

**FISCAL YEAR 2013  
MONITORING REPORT  
ON THE  
U. S. TERRITORY OF THE VIRGIN  
ISLANDS DIVISION OF DISABILITY AND  
REHABILITATION SERVICES  
VOCATIONAL REHABILITATION  
PROGRAM**



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

**APRIL 8, 2013**

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# SECTION 1: EXECUTIVE SUMMARY

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## Background

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

Through its monitoring of the VR and SE programs administered by the Virgin Islands Division of Disability and Rehabilitation Services (VIDDRS) in federal fiscal year (FY) 2013, RSA:

- reviewed the VR agency's progress toward implementing recommendations and resolving findings identified during the prior monitoring cycle (FY 2007 through FY 2010);
- reviewed the VR agency's performance in assisting eligible individuals with disabilities to achieve high-quality employment outcomes;
- recommended strategies to improve performance and required corrective actions in response to compliance findings related to three focus areas, including:
  - organizational structure requirements of the designated state agency (DSA) and the designated state unit (DSU);
  - transition services and employment outcomes for youth with disabilities; and
  - the fiscal integrity of the VR program;
- discussed 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 concentrated review activities the week of November 26 through 30, 2012, is described in detail in the FY 2013 Monitoring and Technical Assistance Guide for the Vocational Rehabilitation Program located at:

<http://www.ed.gov/rschstat/eval/rehab/107-reports/2013/monitoring-and-technical-assistance-guide.doc> or <http://www.ed.gov/rschstat/eval/rehab/107-reports/2013/monitoring-and-technical-assistance-guide.pdf>

## **Summary of Observations**

RSA's review of VIDDRS 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**

- While performance outcomes for youth with disabilities have remained constant, overall performance for this subset of VR consumers has declined in comparison with outcomes for all VR consumers, due in part to insufficient coordination and collaboration across the territory.

### **Fiscal Integrity of the VR Program**

- Reports from VIDDRS staff and the third party fiduciary charged with managing the agency's federal grants indicate that the process for authorization of VR services is resulting in delays in payments and delivery of VR services.

## **Summary of Compliance Findings**

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

- VIDDRS did not determine the eligibility for all youth with disabilities for VR services within 60 days.
- VIDDRS did not develop IPEs for all youth with disabilities within the timeline specified in the agency's written VR policies.
- VIDDRS did not enter into a formal agreement with the state education agency that describes the collaborative efforts of the two entities to conduct outreach efforts to students and youth with disabilities who may benefit from VR services.
- VIDDRS does not submit timely and accurate financial reports to RSA, including the SF-269/425 Federal Financial Report.
- VIDDRS did not meet its maintenance of effort requirement for FY 2009.
- VIDDRS does not maintain personnel activity reports for all employees working on multiple cost objectives that reflect an after-the-fact distribution of the actual activity of each employee, in order to determine the amount of expenses to be allocated to the VR award.
- VIDDRS has not established fiscal controls 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.
- VIDDRS has not established and maintained written fee schedules for purchased VR services.

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

RSA will collaborate closely with VIDDRS and the Region II TACE at the State University of New York, Buffalo to develop a plan to address the technical assistance needs identified by VIDDRS in Appendix A of this report. RSA, VIDDRS and the Region II 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, VIDDRS and the Region II 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 Sean Barrett and Katherine Courtage-Clay (Fiscal Unit); Carol Dobak, Brian Miller and Corinna Stiles (Vocational Rehabilitation Program Unit); Fred Isbister (Technical Assistance Unit); and Steven Zwilling (Data Analysis and Collection Unit). Although not all team members participated in the monitoring sessions conducted by teleconference, each contributed to the gathering and analysis of information, and the development of this report.

## **Acknowledgements**

RSA wishes to express appreciation to the representatives of VIDDRS for the cooperation and assistance extended throughout the monitoring process. RSA also appreciates the participation of the P&A director, Client Assistance Program (CAP) staff, the parent training initiative (PTI) director, 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 VIDDRS. It should not be construed as a definitive or exhaustive review of all available agency VR program data. As such, the analysis does not necessarily capture all possible programmatic or fiscal trends. In addition, the data in Table 2.1 measure performance based on individuals who exited the VR program during federal fiscal years 2007 through 2011. Consequently, the table and accompanying analysis do not provide information derived from VIDDRS open service records including that related to current applicants, individuals who have been determined eligible and those who are receiving services. VIDDRS may wish to conduct its own analysis, incorporating internal open caseload data, to substantiate or confirm any trends identified below.

### Performance Analysis

#### VR Program Analysis

**Table 2.1**  
**VIDDRS Program Performance Data for FY 2007 through FY 2011**

All Individual Cases Closed	Number, Percent, or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
TOTAL CASES CLOSED	Number	71	130	113	142	196	125	273,950
	Percent	100.0%	100.0%	100.0%	100.0%	100.0%	176.1%	100.0%
Exited as an applicant	Number	18	35	26	41	71	53	45,694
	Percent	25.4%	26.9%	23.0%	28.9%	36.2%	294.4%	16.7%
Exited during or after trial work experience/extended evaluation	Number	1	1	0	1	0	-1	1,910
	Percent	1.4%	0.8%	0.0%	0.7%	0.0%	100.0%	0.7%
TOTAL NOT DETERMINED ELIGIBLE	Number	19	36	26	42	71	52	47,604
	Percent	26.8%	27.7%	23.0%	29.6%	36.2%	273.7%	17.4%
Exited without employment after IPE, before services	Number	2	5	4	14	9	7	8,173
	Percent	2.8%	3.8%	3.5%	9.9%	4.6%	350.0%	3.0%

<b>All Individual Cases Closed</b>	<b>Number, Percent, or Average</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>Change from 2007 to 2011</b>	<b>Agency Type 2011</b>
Exited from order of selection waiting list	Number	0	0	0	0	0	0	2,978
	Percent	0.0%	0.0%	0.0%	0.0%	0.0%		1.1%
Exited without employment after eligibility, before IPE	Number	6	18	22	18	29	23	62,559
	Percent	8.5%	13.8%	19.5%	12.7%	14.8%	383.3%	22.8%
<b>TOTAL EXITED AFTER ELIGIBILITY, BUT PRIOR TO RECEIVING SERVICES</b>	Number	8	23	26	32	38	30	73,710
	Percent	11.3%	17.7%	23.0%	22.5%	19.4%	375.0%	26.9%
Exited with employment	Number	38	50	44	34	57	19	80,711
	Percent	53.5%	38.5%	38.9%	23.9%	29.1%	50.0%	29.5%
Exited without employment	Number	6	21	17	34	30	24	71,925
	Percent	8.5%	16.2%	15.0%	23.9%	15.3%	400.0%	26.3%
<b>TOTAL RECEIVED SERVICES</b>	Number	44	71	61	68	87	43	152,636
	Percent	62.0%	54.6%	54.0%	47.9%	44.4%	97.7%	55.7%
<b>EMPLOYMENT RATE</b>	Percent	86.36%	70.42%	72.13%	50.00%	65.52%	24.14%	52.88%
Transition age youth	Number	38	52	56	67	81	43	97,282
	Percent	53.5%	40.0%	49.6%	47.2%	41.3%	113.2%	35.5%
Transition aged youth employment outcomes	Number	20	22	24	12	20	0	29,062
	Percent	52.6%	44.0%	54.5%	35.3%	35.1%	0.0%	36.0%
Competitive employment outcomes	Number	37	45	37	30	49	12	76,087
	Percent		90.0%	84.1%	88.2%	86.0%	32.4%	94.3%
Supported employment outcomes	Number	1	2	0	1	3	2	10,480

All Individual Cases Closed	Number, Percent, or Average	2007	2008	2009	2010	2011	Change from 2007 to 2011	Agency Type 2011
	Percent	2.6%	4.0%	0.0%	2.9%	5.3%	200.0%	13.0%
Average hourly wage for competitive employment outcomes	Average	\$8.54	\$11.46	\$10.98	\$11.28	\$11.77	\$3.23	\$11.22
Average hours worked for competitive employment outcomes	Average	35.2	34.1	33.9	31.7	34.7	-0.4	31.4
Competitive employment outcomes at 35 or more hours per week	Number	22	27	20	15	30	8	39,622
	Percent	57.9%	54.0%	45.5%	44.1%	52.6%	36.4%	49.1%
Employment outcomes meeting SGA	Number	26	37	33	17	37	11	48,900
	Percent	68.4%	74.0%	75.0%	50.0%	64.9%	42.3%	60.6%
Employment outcomes with employer-provided medical insurance	Number	11	16	9	9	18	7	19,640
	Percent	28.9%	32.0%	20.5%	26.5%	31.6%	63.6%	24.3%

### Positive Trends

As shown in Table 2.1, the performance of the VR program improved in a number of important areas during the five-year period covering FY 2007 to FY 2011. Most importantly, the number of individuals served by VIDDRS achieving employment increased by 50 percent, from 38 to 57 between FY 2007 and FY 2011.

The quality of employment outcomes also improved. For example, the average hourly VR wage increased from \$8.54 in FY 2007 to \$11.77 in FY 2011; the number of competitive employment outcomes at 35 or more hours per week increased by 36 percent, from 22 in FY 2007, to 30 in FY 2011; and the number of employment outcomes meeting SGA -- the amount of earnings determined by the Social Security Administration to constitute substantial gainful activity -- increased from 26 in FY 2007 to 37 in FY 2011, or a 40 percent increase. In addition, the number of individuals who achieved employment and received employer-provided medical insurance increased by almost 64 percent, from 11 individuals in FY 2007, to 18 in FY 2011.



