

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES
REHABILITATION SERVICES ADMINISTRATION
WASHINGTON, DC 20202

INFORMATION MEMORANDUM

RSA-IM-98-09

DATE: February 11, 1998

ADDRESSEES : STATE VOCATIONAL REHABILITATION AGENCIES
(GENERAL)
STATE VOCATIONAL REHABILITATION AGENCIES (BLIND)
STATE REHABILITATION ADVISORY COUNCILS
CLIENT ASSISTANCE PROGRAMS
AMERICAN INDIAN VOCATIONAL REHABILITATION
SERVICE PROGRAMS
RSA SENIOR MANAGEMENT TEAM

SUBJECT : Revised Monitoring and Technical Assistance Guide for
the Client Assistance Program (CAP)

CONTENT : Section 112 of the Rehabilitation Act of 1973, as amended, grants
the RSA Commissioner the authority to conduct reviews and on-site
monitoring of the Client Assistance Program (CAP). The attached
Monitoring and Technical Assistance Guide contains the RSA
procedures for the conduct of CAP on-site monitoring reviews.

INQUIRIES : RSA Regional Commissioners

Fredric K. Schroeder, Ph.D.
Commissioner

ATTACHMENT

CLIENT ASSISTANCE PROGRAM

MONITORING AND TECHNICAL ASSISTANCE GUIDE

UNITED STATES DEPARTMENT OF EDUCATION



**OFFICE OF SPECIAL EDUCATION AND
REHABILITATIVE SERVICES**

REHABILITATION SERVICES ADMINISTRATION
Fredric K. Schroeder, Ph.D., Commissioner

January, 1998

INTRODUCTION TO THE GUIDE

This Monitoring and Technical Assistance Guide is intended to provide guidance for RSA staff when conducting on-site monitoring reviews of the Client Assistance Program (CAP) and when providing technical assistance to the CAP. In carrying out the spirit and principles of the Government Performance Results Act (GPRA), RSA has developed a "customer-driven" monitoring system that focuses on results, as well as customer/client satisfaction. This review instrument emphasizes that "customer-driven" philosophy.

This Guide is composed of seven parts:

- 1.CAP's Organization and Basic Information;**
- 2.Governor's Assurances Review Guide;**
- 3.Case Review Guide;**
- 4.Fiscal/Program Review Guide;**
- 5.Interview Guide for Clients;**
- 6.Interview Guide for CAP Director/Advocates; and**
- 7.Interview Guide for Programs Which Work with CAP.**

Most of the review guides sections provide the following:

- 1.statutory and regulatory cites for the requirements that must be met;**
- 2.actual requirements for compliance;**
- 3.guidelines for getting information to determine compliance;**
- 4.suggested review questions to determine compliance;**
- 5.summary determination on whether compliance was met; and**
- 6.space to write notes and recommendations.**

The last three sections of this Guide contain suggested questions to elicit information from (1) clients about their experience with CAP, (2) CAP advocates about their perspective of CAP services, and (3) other programs who work with CAP about their experiences.

PURPOSE OF THE MONITORING REVIEW

The purpose of the on-site monitoring review of the CAP is two-fold:

- 1.to ascertain basic statutory and regulatory compliance with:
 - a.Section 112 of the Rehabilitation Act of 1973, as amended (Act);**
 - b.Federal CAP regulations at 34 CFR 370; and**
 - c.Governor's Assurances submitted by each State to RSA to receive funds under the Act to operate a CAP; and****
- 2.to obtain information about the manner in which the CAP provides statutorily-mandated services.**

Information obtained during the on-site monitoring review will:

- 1.assist RSA in assessing the need for technical assistance and training for specific CAP programs;**
- 2.enable RSA to identify specific model CAP practices;**
- 3.determine technical assistance and policy development needed for CAP in general; and**
- 4.assist RSA in strengthening the CAPs' effectiveness.**

GENERAL ADVICE

The reviewer is encouraged to follow the format of this Guide to ensure consistency between the various CAP monitoring reviews and make sure all necessary compliance issues are reviewed. Furthermore, the reviewer is encouraged to become as familiar with the particular program to be reviewed prior to the on-site visit. This will make it easier for the reviewer to hone in on particular compliance issues.

