgranting (if authorized by law) or otherwise obtaining the services of a third party to perform activities which are central to the purposes of the award. This approval requirement is in addition to the approval requirements of §80.36 but does not apply to the procurement of equipment, supplies, and general support services.
- (e) *Additional prior approval requirements.* The awarding agency may not require prior approval for any budget revision which is not described in paragraph (c) of this section.
- (f) *Requesting prior approval.*
- (1) A request for prior approval of any budget revision will be in the same budget format the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.
  - (2) A request for a prior approval under the applicable Federal cost principles (see §80.22) may be made by letter.
  - (3) A request by a subgrantee for prior approval will be addressed in writing to the grantee. The grantee will promptly review such request and shall approve or disapprove the request in writing. A grantee will not approve any budget or project revision which is inconsistent with the purpose or terms and conditions of the Federal grant to the grantee. If the revision, requested by the subgrantee would result in a change to the grantee's approved project which requires Federal prior approval, the grantee will obtain the Federal agency's approval before approving the subgrantee's request.

34 CFR 80.20 Standards for financial management systems.

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

34 CFR 80.24 Matching or cost sharing.

- (a) *Basic rule: Costs and contributions acceptable.* With the qualifications and exceptions listed in paragraph (b) of this section, a matching or cost sharing requirement may be satisfied by either or both of the following:
  - (1) Allowable costs incurred by the grantee, subgrantee or a cost-type contractor under the assistance agreement. This includes allowable costs borne by non-Federal grants or by others cash donations from non-Federal third parties.
- (b) *Records.* Costs and third party in-kind contributions counting towards satisfying a cost sharing or matching requirement must be verifiable from the records of grantees and subgrantee or cost-type contractors. These records must show how the value placed on third party in-kind contributions was derived. To the extent feasible, volunteer services will be supported by the same methods that the organization uses to support the allocability of regular personnel costs.

34 CFR 80.25 Program income.

- (a) *General.* Grantees are encouraged to earn income to defray program costs. Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under a grant agreement, and from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc. and interest earned on any of them.
- (b) *Definition of program income.* Program income means gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report.
- (c) *Cost of generating program income.* If authorized by Federal regulations or the grant agreement, costs incident to the generation of program income may be deducted from gross income to determine program income.
- (d) *Governmental revenues.* Taxes, special assessments, levies, fines, and other such revenues raised by a grantee or subgrantee are not program income unless the revenues

are specifically identified in the grant agreement or Federal agency regulations as program income.

- (e) *Royalties.* Income from royalties and license fees for copyrighted material, patents, and inventions developed by a grantee or subgrantee is program income only if the revenues are specifically identified in the grant agreement or Federal agency regulations as program income. (See §80.34.)
- (f) *Property.* Proceeds from the sale of real property or equipment will be handled in accordance with the requirements of §§80.31 and 80.32.
- (g) *Use of program income.* Program income shall be deducted from outlays which may be both Federal and non-Federal as described below, unless the Federal agency regulations or the grant agreement specify another alternative (or a combination of the alternatives). In specifying alternatives, the Federal agency may distinguish between income earned by the grantee and income earned by subgrantees and between the sources, kinds, or amounts of income. When Federal agencies authorize the alternatives in paragraphs (g) (2) and (3) of this section, program income in excess of any limits stipulated shall also be deducted from outlays.
  - (1) *Deduction.* Ordinarily program income shall be deducted from total allowable costs to determine the net allowable costs. Program income shall be used for current costs unless the Federal agency authorizes otherwise. Program income which the grantee did not anticipate at the time of the award shall be used to reduce the Federal agency and grantee contributions rather than to increase the funds committed to the project.
  - (2) *Addition.* When authorized, program income may be added to the funds committed to the grant agreement by the Federal agency and the grantee. The program income shall be used for the purposes and under the conditions of the grant agreement.
  - (3) *Cost sharing or matching.* When authorized, program income may be used to meet the cost sharing or matching requirement of the grant agreement. The amount of the Federal grant award remains the same.
- (h) *Income after the award period.* There are no Federal requirements governing the disposition of program income earned after the end of the award period (i.e., until the ending date of the final financial report, see paragraph (a) of this section), unless the terms of the agreement or the Federal agency regulations provide otherwise.