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

The data clearly show that VIDDRS is bringing in more consumers to the VR program over the course of the five years presented in Table 2.1. However, despite an absolute increase in the number of employment outcomes as described above, the percentage of individuals who achieved an employment outcome compared to the total number who sought services dropped from 53.5 percent to 29.1 percent during the review period, or a decline of approximately 50 percent.

This trend in performance also significantly affected other measures of performance. For example, the agency experienced a dramatic decline in the employment rate -- the percentage of individuals who achieved an employment outcome of all those who received VR services. The employment rate declined by 24 percent, from 86 percent in FY 2007 to 65 percent in FY 2011. Although this is significantly above the national figure for all combined agencies of 52 percent in FY 2011, this relatively positive performance must be viewed in the context of more negative trends during the same period.

The data clearly show that individuals are increasingly exiting the VR program prior to receiving VR services under an IPE. For example, the number of consumers who exited as an applicant increased by 294 percent, from 18 in FY 2007, to 71 in FY 2011. The proportion of case closures for those consumers whose cases were closed when they exited as an applicant increased from 25 percent of all closed cases to 36 percent of all cases closed over the five year period. Similarly, the number of individuals who exited the VR program without employment after the determination of eligibility, but before the development of the IPE, increased by 383 percent, from 6 in FY 2007, to 23 in FY 2011. As a percentage of all case closures, these consumers increased from 11 percent in 2007, to 19 percent in 2011.

Finally, the number of individuals served by VIDDRS exiting without an employment outcome increased by 400 percent during the review period, from 6 in 2007 to 24 in 2011. This includes all individuals who developed an IPE, received services, but did not successfully achieve their vocational goal. This indicator represents the greatest decrease in performance among all the categories shown here in Table 2.1. While this trend is concerning, those individuals who exited without employment after receiving services represent only 15 percent of all individuals who exited the program in FY 2011. In other words, more than 55 percent of individuals who exited the VR program did so before receiving any services. The data clearly demonstrate that once individuals developed an IPE and began to receive services they were much more likely to achieve employment.

In total during FY 2011, just over 70 percent of individuals who sought services with VIDDRS did not exit with employment, compared to 46 percent in FY 2007. VIDDRS will need to assess why it is losing so many individuals early in the VR process to determine the key variables leading to the decline in performance in this area and strengthen those aspects of referral, application, eligibility determination, and IPE development that may result in so many individuals leaving before receiving services.

## **Supported Employment**

VIDDRS continues struggling to place individuals who require supports in order to achieve their vocational goals. While VIDDRS achieved more supported employment outcomes in FY 2011 than at any other time in the five-year period under analysis, the increase resulted only in three individuals placed in employment with supports. Some of the factors that negatively impact VIDDRS's SE performance outcomes include: the lack of community rehabilitation programs (CRP) in the territory trained to provide SE services; the struggle to identify providers of extended supports; the limited resources available to the agency as a "minimum allotment" grantee under Title VI-B; the lack of an effective business outreach program to raise awareness among employers in the territory regarding the capabilities of people with disabilities; and the loss of key personnel on St. Croix responsible for most of the agency's SE outcomes.

To improve SE performance in FY 2012, VIDDRS coordinated the provision of comprehensive training by the Region II TACE of SUNY Buffalo to all VIDDRS staff, as well as a cohort of potential community providers of SE services. Through this training, VIDDRS intends to build capacity and to improve its own staff's knowledge and skills for working with individuals who require SE services. The training is expected to be completed in the spring of 2013.

However, currently only eight individuals are receiving the training as community providers. Given expected drop out rates, and eventual attrition, VIDDRS will need to continue to develop capacity, which may include the training of more providers once the first round of training is completed. VIDDRS should also consider revising its SE goals for the FY 2014 State Plan to reflect changes in the agency's capacity to provide SE services and achieve more outcomes.

## **Transition Outcomes**

During the five years from FY 2007 to FY 2011, the number of youth with disabilities receiving services increased by 113 percent. Despite the fact that the employment outcomes for youth with disabilities remained constant at 20, the percentage of the total number of those who achieved employment who are also youth with disabilities declined from 52 percent in FY 2007, to 35 percent in FY 2011. Performance outcomes for youth with disabilities will be discussed in greater detail in Sections 5 and 6 of this report.

RSA discussed all data contained in Table 2.1 with VIDDRS management to determine the factors that may have had an impact on the performance of the VR program during the period under review. This included frequent discussions of the anomalous outcomes achieved in all categories in FY 2010. The data clearly show that during this particular year the agency experienced a substantial decline in positive outcomes, including those for youth with disabilities and individuals requiring supported employment. RSA and VIDDRS discussed factors that may have affected the performance of the VR program, such as the overall economic climate of the territory. In FY 2010, the Virgin Islands experienced a serious economic downturn, resulting in significantly fewer job opportunities and a high level of unemployment in the state throughout most of the period under review. Additionally, in 2012, the oil refinery in St. Croix, a major employer on that island, announced it was closing its doors, and laying off thousands of individuals. VIDDRS anticipates that the demise of this single employer will have ripple effects

throughout the economy of St. Croix and across the territory, as well as on the overall performance of the VR program.

VIDDRS indicated its intent to conduct further analyses to determine the degree to which the factors described in the above paragraphs and others affected its performance related to the number of individuals engaged in the various stages of the VR process, variations in VR services provided in local offices, as well as the quantity and quality of employment outcomes they achieve. These analyses will enable VIDDRS to more effectively modify and enhance its goals by which it assesses the performance of the program and the strategies used to attain these goals.

## Fiscal Analysis

**Table 2.2**  
**VIDDRS Fiscal Performance Data for FY 2008 through FY 2012**

**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	4th	1,965,456	1,974,343	1,982,000	2,101,025	2,286,262
	Latest/ Final*	1,965,456	1,974,343	1,982,000	2,101,025	-
Total outlays	4th	1,880,146	1,610,200	2,229,999	2,468,586	2,094,935
	Latest/ Final*	2,697,243	2,671,610	2,677,559	2,891,900	-
Total unliquidated obligations	4th	608,310	96,621	150,390	93,618	45,484
	Latest/ Final*	1,374	60,433	0	0	-
Federal share of expenditures	4th	1,225,164	1,039,448	1,534,440	1,676,502	1,479,504
	Latest/ Final*	1,962,630	1,974,073	1,982,000	0	-
Federal share of unliquidated obligations	4th	554,598	96,621	150,390	92,330	45,484
	Latest/ Final*	1,374	0	0	0	-
Total federal share	4th	1,779,762	1,136,069	1,684,830	1,768,832	1,524,988
	Latest/ Final*	1,964,004	1,974,073	1,982,000	0	-
Recipient share of expenditures	4th	654,982	570,752	695,559	792,084	615,431
	Latest/ Final*	734,613	697,537	695,559	792,084	-
Recipient share of unliquidated obligations	4th	53,712	0	0	1,288	0
	Latest/ Final*	0	0	0	0	-
Agency actual match (total recipient share)	4th	708,694	570,752	695,559	792,084	615,431
	Latest/ Final*	734,613	697,537	695,559	792,084	-

<b>VR Fiscal Profile</b>	<b>Quarter</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Agency required match (total recipient share required)	4th	331,588	281,325	415,293	453,742	400,425
	Latest/ Final*	531,182	534,279	536,424	568,311	-
Over/under match (remaining recipient share)	4th	-377,106	-289,427	-280,266	-338,342	-215,006
	Latest/ Final*	-203,431	-163,258	-159,135	-223,773	-
MOE **	4th					
	Latest/ Final*			695,559	792,084	-
Unobligated funds qualifying for carryover	4th	185,694	838,274	297,170	332,193	761,274
	Latest/ Final*	1,452	270	0	2,101,025	-
Total federal program income earned	4th	0	0	0	0	0
	Latest/ Final*	0	0	0	0	-
Total indirect costs	4th	126,522	92,457	69,636	238,866	-
	Latest/ Final*	0	0	0	-	-

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

RSA reviewed fiscal performance data from federal FY 2007 through federal FY 2011. Based on the data in Table 2.2 above, the agency matched its grant award through state appropriations in each fiscal year reviewed and was able to carryover unexpended federal funds in those years for an additional federal fiscal year. The amount of carryover fluctuated during the review period, from nine percent of the federal award in FY 2007, to 41 percent of the federal award in FY 2008, and 15 percent of the federal award in FY 2009. Carryover increased again between federal FY 2009 and FY 2011, to a level of 16 percent in FY2010 and 33 percent in FY 2011. The agency does not receive any program income.

Based on the data in Table 2.2, the agency met its maintenance of effort requirements except for FY 2010. Compliance with matching and maintenance of effort requirements may be recalculated based on adjustments made as a result of this monitoring report. VIDDRS charged indirect costs to the award from FY 2007 through FY 2011. The agency used a provisional rate of 7.2 percent for fiscal year 2011, and later received an approved rate from the cognizant agency, the Department of the Interior, of 17.17 percent.