GENERAL INSTRUCTIONS FOR USING THIS GUIDE

In order to use this Guide effectively, the reviewer should:

1. set up appointments with a variety of individuals in the State to obtain the necessary information to conduct this review. Suggested individuals are:
 - a. CAP Director of both the designated CAP agency and the operating CAP agency, when different;
 - b. CAP staff;
 - c. CAP clients;
 - d. Members of the CAP Advisory Council, if applicable;
 - e. Governor's Office liaison for CAP;
 - f. State Budget Office (for fiscal records);
 - g. State VR agency Director;
 - h. P&A Director;
 - i. Directors of various consumer groups; and
 - j. Directors of RSA- and NIDRR-funded discretionary grant projects;
2. review the CAP's most recent annual report (RSA-227) submitted;
3. compare the CAP's most recent annual report submitted with the following to determine discrepancies meriting follow-up during the review:
 - a. national CAP data in the RSA Annual Report to Congress; and
 - b. annual reports submitted by other CAPs in the same region.

FYI: Some discrepancies that might merit follow-up during the on-site review:

1. CAP served significantly fewer or more individuals/cases, on a proportional basis, than other CAPs;
2. CAP served significantly fewer, proportionately, minority individuals;
3. CAP engaged in significantly more formal reviews or legal actions;
4. CAP data reflects a significant discrepancy between the number of formal reviews and mediation activities;
5. CAP report reflects a lack of systemic activities.

Following are hints and suggested questions to use when conducting the review to determine compliance with Federal law and regulations.

PART I
CAP'S ORGANIZATION/BASIC INFORMATION

Reviewer _____ **Date of review** _____

State _____

CAP Federal funding level for current fiscal year _____

ORGANIZATION OF THE CAP:

Name/address/telephone number of the designated CAP agency:

Contact person (including phone number) for the designated CAP agency:

Name/address/telephone number of the operating CAP agency (if different from above):

Contact person (including phone number) at the operating CAP:

Please provide 800 numbers and TTY numbers for the CAP, if applicable.

CAP'S ACCESSIBILITY:

1. Is the CAP located in an apparently accessible building?

yes _____ no _____ (If no, this is a potential problem.)

2. If no, please explain the situation and what steps are planned to remedy the situation.

CAP'S ACCESSIBILITY (CONTINUED):

3. Describe the set up for the TTY, if there is one. For example, does it get answered or does it only take messages? How often are the messages checked?

4. Does the CAP use the local Relay Service?

yes _____ no _____ (Why not?)

5. If yes, what is the frequency that deaf/hard-of-hearing individuals are contacted via TTY versus the Relay Service?

6. What arrangements has CAP made to make information available in alternative formats for individuals (e.g., braille, large print, other languages)?

7. If you note any accessibility issues, describe steps that are planned to remedy the situation.

PART II
GOVERNOR'S ASSURANCES

**PART II
GOVERNOR'S ASSURANCES**

GENERAL STATUTORY/REGULATORY AUTHORITY:

Section 112(b):

No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984 a client assistance program which:

- 1.has the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of rights of individuals with disabilities who are receiving treatments, services or rehabilitation under this Act within the State; and**
- 2.meets the requirements of designation under subsection (c).**

Section 112(f):

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

34 CFR 370.20 sets forth the minimum requirements for the information needed for the CAP application. These minimum requirements constitute the Assurances to which the Governor must agree.

For FY 1998-2000, the Governor's Assurances document contains 10 Assurances to which the Governor must agree in order to operate a CAP and receive payment from its allotment under the Act. This Guide will look at each Assurance separately.

ASSURANCE 1:

(Name of Agency)

has been designated to operate the Client Assistance Program (CAP) under section 112 of the Rehabilitation Act of 1973, as amended (Act).

COMPLIANCE REQUIREMENTS/CITES:

Section 112(c)(1)(A):

The Governor shall designate a public or private agency to conduct the client assistance program under this section.