#### 34 CFR 80.36 Procurement.

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

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

- (a) *Monitoring by grantees.* Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that

performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

## **OMB circulars as cited in the CFR**

### 2 CFR 225

#### Appendix A. *Basic Guidelines*

1. Factors affecting allowability of costs. To be allowable under Federal awards, costs must meet the following general criteria:
  - a. Be necessary and reasonable for proper and efficient performance and administration of Federal awards.
  - b. Be allocable to Federal awards under the provisions of 2 CFR part 225.
  - c. Be authorized or not prohibited under State or local laws or regulations.
  - d. Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amounts of cost items.
  - e. Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit.
  - f. Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
  - g. Except as otherwise provided for in 2 CFR part 225, be determined in accordance with generally accepted accounting principles.
  - h. Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation.
  - i. Be the net of all applicable credits.
  - j. Be adequately documented.
2. Reasonable costs. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when governmental units or components are predominately federally-funded. In determining reasonableness of a given cost, consideration shall be given to:
  - a. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award.
  - b. The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the Federal award.
  - c. Market prices for comparable goods or services.
  - d. Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the governmental unit, its employees, the public at large, and the Federal Government.
  - e. Significant deviations from the established practices of the governmental unit which may unjustifiably increase the Federal award's cost.

3. Allocable costs.
  - a. A cost is allocable to a particular cost objective if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received.
  - b. All activities which benefit from the governmental unit's indirect cost, including unallowable activities and services donated to the governmental unit by third parties, will receive an appropriate allocation of indirect costs.
  - c. Any cost allocable to a particular Federal award or cost objective under the principles provided for in 2 CFR part 225 may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons.
  - d. Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan will be required as described in Appendices C, D, and E to this part.
4. Applicable credits.
  - a. Applicable credits refer to those receipts or reduction of expenditure-type transactions that offset or reduce expense items allocable to Federal awards as direct or indirect costs. Examples of such transactions are: Purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the governmental unit relate to allowable costs, they shall be credited to the Federal award either as a cost reduction or cash refund, as appropriate.
  - b. In some instances, the amounts received from the Federal Government to finance activities or service operations of the governmental unit should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to Federal awards. (See Appendix B to this part, item 11, "Depreciation and use allowances," for areas of potential application in the matter of Federal financing of activities.)

## **RSA subregulatory issuances (policy directives, technical assistance circulars)**

RSA-PD-99-05

The Use of Title I Funds for the Maintenance and Repair of Equipment Under the Randolph-Sheppard Act

The question has arisen concerning the use by State licensing agencies of Title I funds under the Rehabilitation Act of 1973, as amended (the Rehabilitation Act), for the maintenance and repair of equipment in vending facilities operated under the Randolph-Sheppard Act (the R-S Act).

We are unaware of any prohibition concerning the use of Title I funds for maintenance and repair of equipment, either in the Rehabilitation Act or the R-S Act. In the absence of such a

prohibition, there is authority in Office of Management and Budget (OMB) Circular A-87, "Cost Principles for State, Local and Indian Tribal Governments," which allows for the use of Federal financial participation for the maintenance of equipment and repairs. Specifically, section 28 of the OMB Circular states:

Unless prohibited by law, the cost of ... necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they: (1) keep property (including Federal property, unless otherwise provided for) in an efficient operating condition, (2) do not add to the permanent value of property or appreciably prolong its intended life, and (3) are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures.

On the basis of the foregoing, the Rehabilitation Services Administration finds that Title I funds are available for the maintenance and repair of vending facility equipment under the R-S Act. All prior policy statements on this issue—including Program Assistance Circular, RSA-PAC-89-02, dated January 3, 1989, "Guidelines for Use of Federal Financial Participation and Set-Aside Funds in the Randolph-Sheppard Vending Facility Program" and the reporting instructions for the form RSA-15, Report of Vending Facility Program—are hereby amended consistent with this interpretation.

RSA-PAC-89-02

RSA-PAC-89-02, pgs. 8 - 9, section 4 and 5 (January 1, 1989) states:

4. Expenditures Made by the State Vending Facility Programs from Set-Aside Funds Which are Eligible for Federal Matching

As noted earlier, SLAs are authorized under the Randolph-Sheppard Act to set aside funds for the purposes set forth in the statute. Under 34 CFR 361.72(b) such expenditures in turn are considered as expenditures of State funds for Federal matching purposes.

However, only three of the purposes for which funds may be set-aside under the Randolph-Sheppard Act are eligible for Federal financial participation under the Rehabilitation Act, as amended. These are purchases of new equipment, the replacement of equipment, and management services and supervision.

It is also important to emphasize that Federal financial participation is available in certain types of expenditures for which funds may not be set-aside under the Randolph-Sheppard Act. These are the purchase of initial stocks and supplies for vending facilities, and the training of operators as a rehabilitation service under the Rehabilitation Act as provided under 20 u.s.c Sec. 107d-4.

5. Expenditures Made by the SLA from Set-Aside Funds that are not Eligible for Federal Matching.

The following expenditures made from set-aside funds are not eligible for Federal matching:

- a. Maintenance of equipment (this was amended in PD 99 -05).
- b. Guaranteeing a fair minimum return to licensed vendors.
- c. The establishment and maintenance of retirement or pension funds, health insurance contributions and provision for paid vacation for blind vendors.