## SECTION 3: EMERGING PRACTICES

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While conducting the monitoring of the VR program, the review team discussed with VIDDRS, the SRC, the TACE, and agency stakeholders 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 did not identify any emerging practices that the agency is prepared to submit at this time.

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

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During its review of the VR and SE programs in federal FY 2013, RSA assessed progress toward the implementation of goals accepted by VIDDRS resulting from the prior monitoring review in FY 2007. Appendix A of this report indicates whether or not the agency requested additional technical assistance to enable it to implement these prior goals.

### **Goals**

In response to RSA's monitoring report dated September 7, 2007, VIDDRS accepted the goals listed below, along with a brief summary of the agency's progress toward implementation of each goal.

#### **1. The Number and Quality of Successful Outcomes**

Goal: VIDDRS will increase the number and quality of employment outcomes over the next two years: goal of 39 successful outcomes in FY 2008 and goal of 52 successful outcomes in FY 2009.

Method of Evaluation: VIDDRS will be successful if it doubles the number of employment outcomes over the next three years using the FY 2006 baseline of 26 (targets: FY 2007 - 33; FY 2008 - 39; FY 2009 - 52.)

VIDDRS increased its employment outcomes over the baseline of 26 in FY 2006, achieving 38 in FY 2007, and 50 in FY 2008, thus nearly meeting the goal a year early. However, employment outcomes decreased to 44 in FY 2009, and even further to 34 in FY 2010, only to increase to 57 in FY 2011. In part VIDDRS explained this volatility in the number of employment outcomes on staff turnover.

#### **2. Participation of Consumers in the VR Program**

Goal: To improve the participation of consumers in the VR program, VIDDRS will support the efforts of SRC members to carry out their mandated functions in an effective and independent manner.

Method of Evaluation: To determine the extent to which the SRC is functioning in an effective and independent manner, VIDDRS and RSA will review the SRC's annual report for FY 2008 and for each year thereafter. The SRC is required to submit this report to RSA within 90 days from the end of the fiscal year covered by the report.

VIDDRS achieved this goal through the establishment of a fully-constituted SRC in FY 2008, and through its continuing efforts to support the council to fulfill its mandated functions.

#### **3. Improve the VIDDRS management practices through improved MIS data usage.**

Goal: To improve the VIDDRS management team's use of the MIS (collection and use of data).

Method of Evaluation: RSA will evaluate VIDDRS's submission of reports to RSA to assess the agency's abilities in the development and use of this data.

VIDDRS has provided training to all of its staff on the use of the RSA management information system (MIS), and managers and staff frequently access the site to conduct data analysis and inquiries with the assistance of the TACE at SUNY Buffalo. The agency has also benefited from improved internet connectivity allowing for ease of access to the RSA Web site and other on-line resources. VIDDRS is not requesting further TA at this time and considers this goal achieved.

#### **4. Performance of Service Providers**

Goal: VIDDRS will develop a CRP business model that meets the needs of VIDDRS and enhances CRP effectiveness.

Method of Evaluation: Review data outcomes on a quarterly basis to track progress toward improved performance by CRPs.

VIDDRS continues to work toward achieving this goal. There is a near total absence of CRPs in the Virgin Islands with which the VR agency can contract. At the time of this review, the Region II TACE at SUNY Buffalo was conducting training to build capacity of job coaches who will provide supported employment services under a fee-for-service arrangement. This training is scheduled to conclude in the spring of 2013, and VIDDRS may have eight new providers of SE services as a result. VIDDRS will work with the Region II TACE to continue to provide training, as well as develop a method of tracking the performance of any providers that develop in the future.

#### **5. Quality Assurance System**

Goal: VIDDRS will develop a quality assurance and evaluation system to improve the overall operation of VIDDRS.

Methods of Evaluation: VIDDRS will work with RSA to evaluate progress on a quarterly basis.

VIDDRS will incorporate the use of the RSA case monitoring tool and conduct a thorough analysis annually of each counselor's case documentation, timeliness of services and appropriateness of services.

VIDDRS continues to work toward achieving this goal. The agency is in the process of implementing a new case management system after the failure of earlier efforts. VIDDRS will require on-going TA to develop effective quality assurance practices once its new case management system is fully implemented.

#### **6. VR Program Financial Accountability**

Goal: Ensure the accuracy and timely submission of SF-269 and RSA-2 reports.

VIDDRS continues to work toward achieving this goal. See Section 6 of this report for a more detailed discussion of this issue resulting from the current review.

## **7. Contractual Arrangements**

Goal: Strengthen financial and program accountability under contractual arrangements.

VIDDRS has not met this goal due to the lack of CRPs with which to contract. VIDDRS intends to operate on a fee-for-service basis under its provider agreements, as reviewed by the Virgin Islands Department of Human Services, the designated state agency for the VR program.

## **8. Financial Management**

Goal: Improve the overall financial management of the VR program.

VIDDRS is currently subject to the control of a third-party fiduciary agent responsible for the financial management of all federal grants from the U.S. Department of Education. As such, VIDDRS has limited control over the management of the federal share of the VR program grant. Nevertheless, VIDDRS is working under the receivership arrangement to develop the capacity to manage its own federal grants once the third-party fiduciary agent determines the agency is ready and has met all the requirements established under the mandated financial management structure. VIDDRS will require further TA as it moves from the current arrangement toward full responsibility for the financial management of the federal grants it receives.



## 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 VIDDRS with the federal requirements related to its organization within DHS and the ability of VIDDRS 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 DHS and VIDDRS under 34 CFR 361.13(b);
- processes and practices related to the promulgation of VR program policies and procedures;
- the manner in which VIDDRS 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 VIDDRS participates in the territory's workforce investment system.

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

- DHS and VIDDRS directors and senior managers;
- DHS and VIDDRS staff members responsible for the fiscal management of the VR program;
- Client Assistance Program staff members; and
- TACE center representatives.

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

- diagrams, organizational charts and other supporting documentation illustrating the DSU's position in relation to the DSA, its relationship and position to other agencies that fall under the DSA, and the direction of supervisory reporting between agencies;
- diagrams, tables, charts and supporting documentation identifying all programs from all funding sources that fall under the administrative purview of the DSU, illustrating the number of full-time equivalent (FTE) staff working on each program;
- the number of full-time employees 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 engaged in the rehabilitation work of VIDDRS ;

- individuals engaged in the rehabilitation work of VIDDRS and one or more additional programs/cost objectives (e.g., one-stop career centers); and
- individuals employed by VIDDRS who do not work on VR or other rehabilitation activities within the DSU;
- sample memoranda of understanding (MOUs) and/or cost allocation plans with one-stop career centers; and
- documents describing the Virgin Islands procurement requirements and processes.

## Overview

VIDDRS is a division within DHS, which serves as the DSA. DHS is led by a commissioner who reports to the territorial governor. Two assistant commissioners, one assigned to St. Croix and the other to the islands of St. Thomas and St. John, are responsible for the nine program service divisions comprising DHS, apart from administrative, legal counsel, and human resource offices. Each program division is overseen by an administrator who reports directly to one of the two assistant commissioners. The administrator reports to the commissioner of DHS through the assistant commissioner for St. Thomas and St. John.

In addition to VIDDRS, other divisions organized under the purview of the assistant commissioner for St. Thomas and St. John include child care and regulatory services, family assistance programs, and senior citizen affairs. These program divisions generally focus on the provision of services in support of employment. There are 427 full time employees across these four divisions. Twenty-seven of these full-time positions are assigned to VIDDRS, of which only 18 were filled at the time of this review.

Programs administered by VIDDRS include VR and independent living (IL) services, and in-service training. VIDDRS also serves as a pass-through for the developmental disabilities council, but expends no VR program funds on its administration and exercises no supervisory control. Local chemotherapy, cancer care, and hospitalization programs were originally located within VIDDRS, but were moved as of October 1, 2012 to other divisions within DHS. These medical service programs were locally funded and supported, with VIDDRS serving as a pass-through entity.

The VIDDRS administrator meets regularly with the assistant commissioner, and works in close collaboration with the DHS commissioner in the preparation and support of annual budget requests, and frequently speaks on behalf of VR issues before the territorial legislature. VR service policies are not state statutes, and hence the administrator, in consultation with the SRC, is able to develop and implement policies as appropriate and as required by the organizational requirements of the Rehabilitation Act. The DSA provides substantial legal, administrative, personnel, and fiscal support through offices dedicated to these functions.

The VIDDRS administrator represents the VR program on the Statewide Workforce Investment Board (SWIB). The commissioner of DHS is also appointed to the SWIB. In the Virgin Islands there are no local workforce investment boards (LWIBs), as the SWIB covers the entire territory.

RSA's review of the organizational structure of VIDDRS did not result in the identification of observations and recommendations; nor did its implementation 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 VIDDRS'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 territory, 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:

- the progress toward the implementation of recommendations accepted by VIDDRS and the resolution of findings related to the provision of transition services identified in the prior monitoring report from FY 2007 (see Section 4 above);
- formal interagency agreements between the VR agency and the state educational agency (SEA);
- transition-related VR service policies and procedures;
- VR agency resources and collaborative efforts with other federal, state and local entities;

- sample agreements between the VR agency and local education agencies (LEA), if applicable; and
- samples of other cooperative agreements, if applicable.