34 CFR 370.2(b):

The Governor of each State shall designate a public or private agency to conduct the State's CAP under this part.

34 CFR 370.2(g):

A designated agency that contracts to provide CAP services with a center (pursuant to paragraph (f) of this section) or with an entity or individual that does not provide services under the Act remains responsible for:

- (1)The conduct of a CAP that meets all of the requirements of this part;**
- (2)Ensuring that the center, entity, or individual expends CAP funds in accordance with:
 - (i)The regulations in this part; and**
 - (ii)The cost principles applicable to the designated agency; and****
- (3)The direct day-to-day supervision of the CAP services being carried out by the contractor. This day-to-day supervision must include the direct supervision of the individuals who are employed or used by the contractor to provide CAP services.**

34 CFR 370.20(a)(1):

Each State seeking assistance under this part shall submit to the Secretary, in writing, each fiscal year, an application that includes, at a minimum:

- (1)The name of the designated agency....**

HOW TO DETERMINE COMPLIANCE:

- 1.Review the most recent signed CAP Assurances.**
- 2.The CAP director (of the designated and operating agencies, if different) and Governor's office liaison could provide relevant information.**

REVIEW QUESTIONS:

1.The designated CAP is: public _____ private _____ private non-profit _____

2.Is the designated agency actually operating the CAP? yes _____ no _____

(If yes, skip the rest of the questions in this section.)

3.If no, is there a written contract between the designated agency and operating CAP?

yes _____ no _____ (If no, this is a compliance issue.)

4.If there is a contract, does the contract clearly outline the responsibilities of both the operating CAP and the designated agency? (See 34 CFR 370.2(g).)

***** NOTE: This question only relates to whether the designated entity contracts out all of the CAP services to another entity. This question does NOT deal with whether the CAP contracts out only legal or other specific services. That information will be sought later.**

yes _____ no _____ (If no, this is a compliance issue.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 1?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 2:

The Governor will not redesignate the above-named agency without good cause and only in compliance with provisions of section 112(c)(1)(B)(i)-(iii) of the Act and the implementing regulations.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(c)(1)(B):

The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless:

- (i) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;**
- (ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment: and**
- (iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.**

34 CFR 370.10:

(a) The Governor may not redesignate the agency designated pursuant to section 112 (c) of the Act and section 370.2(b) without good cause and without complying with the requirements of sections 370.10 through 370.17.

(b) For purposes of section 370.10 through 370.17, a "redesignation of" or to "redesignate" a designated agency means any change in or transfer of the designation of an agency previously designated by the Governor to conduct the State's CAP to a new or different agency, unit, or organization, including:

- (1) A decision by a designated agency to cancel its existing contract with another entity with which it has previously contracted to carry out and operate all or part of its responsibilities under the CAP (including providing advisory, assistance, or advocacy services to eligible clients and client applicants); or**
- (2) A decision by a designated agency not to renew its existing contract with another entity with which it has previously contracted. Therefore, an agency that is carrying out a State's CAP under a contract with a designated agency is considered a designated agency for purposes of sections 370.10 through 370.17.**

(c) For purposes of paragraph (a) of this section, a designated agency that does not renew a contract for CAP services because it is following State procurement laws that require contracts to be awarded through a competitive bidding process is presumed to have good cause for not renewing an existing contract. However, this presumption may be rebutted.

(d) If State procurement laws require a designated agency to award a contract through a competitive bidding process, the designated agency must hold public hearings on the request for proposal before awarding the new contract.

34 CFR 370.11 -- Provides the requirements the Governor must satisfy in giving notice of the proposal to redesignate the CAP.

34 CFR 370.12 -- Specifies how the designated CAP can preserve its right to appeal a redesignation.

34 CFR 370.13 -- Provides the requirements the Governor must satisfy in making his/her decision to redesignate.

34 CFR 370.14 -- Specifies the requirements the designated CAP agency must satisfy in order to appeal the Governor's decision to redesignate.

34 CFR 370.15 -- Sets forth the steps the Governor must take after the designated CAP agency appeals the Governor's decision to redesignate the CAP.