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

- the number and percentage of youth with disabilities who exited the VR program at various stages of the process;
- the amount of time spent in key phases of the VR process, including eligibility determination, development of the IPE and the achievement of a vocational goal;
- the number and percentage of youth with disabilities receiving various VR services, including, among others, assessment, university and vocational training, transportation, rehabilitation technology and job placement; and
- the quantity, quality and types of employment outcomes achieved by youth with disabilities. To provide context for the agency's performance in the area of transition, RSA also compared the performance of VIDDRS with the national average of all combined as well as other territorial state agencies as appropriate.

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

- the VIDDRS administrator;
- VIDDRS VR counselors;
- the VIDDRS transition coordinators serving as liaisons with the SEA and other agencies; and
- representatives of the parent training and information center established pursuant to section 682(a) of IDEA.

RSA's review of transition services and employment outcomes achieved by youth with disabilities resulted in the identification of the following observation 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.

## **Observations and Recommendations**

### **5.B.1 Performance Outcomes for Youth with Disabilities**

**Observation:** The number of employment outcomes for youth with disabilities remained constant from FY 2007 to FY 2011, but overall performance for this population declined in comparison with outcomes for all VR consumers. Additionally, an increasing number of youth are leaving the VR program before receiving services under an IPE, resulting in a significant decline in the rehabilitation rate. This decline in performance may be due to a number of factors,

including an inequity of staffing and material resources among VR offices, insufficient coordination and collaboration across the territory, and delays in fully implementing the Transition Connection program in accordance with the agency's State Plan goals.

As part of its review of transition services, RSA compiled six tables from data provided by VIDDRS demonstrating the performance outcomes for youth with disabilities in the Virgin Islands from FY 2007 to FY 2011. RSA shared these data with VIDDRS, and discussed the outcomes with the agency during a number of teleconferences and meetings. An analysis of these data is included below.

- The total number of youth with disabilities whose cases were closed rose from 38 in FY 2007, to 81 in FY 2011, an increase of 113 percent. As the data referenced below demonstrate, the increase was due almost exclusively to the rise in those individuals exiting the VR program prior to receiving services.
- The number of youth, whose cases were closed following the submission of an application, but before the determination of eligibility, remained relatively constant until FY 2011, when the number increased to 24, or 29 percent of the total number of youth whose cases were closed for that year for an increase of 140 percent from FY 2007 to FY 2011.
- The total number of youth determined "not eligible" rose from a total of 10 in FY 2007, to 24 in FY 2011, an increase of 140 percent over the five-year period.
- The total number of youth who exited after being determined eligible, but before their IPEs were developed increased significantly from 5 in FY 2007, to 18 in FY 2011, or an increase from 13 to 22 percent of the total number of youth whose cases were closed. This was an increase of 260 percent over the five years under review.
- The total number of youth who received services increased from 21 in FY 2007, to 33 individuals in FY 2011. However, the percentage of youth who applied for and received services decreased from 55 percent to 40 percent over that same time period.
- The number of youth who exited the VR program with an employment outcome was the same in FY 2007 and FY 2011, but as noted above, these 20 employment outcomes represented an increasingly smaller percentage of all employment outcomes, from 52 to 35 percent of the total. In other words, 20 of the 38 employment outcomes in FY 2007 were achieved by transitioning youth, compared to 20 out of 57 in FY 2011.
- The employment rate -- that is, the ratio of those youth who exited with employment to those exiting without employment, after receiving services -- fluctuated dramatically over the five years under review, from 95 percent in FY 2007, to 37 percent in FY 2010, to 60 percent in FY 2011.

As the above summary of the performance outcomes indicates, VIDDRS is bringing more youth with disabilities into the VR program, but an increasing number of them are leaving before receiving services, and therefore not achieving their vocational goal.

In addition to an analysis of the performance outcomes for youth with disabilities, RSA interviewed field level staff to better understand the challenges of providing transition services in the territory. As a result, RSA learned the below.

- VIDDRS struggles to maintain the Transition Connection program it established with the use of ARRA funds once these funds were no longer available.
- The VIDDRS office in St. Thomas lacks a supervisor of the transition program, due in part to a lack of funding as described above.
- The provision of transition services, as with all VR services, is seriously and negatively affected by the lack of CRPs.
- VIDDRS staff does not routinely share training or outreach materials across the territory.
- There is a disparity in the availability of staff and CRP resources from one island to another.
- Transition staff on St. Croix is currently serving substantially more youth with disabilities through the Transition Connection program than on St. Thomas, which is beginning to result in fewer employment outcomes for youth in the latter office.

The St. Croix office reported serving 30 youth through its Transition Connection program at the time of the RSA review, compared to 5 in St. Thomas. Data was not available at the time of this review respecting earlier years. The apparent difference in the numbers served from one office to another is beginning to result in a disparity of employment outcomes. From FY 2009 to FY 2011, employment outcomes achieved by youth with disabilities were roughly equal from one island to another. For example, in FY 2009, both offices saw 12 youth closed with employment, and six in FY 2010. In FY 2011, St. Thomas assisted 12, while St. Croix assisted eight individuals to achieve their vocational goals. However, in FY 2012, St. Croix saw 12 youth exit with employment, while seven youth exited with employment on St. Thomas. The population on both islands is roughly equivalent, with a little more than 50,000 on each island according to the U. S. Census of 2010. Thus, it appears that the difference in the number of youth served is resulting in more employment outcomes in one area of the territory compared to another.

The disparity in the number of youth served by the transition specialists at the time of the review and the outcomes seen in FY 2012 may result from the lack of a fully realized, territory-wide, coordinated transition program. RSA observed a desire and commitment on the part of all transition staff to expand the capacity to serve transitioning youth in the most effective manner possible. Over time, however, the lack of a coordinated, territory-wide implemented transition program will continue to impact the opportunity for youth in the Virgin Islands to achieve their vocational goals.

**Recommendation:** RSA recommends that VIDDRS –

- 5.B.1.1 undertake an analysis of the primary causes for the decline in performance outcomes for youth with disabilities, particularly with respect to those exiting the VR program prior to receiving services, and establish goals and priorities with measurable objectives that directly address these causal factors;
- 5.B.1.2 identify available VIDDRS in-house resources, such as outreach materials and training tools, and ensure that they are available to all transition specialists across the territory; and
- 5.B.1.3 establish and implement goals and priorities that will build the capacity of community rehabilitation providers, employers, special education partners, and other stakeholders to

provide transition services for the purpose of improving the quantity and quality of employment outcomes for youth with 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 through FY 2011, along with other fiscal reports as necessary, to identify areas for improvement and potential areas of noncompliance.

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

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

RSA's review of the fiscal integrity of the VR Program administered by VIDDRS 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.

### **Observations and Recommendations**

#### **5.C.1 The Authorization Process and Delays in VR Service Provision**

**Observation:** The process required for the authorization of payments employed by VIDDRS and DHS may be resulting in delays in the provision of VR services.

- During the course of the review, VIDDRS staff expressed concerns that the process for authorizing payments is resulting in unreasonable delays in the provision of, and increased costs for, VR services. Specific examples include: increased airfares due to the late approval of travel for the purpose of receiving training or other VR services; housing and/or enrollment at institutes of higher education jeopardized due to the late processing of maintenance or tuition payments; and, other VR services that are sensitive to the timeliness of payment processing or authorization. VIDDRS staff indicated this was due, in part, to the number of steps in the authorization and payment generation process.
- Fiscal documents provided by VIDDRS describe a complex and involved process, consisting of ten steps from the creation of a requisition to the delivery of the check to a vendor. Some of these single steps include multiple levels of approval, including four levels of internal approval by the VIDDRS administrator, the federal grants and program monitor, the DHS chief financial officer and the DHS commissioner/assistant commissioner, after the counselor begins the process and before any documentation is sent to the third-party fiduciary. This process can become even more cumbersome if issues are identified causing the process to restart or if key staff are out for any extended period of time. However, RSA did not identify a specific step in the process as a result of its monitoring likely to be the cause of reported delays.
- RSA initially assumed that the specific steps in the process were mandated by the third-party fiduciary agent which, at the time of this review, was responsible for the financial management of all Virgin Islands federal grants from the U.S. Department of Education. Subsequent discussions between RSA and the third-party fiduciary, (Bazillio, Cobb, and Associates), revealed that these concerns were shared by the third-party fiduciary, and that its staff observed delays in receiving necessary approval from VIDDRS before payments could be processed. The third-party fiduciary further indicated that, although DHS and VIDDRS implemented the authorization process to address fiscal management issues across the Virgin Islands government that resulted in the establishment of the third-party fiduciary, a number of the steps VIDDRS was taking were, in fact, not required by it or any related judgments resulting from audits of the grantee.
- RSA acknowledges that VIDDRS and DHS have developed the multi-step authorization and payment process described herein in an effort to maintain financial integrity and transparency. Nonetheless, the identification of any unnecessary steps and a revision of the process, as warranted, may help to ensure the more timely provision of VR services to the individuals served through the program.

**Recommendation:** RSA recommends that VIDDRS, in collaboration with DHS and the third-party fiduciary, identify steps in the VR service authorization and payment process that may be simplified in order to deliver VR services in a timely and efficient manner, while maintaining the proper oversight, integrity, and transparency of the federal VR grant.



## SECTION 6: COMPLIANCE FINDINGS AND CORRECTIVE ACTIONS

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RSA identified the following compliance findings and corrective actions that VIDDRS 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. VIDDRS 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 VIDDRS to develop the plan and undertake the corrective actions.

Corrective Action Plans may now be developed, approved, and tracked utilizing RSA's Web site found at <http://rsa.ed.gov>. The review team will provide instructions on how to use the CAP feature on the Web site as necessary, and technical support is also available directly through the Web site.

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

### 1. Timeliness of Eligibility Determinations

#### Legal Requirements:

- Rehabilitation Act—Section 102(a)(6)(A)
- VR Program Regulations—34 CFR 361.41(b)(1)

#### Finding:

VIDDRS is not in compliance with Section 102(a)(6) and VR program regulations at 34 CFR 361.41(b)(1) because it did not determine the eligibility for all youth with disabilities for VR services within 60 days. Pursuant to these statutory and regulatory provisions, VIDDRS must determine whether an individual is eligible for VR services within 60 days from the date on which the application is submitted to the agency, unless exceptional and unforeseen circumstances beyond the control of VIDDRS prevent the completion of this process, and VIDDRS and the individual agree to a specific extension of time or identify the need for a trial work experience or an extended evaluation.

As part of the monitoring process, RSA analyzed data covering FY 2007 through FY 2011, submitted by VIDDRS through the RSA-911, indicating the length of time it took VIDDRS to make eligibility determinations for youth with disabilities whose cases were closed after they had applied for services. Data submitted by VIDDRS demonstrate that:

- In all five years under review, nearly one-third of all youth with disabilities were not determined eligible in the 60-day required period, although performance did improve during this period from 61.9 percent in FY 2007, to 69.7 percent in FY 2011. However, in FY 2009 and FY 2010, the percentage of youth who were determined eligible within 60 days declined to 57.5 and 56.1 percent, respectively.
- In FY 2011, nearly 20 percent, or 6 of 33 youth with disabilities, were not determined eligible in more than 180 days.

As the data demonstrate, VIDDRS did not determine the eligibility for all youth with disabilities within the required 60-day period from the date of application in any of the five years reviewed from FY 2007 to FY 2011. Therefore, VIDDRS is not in compliance with Section 102(a)(6) of the Rehabilitation Act and 34 CFR 361.41(b)(1).

**Corrective Action 1:** VIDDRS must take the steps necessary to ensure that the determination of eligibility for all youth with disabilities is made in accordance with the requirements of Section 102(a)(6) and 34 CFR 361.41(b)(1).

## **2. Development and Implementation of the Individualized Plan for Employment (IPE)**

### **Legal Requirements:**

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

### **Finding:**

VIDDRS did not develop IPEs for all youth with disabilities within the timeline specified in its written VR policies. Pursuant to Section 101(a)(9) of the Rehabilitation Act and in accordance with the implementing regulations at 34 CFR 361.45(a)(1) and (e), VIDDRS has established a timeline of 90 days from the date on which eligibility is determined for the development of the IPE for each student served. As part of its monitoring process, RSA reviewed the data provided by VIDDRS in the RSA-911 Report regarding the length of time taken for IPE development. In particular, VIDDRS's data showed:

- Of the 33 youth with disabilities served by VIDDRS in FY 2011, 26, or 78 percent, had an IPE developed within VIDDRS's established standard of 90 days from the date of eligibility determination.
- The overall percentage of youth served who had an IPE developed within the state-established standard of 90 days from the date of eligibility determination increased from 71.4 percent in FY 2007, to 78.7 percent in FY 2011.

As the five-year data demonstrate, VIDDRS did not comply with Section 101(a)(9) of the Rehabilitation Act and the requirements of 34 CFR 361.45(a)(1) and (e) by not developing IPEs for all youth with disabilities in a timely manner and within the 90-day standard established by VIDDRS pursuant to these federal requirements.

**Corrective Action 2:** VIDDRS must take the steps necessary to ensure that IPEs are developed for all youth with disabilities in a timely manner and within 90 days of eligibility determination in accordance with the agency’s established timeline developed pursuant to Section 101(a)(9) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.45(e)).

### **3. State Educational Agency (SEA) Agreement between VIDDRS and DOE**

#### **Legal Requirements:**

- Rehabilitation Act—Section 101(a)(11)(D)(i)–(iv)
- VR Program Regulations—34 CFR 361.22(b)(1)–(4)

#### **Finding:**

In FY 2006, DHS, VIDDRS’s DSA, entered into an agreement with the Virgin Islands Department of Education (DOE) that is not in compliance with the minimum requirements of a formal interagency agreement with the SEA pursuant to Section 101(a)(11)(D) of the Rehabilitation Act and 34 CFR 361.22(b). At a minimum, the SEA agreement must include:

- (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.

DHS entered into a formal interagency agreement with DOE on May 4, 2006, which states that DHS, “through its Division of Disabilities and Rehabilitative Services is the agency responsible for implementing the Vocational Rehabilitation Program.” For the purpose of this finding and analysis of the formal interagency agreement, RSA will reference VIDDRS and DOE as the entities named in the SEA agreement.

The content of the SEA agreement satisfies all federal requirements, except that it does not include procedures for outreach to, and identification of, students with disabilities in need of transition services pursuant to Section 101(a)(11)(D)(iv) and 34 CFR 361.22(b)(4).

During the course of the review, representatives of VIDDRS and DOE separately indicated communication was presently ongoing to revise the current SEA agreement. VIDDRS and DOE both appear committed to strengthening and ensuring the requirements for the SEA are met.

**Corrective Action 3:** VIDDRS, in collaboration with DOE, must revise the SEA agreement to reflect all requirements contained in Section 101(a)(11)(D) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.22 (b)(4), including those regarding outreach to youth with disabilities. VIDDRS should submit the revised SEA agreement to RSA for review to ensure compliance with federal requirements.

#### **4. Federal Financial Reporting**

##### **Legal Requirements:**

- VR Program Regulations: 34 CFR 361.12
- EDGAR: 34 CFR 80.20(a), 80.41(b) and 80.50

##### **Finding:**

VIDDRS is not in compliance with federal regulations at 34 CFR 361.12 and 34 CFR 80.20(a), because it does not submit timely and accurate financial reports to RSA. These regulations require the recipients of federal funds to accurately report the financial results of all federally-assisted activities. VR grantees are required to submit accurate SF-269/SF-425 Federal Financial Reports (FFRs). Financial reporting requirements are set forth at 34 CFR 80.41(b).

RSA staff reviewed the financial data entered into the RSA-MIS by VIDDRS staff for federal FY 2007 through FY 2011. The below issues were noted.

- A. Late and/or Missing Reports:** RSA-PD-11-02 requires that FFRs be submitted no later than 45 days after the end of the reporting period and final reports be submitted no later than 90 days after the reporting period. When reviewing FFR data, RSA found that several SF-269 and SF-425 reports were consistently late or missing. For example, VIDDRS did not submit timely fourth quarter SF-425 reports for FY 2010 or FY 2011, leading to a preliminary assessment of maintenance of effort (MOE) penalties. After the initial determination, the agency submitted a late report resolving the FY 2011 MOE penalty. The final FY 2010 SF-425 report was due December 31, 2011. As of the review, no final report had been submitted for FY 2010.
- B. Unliquidated Obligations:** According to 34 CFR 80.50, the grantee must submit a final FFR within 90 days after the expiration or termination of the grant. A financial report is not considered final until all obligations have been liquidated. Therefore, the final FFR must indicate there are no funds remaining for liquidation. VIDDRS's final SF-269 for FY 2007 included \$1,374 in unliquidated obligations and the agency's final SF-269 for FY 2008 included \$60,433 in unliquidated obligations.
- C. Unobligated Funds Qualifying for Carryover:** VR agencies may carry over federal funds for obligation and expenditure in the subsequent federal fiscal year as long as the agency meets the non-federal share requirement by the end of the first year of the award.

Carryover funds are not available after the grant award has ended. As shown in the Table 6.1 below, VIDDRS reported having carryover funds remaining after the end of the grant period in FY 2007, FY 2008, and FY 2010.

**Table 6.1**  
**Unobligated Funds Qualifying for Carryover Reported on SF-269/425 Financial Reports for FYs 2007 through 2011**

Quarter	2007	2008	2009	2010	2011
4 <sup>th</sup>	185,694	838,274	297,170	332,193	761,274
Latest/Final	1,452	270	0	2,101,025	-

**D. Total Indirect Costs:** The FFR is a cumulative report. Therefore, expenditures cannot decrease between reports. During FY 2007 through FY 2011, VIDDRS only reported indirect costs in the first year of the grant award. The agency reported \$0 in indirect costs for the carryover year. Because indirect costs are charged against funds as they are expended, indirect costs charged against the carryover funds expended during the second year of the grant award should have been reported on the FFR. The agency must report indirect costs charged against all award funds.

**Table 6.2**  
**Indirect Costs Reported on the SF-269/425 Financial Reports for FYs 2007 through 2011**

Quarter	2007	2008	2009	2010	2011
Year 1	126,522	92,457	69,636	238,866	-
Carryover Year	0	0	0	-	-

By submitting inaccurate and untimely reports, VIDDRS is not in compliance with the requirements of 34 CFR 361.12 and 34 CFR 80.20(a).