34 CFR 370.16 -- Provides the requirements the Secretary of the Department of Education must satisfy when reviewing a CAP's appeal of the redesignation.

34 CFR 370.17 -- Specifies when the redesignation takes effect.

HOW TO DETERMINE COMPLIANCE:

- 1. The CAP director (of the designated and operating agencies, if different) and Governor's office liaison could provide relevant information.**
- 2. Find out whether the State has its own requirements for public notice and public meetings. If so, use these requirements to determine whether adequate notice for public comment was given prior to redesignation of the CAP agency.**

FYI: Neither the law nor regulations provide a definition for "good cause". The Governor can determine what constitutes "good cause" for redesignation.

REVIEW QUESTIONS:

1.Has the Governor redesignated the CAP agency since 1992?

yes _____ no _____ (If yes, skip #2.)

2.If no, has the designated CAP agency changed or transferred to another entity?

yes _____ no _____ (If yes, this is a compliance issue because the Governor should have initiated the "redesignation" process as required by law. If no, skip questions 3-7 of this section.)

3.If the Governor did "redesignate" the CAP agency, what was the reason ("good cause") given for the redesignation?

4.Did the Governor give the former designated CAP sufficient notice of intent to redesignate?

yes _____ no _____ (If no, this is a compliance issue.)

5.Did the public receive timely notice of the Governor's intent to redesignate?

yes _____ no _____ (If no, this is a compliance issue.)

6.Did the public have the opportunity to respond? (If yes, get copy of comments if possible.)

yes _____ no _____ (If no, this is a compliance issue.)

7.Did the former designated CAP have the opportunity to appeal the redesignation?

yes _____ no _____ (If no, this is a compliance issue.)

REVIEW QUESTIONS (CONTINUED):

8.If it was determined under Assurance 1 (question 4 of that section) that the designated CAP contracts out its services to another entity, has the designated CAP cancelled or decided not to renew its existing contract with the "operating CAP"?

***** NOTE: This question does not deal with whether the CAP contracts out only legal or other specific services. This question relates only to those situations where the designated CAP contracts out all of its services.**

yes _____ no _____ (If no, skip the rest of this section.)

9.If yes, did the Governor initiate the redesignation process as required by law?

yes _____ no _____ (If no, this is a compliance issue.)

10.If the State's procurement laws required the designated agency to award a contract through a competitive bidding process, did the designated agency hold public hearings on the request for proposal before awarding the new contract?

yes _____ no _____ (If no, this is a compliance issue.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 2?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 3:

The designated agency is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Rehabilitation Act; or the State is exempt from the independence requirement under Section 112(c)(1)(A) of the Act.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(c)(1)(A):

...Except as provided in the last sentence of this paragraph, the Governor shall designate an agency which is independent of any agency which provides treatment, services, or rehabilitation to individuals under this Act. If there is an agency in the State which has, or had, prior to the date of enactment of the Rehabilitation Amendments of 1984, served as a client assistance agency under this Act, the Governor may, in the initial designation, designate an agency which provides treatment, services, or rehabilitation to individuals with disabilities under this Act.

34 CFR 370.2(c)-(f):

(c)Except as provided in paragraph (d) of this section, the Governor shall designate an agency that is independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act.

(d)The Governor may, in the initial designation, designate an agency that provides treatment, services, or rehabilitation to individuals with disabilities under the Act if, at any time before February 22, 1984, there was an agency in the State that both:

- (1)Was a grantee under section 112 of the Act by serving as a client assistance agency and directly carrying out a CAP; and**
- (2)Was, at the same time, a grantee under any other provision of the Act.**

(e)Except as permitted in paragraph (f) of this section, an agency designated by the Governor of a State to conduct the State's CAP under this part may not award a subgrant to or enter into a contract with an agency that provides services under this Act either to carry out the CAP or to provide services under the CAP.