**Corrective Action 4:** VIDDRS must:

- 4.1 cease submitting inaccurate or late SF-425 reports;
- 4.2 develop and implement internal processes necessary to ensure the accurate and timely submission of Federal Financial Reports to RSA.

**5. Maintenance of Effort**

**Legal Requirement:**

- VR Program Regulations: 34 CFR 361.62(a)(1)

**Finding:**

VIDDRS is not in compliance with federal regulations at 34 CFR 361.62(a)(1) that require a state’s total non-federal expenditures for a fiscal year to equal the total non-federal expenditures for the fiscal year two years prior. To illustrate this concept, VIDDRS's non-federal expenditures under the VR program for FY 2009 must equal or exceed the agency's non-federal expenditures for the VR program in FY 2007. After reviewing VIDDRS's final SF-269 reports for FY 2009 (December 31, 2010) and FY 2007 (December 31, 2008), RSA determined VIDDRS did not satisfy its MOE requirement under the VR program in FY 2009. The agency reported non-federal expenditures of \$695,559, \$39,054 less than its non-federal expenditures in FY 2007 (\$734,613).

In accordance with 34 CFR 361.62(a)(1), RSA assessed a MOE penalty of \$191,641 against VIDDRS’ FY 2010 fourth quarter VR award in June, 2010. After assessing the penalty, VIDDRS amended the SF-269s that RSA had used to determine the MOE penalty amount. Specifically, VIDDRS submitted a final FY 2009 SF-269 report indicating that the total amount of unliquidated obligations reported on the fourth quarter SF-269 were not liquidated. As a result, VIDDRS' MOE deficit for FY 2009, as compared to FY 2007, was actually \$211,404 -- not \$191,641, as assessed in June, 2010. Therefore, VIDDRS has an additional outstanding MOE penalty of \$19,763 and RSA is required to recover those funds through an audit disallowance process (34 CFR 361.62(a)(2)).

**Table 6.3  
FY 2009 MOE Penalty Calculation**

<b>Initial FY 2009 MOE Penalty Assessed</b>	\$191,641
<b>MOE penalty amount after final FY 2009 SF-269 was submitted</b>	\$211,404
<b>Current MOE Penalty Balance</b>	\$19,763

During the monitoring review, VIDDRS explained it calculates MOE by using the average of the sum of the previous three fiscal years. This methodology is incorrect. To correctly determine MOE, the agency should compare the total non-federal share for a given fiscal year with the non-federal share for the fiscal year two years prior. VIDDRS also did not have internal processes necessary to ensure the agency was not overspending federal funds due to inaccurate calculations of MOE. The absence of policies or procedures, along with use of an incorrect calculation method, has negatively affected the agency’s ability to ensure compliance with the MOE requirement.

**Corrective Action 5:** VIDDRS must:

- 5.1 develop and implement processes to manage the drawdown of federal funds to ensure the amount drawn does not exceed the maximum amount allowable based on non-federal expenditures and prior MOE penalties; and

5.2 develop and implement processes to accurately determine the final amount of unliquidated obligations.

## **6. Personnel Activity Reports**

### **Legal Requirements:**

- VR Program Regulations - 34 CFR 361.12
- EDGAR - 34 CFR 80.20(a)
- Federal Cost Principles - 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5

### **Finding:**

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

RSA requested that VIDDRS provide PARs, or equivalent documentation, for staff working on more than one cost award. VIDDRS informed RSA that only the VIDDRS administrator works on more than one award. However, she does not maintain PARs or other documentation to demonstrate compliance with 2 CFR 225 Appendix B, paragraphs 8.h.4 and 8.h.5. The administrator devotes a portion of her time to the oversight of the State Independent Living Services and Independent Living for Older Individuals who are Blind programs. Therefore, the costs associated with the director's position, including salary, benefits and leave, must be allocated proportionately to these programs, as well as the VR program, based upon the time spent on each program as reported on the PAR.

**Corrective Action 6:** VIDDRS must develop and implement procedures for individuals who work on more than one federal award or cost objective to ensure that personnel activity reports or equivalent documentation reflect an after-the-fact distribution of the actual activity of each employee; account for the total activity for which each employee is compensated; prepare at least monthly and coincide with one or more pay periods; and, are signed by the employee in accordance with 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5. The procedures must ensure that the PAR documentation is used to allocate personnel costs in proportion to the time spent working on the programs.

## 7. Internal Controls

### 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)

### Finding:

VIDDRS is not in compliance with Section 111(a)(1) of the Rehabilitation Act, as well as regulations at 34 CFR 361.12, and 34 CFR 80.20(a), because VIDDRS 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, VIDDRS 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 VIDDRS to implement methods of administration that ensure financial accountability for the efficient administration of the State Plan and VR program and that ensure accurate accounting of allowable expenditures for the VR program. The authorization process developed by DHS, titled *VR Federal Grant Award Notification Template of Fiscal Processes*, is used by VIDDRS to authorize payments to vendors. The authorization process requires that the agency provide proof of delivery of goods and services procured by the VR program. It states in step 7 of the process that “Inspection Report, Invoice and other supporting documents” are sent to the fiscal office for payment. In addition, the purchase order states “upon delivery of goods/services, vendors please email proof of delivery.” RSA made several requests for supporting documentation (e.g., proof of delivery or invoices) demonstrating the procurement of goods and services was consistent with established processes. However, no documentation was provided.

During the review, VIDDRS staff stated they do not always maintain proof of delivery because of the small size of the agency. Therefore, VIDDRS has not followed the approved authorization process. Without supporting documentation, the agency is unable to ensure that VR funds are accounted for and spent solely on the provision of VR services in compliance with federal regulations at 34 CFR 80.20(a) and 34 CFR 361.3.

**Corrective Action 7:** VIDDRS must develop and implement monitoring procedures necessary to ensure that:



1. agency staff comply with existing processes requiring that proof of delivery of goods and services be maintained to ensure the allowability of costs charged to the VR and SE programs; and
2. vendors comply with the requirements to submit proof of delivery of goods and services.

## **8. Lack of Written Policies Governing Payment of VR Services**

### **Legal Requirements:**

- VR Program Regulations- 34 CFR 361.12 and 34 CFR 361.50(c)(1)
- Federal Cost Principles - 2 CFR 225, Appendix A, paragraph C

### **Finding:**

VIDDRS is not in compliance with 34 CFR 361.12, 34 CFR 361.50(c)(1), and 2 CFR 225, Appendix A, paragraph C because VIDDRS has not established and maintained written policies describing the manner in which VIDDRS will set fees for purchased VR services.

Federal regulations require VIDDRS to establish procedures that enable it to administer the VR program in an efficient manner that ensures it can carry out all functions properly (34 CFR 361.12). VIDDRS also must establish and maintain written policies that govern the rates of payment for all purchased VR services (34 CFR 361.50(c)(1)). The federal cost principles require that allowable costs be necessary and reasonable for proper and efficient program performance and administration, as well as be allocable to the program (2 CFR 225, Appendix A, paragraph C.1). To be allocable to a program, the cost must be relative to the benefit received.

The VIDDRS VR policy manual states that a fee schedule will be maintained by VIDDRS for purchases of goods and services. While VIDDRS stated its intention to maintain a fee schedule, the agency has not established or maintained written policies for determining the rates of payment for purchased VR services.

Without established written policies, VIDDRS cannot ensure that costs of purchased services are reasonable and necessary and, thus, allocable to the VR program. During the review VIDDRS staff stated they use vendors they have a history with and gather three quotes, when possible.

However, VIDDRS did not share written policies governing rates of payment. VIDDRS staff indicated that the agency used the fee schedule provided by Medicaid in the past, but RSA was not able to obtain documentation showing the agency has a current policy for using Medicaid rates as a fee schedule.

**Corrective Action 8:** VIDDRS must establish and maintain written policies governing the rates of payment for all purchased VR services described in VR program regulations found at 34 CFR 361.48(a)-(T).

## APPENDIX A: AGENCY RESPONSE

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### Section 4: Results of Prior Monitoring Activities

VIDDRS requested additional technical assistance for the following goals identified in the FY 2007 monitoring report.

#### 4. Performance of Service Providers

**Goal:** VIDDRS will develop a CRP business model that meets the needs of VIDDRS and enhances CRP effectiveness.

**Additional TA Requested:** VIDDRS will work with the Region II TACE to continue providing training, as well as develop a method of tracking the performance of any providers that develop in the future, and therefore may require TA to accomplish this goal.

#### 5. Quality Assurance System

**Goal:** VIDDRS will develop a quality assurance and evaluation system to improve the overall operation of VIDDRS.

**Additional TA Requested:** VIDDRS will require on-going TA to develop effective quality assurance practices; in addition to TA provided by RSA, VIDDRS will utilize its resources to implement more effective quality assurance practices utilizing existing resources (providing a bridge) while a new electronic case management system is being developed for the implementation.

#### 6. VR Program Financial Accountability

**Goal:** Ensure the accuracy and timely submission of SF-269 and RSA-2 reports.

**Additional TA Requested:** VIDDRS requests further TA in order to meet this goal. VR will work collaboratively with its Fiscal Office to capture fiscal data in a format more compatible with the requirements for the RSA2. This will facilitate more timely submission of this report.

#### 8. Financial Management

**Goal:** Improve the overall financial management of the VR program.

**Additional TA Requested:** VIDDRS will require further TA as it moves from receivership toward full responsibility for the financial management of the federal grants it receives.

## Section 5: Focus Areas

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

#### Observation 5.B.1: Performance Outcomes for Youth with Disabilities

##### Recommendation 5.B.1: RSA recommends that VIDDRS:

- 5.B.1.1 undertake an analysis of the primary causes for the decline in performance outcomes for youth with disabilities, particularly with respect to those exiting the VR program prior to receiving services, and establish goals and priorities with measurable objectives that directly address these causal factors;
- 5.B.1.2 identify available VIDDRS in-house resources, such as outreach materials and training tools, and ensure that they are available to all transition specialists across the territory; and
- 5.B.1.3 establish and implement goals and priorities that will build the capacity of community rehabilitation providers, employers, special education partners, and other stakeholders to provide transition services for the purpose of improving the quantity and quality of employment outcomes for youth with disabilities.

**Agency Response:** VIDDRS has begun its analysis of the primary causes for the decline in performance outcomes for youth with disabilities, particularly those identified in 5.B.1.1 above. VIDDRS will work collaboratively with its SRC to utilize the findings of its CSNA to develop a plan to address the decline in performance outcomes as specified in 5.B.1.1.

In response to 5.B.1.3, DOL, SEA and VR as well as other stakeholders have come to the table to discuss disability issues and develop a territory-wide agenda. VR will bring to the table collaboration with DOL in the area of job placement opportunities for transitioning youth, as well as opportunities for youth in need of supported employment.

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

#### Fiscal Integrity

#### Observation 5.C.1: The Authorization Process and Delays in VR Service Provision

**Recommendation 5.C.1:** RSA recommends that VIDDRS, in collaboration with DHS and the third-party fiduciary, identify steps in the VR service authorization and payment process that may be simplified in order to deliver VR services in a timely and efficient manner, while maintaining the proper oversight, integrity, and transparency of the federal VR grant.

**Agency Response:** VIDDRS has implemented steps to facilitate a more timely process for payments for vendors. TA will be provided to counselors to ensure that they are knowledgeable about the process; which if adhered to will result in timely services to clients and payment to vendors.

Timelines have been implemented for the submittal of invoices once services have been provided. VIDDRS has implemented a more “hands-on” process for managers to ensure that ALL services that have been authorized receive invoices within 30 days of service. Follow-up will be done with outstanding vendors. VIDDRS continues to perform random audits of documents to identify where delays exist; once identified, VIDDRS will initiate communication to resolve these issues.

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

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

### **1. Timeliness of Eligibility Determinations for Transitioning Youth**

**Corrective Action 1:** VIDDRS must take the steps necessary to ensure that the determination of eligibility for all youth with disabilities is made in accordance with the requirements of Section 102(a)(6) and 34 CFR 361.41(b)(1).

**Agency Response:**

- VIDDRS will implement a plan for identifying cases at day 45 for which eligibility has not been determined.
- VIDDRS will provide TA to counselors on strategies for timely determination of eligibility.
- VIDDRS will track via monthly reports cases that have been in applicant status for over 30 days.
- VIDDRS will hold regular (bi-weekly) case reviews to provide a forum for counselors to discuss and share strategies that have been successful in addressing challenges that are unique to this geographical region.

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

### **2. Development and Implementation of the Individualized Plan for Employment (IPE)**

**Corrective Action 2:** VIDDRS must take the steps necessary to ensure that IPEs are developed for all youth with disabilities in a timely manner and within 90 days of eligibility determination in accordance with the agency’s established timeline developed pursuant to Section 101(a)(9) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.45(e)).

**Agency Response:** VIDDRS has experienced significant staff turn-over since the previous monitoring in 2008. Staff have received training in various areas of case management; however, it is evident that additional TA is required in the area of development of IPEs for youth with disabilities. VIDDRS will provide hands-on training to VR counselors in the field offices on

each island. A case review will be conducted during the week of June 17, 2013. The goal is that 90% of the total IPEs will be developed within 90 days of eligibility determination.

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

### **3. The State Education Agency (SEA) Agreement between VIDDRS and VIDOE**

**Corrective Action 3:** VIDDRS, in collaboration with DOE, must revise the SEA agreement to reflect all requirements contained in Section 101(a)(11)(D) of the Rehabilitation Act and its implementing regulations at 34 CFR 361.22 (b)(4), including those regarding outreach to youth with disabilities. VIDDRS should submit the revised SEA agreement to RSA for review to ensure compliance with federal requirements.

**Agency Response:** VIDDRS has begun updating the existing SEA agreement with the Department of Education. VIDDRS will continue to coordinate with the VI Division of Special Education to finalize updates to the SEA agreement. The final draft of the SEA agreement will be submitted to Commissioners of Education and Department of Human Services for final approval; the new SEA Agreement will be submitted to RSA by April 30, 2013.

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

### **4. Federal Financial Reporting**

**Corrective Action 4:** VIDDRS must:

- 4.1 cease submitting inaccurate or late SF-425 reports;
- 4.2 develop and implement internal processes necessary to ensure the accurate and timely submission of Federal Financial Reports to RSA.

**Agency Response:** VIDDRS is committed to submitting the RSA-PD-11-02 and the SF-425 Federal Reports in the time period of 45 days after the end of the reporting period and final reports no later than 90 days. Improvements were made during the Fiscal Years 2011 and 2012, and VIDDRS is committed to submitting the reports on time for Fiscal Year 2013. Reports will be both timely and accurate.

VIDDRS has submitted to rSA copies of newly developed standard operating procedures (SOPs) which reflect the date of the final FY 2010 reports which were submitted. The SF-425 was submitted 1/11/2012 and the RSA-PD-11-02 was submitted 12/30/2010.

VIDDRS is committed to submitting accurate and timely SF-425 reports. DHS will develop and implement internal processes necessary to ensure the accurate and timely submission of Federal Financial Reports to RSA.

The Department of Human Services is working closely with the VI Office of Management and Budget in securing an approved and or provisional Indirect Cost Rate. However, due to the

untimeliness of the approval for the indirect cost rate, DHS has been unable to provide accurate SF-425 and RSA2 reports in this area.

**Technical Assistance:** VIDDRS Requests technical assistance.

## **5. Maintenance of Effort (MOE)**

**Corrective Action 5:** VIDDRS must:

- 5.1 develop and implement processes to manage the drawdown of federal funds to ensure the amount drawn does not exceed the maximum amount allowable based on non-federal expenditures and prior MOE penalties;
- 5.2 develop and implement processes to accurately determine the final amount of unliquidated obligations.

**Agency Response:** VIDDRS is committed to meet the required regulations at they pertain to MOE which states that State Non-Federal expenditures for a fiscal year are to equal the total non-federal expenditures for the fiscal year two years prior.

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

## **6. Personnel Activity Reports (PARs)**

**Corrective Action 6:** VIDDRS must develop and implement procedures for individuals who work on more than one federal award or cost objective to ensure that personnel activity reports or equivalent documentation reflect an after-the-fact distribution of the actual activity of each employee; account for the total activity for which each employee is compensated; prepare at least monthly and coincide with one or more pay periods; and, are signed by the employee in accordance with 34 CFR 361.12, 34 CFR 80.20(a), and 2 CFR 225, Appendix B, paragraphs 8.h.4 and 8.h.5. The procedures must ensure that the PAR documentation is used to allocate personnel costs in proportion to the time spent working on the programs.

**Agency Response:** The VR administrator devotes a portion of her time to the oversight of the State Independent Living Services and Independent Living for Older Individuals who are Blind programs. Therefore the cost associated with the director's position, including salary, benefits and leave, must be allocated proportionately to these programs, as well as the VR program, based upon the time spent on each program as reported on the PAR.

In response to RSA's Fiscal Year 2013 Monitoring, VIDDRS has implemented procedures for employees pay to be cost allocated; further, VIDDRS has implemented the use of time sheets that will capture details of an employee's time spent on different grants or activities that are not allowable to be charged to the 110 Basic Grant.

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

## **7. Internal Controls**

**Corrective Action 7:** VIDDRS must develop and implement monitoring procedures necessary to ensure that:

1. agency staff comply with existing processes requiring that proof of delivery of goods and services be maintained to ensure the allowability of costs charged to the VR and SE programs; and
2. vendors comply with the requirements to submit proof of delivery of goods and services.

**Agency Response:** VIDDRS has implemented a form for clients to confirm delivery of Assistive Technology devices and other goods and services, a copy of which has been sent to RSA for review.

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

## **8. Lack of Written Policies Governing Payment of VR Services**

**Corrective Action 8:** VIDDRS must establish and maintain written policies governing the rates of payment for all purchased VR services described in VR program regulations found at 34 CFR 361.48(a)-(T).

**Agency Response:** VIDDRS will establish and maintain written policies governing the rates of payment for all purchased VR services described in VR program regulations by September 30, 2013, for implementation in FY 2014.

**Technical Assistance:** VIDDRS requests 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 101(a) State Plans

(9) Individualized plan for employment

(A) Development and implementation

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

(11) Cooperation, collaboration, and coordination

(D) Coordination with education officials

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

(i) 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;

(ii) 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 under section 614(d) of the Individuals with Disabilities Education Act;

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

(iv) procedures for outreach to and identification of students with disabilities who need the transition services.

#### Section 102

(a)(6) Timeframe for making an eligibility determination

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



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

## Section 111

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

## **VR Program Regulations**

### 34 CFR 361.3 Authorized activities.

The Secretary makes payments to a State to assist in—

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

### 34 CFR 361.12 Methods of administration.

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

### 34 CFR 361.22 Coordination with education officials.

- (b) Formal interagency agreement. The State plan must include information on a formal interagency agreement with the State educational agency that, at a minimum, provides for—
- (1) Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including vocational rehabilitation services;
  - (2) Transition planning by personnel of the designated State agency and educational agency personnel for students with disabilities that facilitates the development and completion of their individualized education programs (IEPs) under section 614(d) of the Individuals with Disabilities Education Act;
  - (3) The roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; and
  - (4) Procedures for outreach to and identification of students with disabilities who are in need of transition services. Outreach to these students should occur as early as possible during the transition planning process and must include, at a minimum, a description of the purpose of the vocational rehabilitation program, eligibility requirements, application procedures, and scope of services that may be provided to eligible individuals.

### 34 CFR 361.41 Processing referrals and applications.

(b) Applications.

(1) Once an individual has submitted an application for vocational rehabilitation services, including applications made through common intake procedures in One-Stop centers established under section 121 of the Workforce Investment Act of 1998, an eligibility determination must be made within 60 days, unless—

(i) Exceptional and unforeseen circumstances beyond the control of the designated State unit preclude making an eligibility determination within 60 days and the designated State unit and the individual agree to a specific extension of time; Or...

34 CFR 361.45 Development of the individualized plan for employment.

(a) *General requirements.* The State plan must assure that—

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

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

34 CFR 361.50 Written policies governing the provision of services for individuals with disabilities.

(a) Policies. The State unit must develop and maintain written policies covering the nature and scope of each of the vocational rehabilitation services specified in Sec. 361.48 and the criteria under which each service is provided. The policies must ensure that the provision of services is based on the rehabilitation needs of each individual as identified in that individual's IPE and is consistent with the individual's informed choice. The written policies may not establish any arbitrary limits on the nature and scope of vocational rehabilitation services to be provided to the individual to achieve an employment outcome. The policies must be developed in accordance with the following provisions:

(b) Out-of-State services.

(1) The State unit may establish a preference for in-State services, provided that the preference does not effectively deny an individual a necessary service. If the individual chooses an out-of-

State service at a higher cost than an in-State service, if either service would meet the individual's rehabilitation needs, the designated State unit is not responsible for those costs in excess of the cost of the in-State service.

(2) The State unit may not establish policies that effectively prohibit the provision of out-of-State services.

(c) Payment for services.

(1) The State unit must establish and maintain written policies to govern the rates of payment for all purchased vocational rehabilitation services.

(2) The State unit may establish a fee schedule designed to ensure a reasonable cost to the program for each service, if the schedule is--

- (i) Not so low as to effectively deny an individual a necessary service; and
- (ii) Not absolute and permits exceptions so that individual needs can be addressed.
- (3) The State unit may not place absolute dollar limits on specific service categories or on the total services provided to an individual.
- (d) Duration of services.
  - (1) The State unit may establish reasonable time periods for the provision of services provided that the time periods are--
    - (i) Not so short as to effectively deny an individual a necessary service; and
    - (ii) Not absolute and permit exceptions so that individual needs can be addressed.
  - (2) The State unit may not establish absolute time limits on the provision of specific services or on the provision of services to an individual. The duration of each service needed by an individual must be determined on an individual basis and reflected in that individual's individualized plan for employment.
- (e) Authorization of services. The State unit must establish policies related to the timely authorization of services, including any conditions under which verbal authorization can be given.

#### 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.

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

#### 34 CFR 80.20 Standards for financial management systems.

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

### 34 CFR 80.41 Financial reporting.

(a) General. (1) Except as provided in paragraphs (a) (2) and (5) of this section, grantees will use only the forms specified in paragraphs (a) through (e) of this section, and such supplementary or other forms as may from time to time be authorized by OMB, for:

(i) Submitting financial reports to Federal agencies, or

(ii) Requesting advances or reimbursements when letters of credit are not used.

(2) Grantees need not apply the forms prescribed in this section in dealing with their subgrantees. However, grantees shall not impose more burdensome requirements on subgrantees.

(3) Grantees shall follow all applicable standard and supplemental Federal agency instructions approved by OMB to the extent required under the Paperwork Reduction Act of 1980 for use in connection with forms specified in paragraphs (b) through (e) of this section. Federal agencies may issue substantive supplementary instructions only with the approval of OMB. Federal agencies may shade out or instruct the grantee to disregard any line item that the Federal agency finds unnecessary for its decision making purposes.

(4) Grantees will not be required to submit more than the original and two copies of forms required under this part.

(5) Federal agencies may provide computer outputs to grantees to expedite or contribute to the accuracy of reporting. Federal agencies may accept the required information from grantees in machine usable format or computer printouts instead of prescribed forms.

(6) Federal agencies may waive any report required by this section if not needed.

(7) Federal agencies may extend the due date of any financial report upon receiving a justified request from a grantee.

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

(2) Accounting basis. Each grantee will report program outlays and program income on a cash or accrual basis as prescribed by the awarding agency. If the Federal agency requires accrual information and the grantee's accounting records are not normally kept on the accrual basis, the grantee shall not be required to convert its accounting system but shall develop such accrual information through and analysis of the documentation on hand.

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

(4) Due date. When reports are required on a quarterly or semiannual basis, they will be due 30 days after the reporting period. When required on an annual basis, they will be due 90 days after the grant year. Final reports will be due 90 days after the expiration or termination of grant support.

(c) Federal Cash Transactions Report —(1) Form. (i) For grants paid by letter or credit, Treasury check advances or electronic transfer of funds, the grantee will submit the Standard Form 272, Federal Cash Transactions Report, and when necessary, its continuation sheet, Standard Form 272a, unless the terms of the award exempt the grantee from this requirement.

(ii) These reports will be used by the Federal agency to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant from grantees. The format of

the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment provided that the information to be submitted is not changed in substance.

(2) Forecasts of Federal cash requirements. Forecasts of Federal cash requirements may be required in the “Remarks” section of the report.

(3) Cash in hands of subgrantees. When considered necessary and feasible by the Federal agency, grantees may be required to report the amount of cash advances in excess of three days' needs in the hands of their subgrantees or contractors and to provide short narrative explanations of actions taken by the grantee to reduce the excess balances.

(4) Frequency and due date. Grantees must submit the report no later than 15 working days following the end of each quarter. However, where an advance either by letter of credit or electronic transfer of funds is authorized at an annualized rate of one million dollars or more, the Federal agency may require the report to be submitted within 15 working days following the end of each month.

(d) Request for advance or reimbursement —(1) Advance payments. Requests for Treasury check advance payments will be submitted on Standard Form 270, Request for Advance or Reimbursement. (This form will not be used for drawdowns under a letter of credit, electronic funds transfer or when Treasury check advance payments are made to the grantee automatically on a predetermined basis.)

(2) Reimbursements. Requests for reimbursement under nonconstruction grants will also be submitted on Standard Form 270. (For reimbursement requests under construction grants, see paragraph (e)(1) of this section.)

(3) The frequency for submitting payment requests is treated in §80.41(b)(3).

(e) Outlay report and request for reimbursement for construction programs —(1) Grants that support construction activities paid by reimbursement method. (i) Requests for reimbursement under construction grants will be submitted on Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. Federal agencies may, however, prescribe the Request for Advance or Reimbursement form, specified in §80.41(d), instead of this form.

(ii) The frequency for submitting reimbursement requests is treated in §80.41(b)(3).

(2) Grants that support construction activities paid by letter of credit, electronic funds transfer or Treasury check advance. (i) When a construction grant is paid by letter of credit, electronic funds transfer or Treasury check advances, the grantee will report its outlays to the Federal agency using Standard Form 271, Outlay Report and Request for Reimbursement for Construction Programs. The Federal agency will provide any necessary special instruction. However, frequency and due date shall be governed by §80.41(b) (3) and (4).

(ii) When a construction grant is paid by Treasury check advances based on periodic requests from the grantee, the advances will be requested on the form specified in §80.41(d).

(iii) The Federal agency may substitute the Financial Status Report specified in §80.41(b) for the Outlay Report and Request for Reimbursement for Construction Programs.

(3) Accounting basis. The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by §80.41(b)(2).

- (a) General. The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.
- (b) Reports. Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:
- (1) Final performance or progress report.
  - (2) Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).
  - (3) Final request for payment (SF-270) (if applicable).
  - (4) Invention disclosure (if applicable).
  - (5) Federally-owned property report. In accordance with §80.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.
- (c) Cost adjustment. The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.
- (d) Cash adjustments. (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.
- (2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

## **Federal Cost Principles**

### 2 CFR 225 Appendix A

#### C. Basic Guidelines

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

- i. Be the net of all applicable credits.
- j. Be adequately documented.

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

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

2. 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.)

## 2 CFR 225 Appendix B

### 8. Compensation for personal services.

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

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

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

(5) Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,
- (b) They must account for the total activity for which each employee is compensated,
- (c) They must be prepared at least monthly and must coincide with one or more pay periods, and

(d) They must be signed by the employee.

(e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:

- (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;
- (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and
- (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.