(f)An agency designated by the Governor of a State to conduct the State's CAP under this part may enter into a contract with a center for independent living (center) that provides services under the Act if:

- (1)On February 22, 1984, the designated agency was contracting with one or more centers to provide CAP services; and**
- (2)The designated agency meets the requirements of paragraph (g) of this section.**

34 CFR 370.20(a)(2):

Each State seeking assistance under this part shall submit to the Secretary, in writing, each fiscal year, an application that includes, at a minimum:

- (2) An assurance that the designated agency meets the independence requirement of section 112(c)(1)(A) of the Act and section 370.2(c), or that the State is exempted from that requirement under section 112(c)(1)(A) of the Act and section 370.2(d).

ADDITIONAL GUIDANCE:

See also: PQ-84-12

HOW TO DETERMINE COMPLIANCE:

1. The CAP director (of the designated and operating agencies, if different) and Governor's office liaison could provide relevant information.

REVIEW QUESTIONS:

1. Is the designated CAP agency independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act?

*** NOTE: This means both programmatically and administratively.

yes _____ no _____ (If no, this is a potential compliance issue; if yes, skip #2.)

2. If no, is the State exempt from the "independence" requirement because it operated an internal CAP prior to February 22, 1984? (See 34 CFR 370.2(e)-(f).)

yes _____ no _____ (If no, this is a compliance issue.)

3. If it was determined under Assurance 1 that the designated agency contracts out its CAP services to another entity, is that "operating CAP" independent of any agency that provides treatment, services, or rehabilitation to individuals under the Act?

yes _____ no _____ (If no, this is a compliance issue if #2 also was marked "no".)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 3?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 4:

The designated agency has the authority to pursue legal, administrative and other appropriate remedies to ensure the protection of the rights of individuals with disabilities in the State who are seeking or receiving treatment, services, or rehabilitation under the Act.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(a):

...the Secretary shall, in accordance with this section, make grants to States to establish and carry out client assistance programs to..., upon request of such clients or client applicants, to assist and advocate for such clients or applicants in their relationships with projects, programs, and community rehabilitation programs providing services to them under this Act, including assistance and advocacy in pursuing legal, administrative, or other appropriate remedies to ensure the protection of the rights of such individuals under this Act and to facilitate access to the services funded under this Act through individual and systemic advocacy....

Section 112(b)(1):

No State may receive payments from its allotment under this Act in any fiscal year unless the State has in effect not later than October 1, 1984 a client assistance program which:

- (1)has the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of rights of individuals with disabilities who are receiving treatments, services or rehabilitation under this Act within the State....**

34 CFR 370.20(b):

- (1)Each State also shall submit to the Secretary an assurance that the designated agency has the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of clients or client applicants within the State.**
- (2)The authority to pursue remedies described in paragraph (b)(1) of this section must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources.**

ADDITIONAL GUIDANCE:

**See also: PR-86-18
 PR-86-11A
 PR-86-09**

HOW TO DETERMINE COMPLIANCE:

- 1.The CAP director (of the designated and operating agencies, if different) could provide relevant information.**
- 2.Review the CAP's recent annual reports to determine whether the CAP has participated in any legal or administrative actions on behalf of an individual.**

REVIEW QUESTIONS:

- 1.Does the designated/operating agency have the authority to pursue legal, administrative and other appropriate remedies?**

yes _____ no _____ (If no, this is a potential compliance issue; if yes, skip #2.)

- 2.If no, does the CAP contract with another entity to provide these services?**

yes _____ no _____ (If no, this is a compliance issue.)

- 3.Has the designated/operating CAP ever provided legal services to an individual?**

yes _____ no _____

***** NOTE: If no, review this issue more closely. It may be the CAP has the authority, but not the ability to pursue legal, administrative, and other remedies. If this is the case, this is a problem. Describe situation that seems to stop CAP from providing legal, administrative and other remedies. On the other hand, it may be that CAP has received no requests for services requiring legal or formal administrative remedies. If this is the case, then there is no problem. Describe why CAP has not provided any legal, formal administrative or other remedies.**

- 4.How does the designated/operating CAP provide legal services (i.e. has attorney on staff or via a contract/cooperative agreement with an attorney, etc.)?**

5.Are there any restrictions on CAP (or contractor) when pursuing legal remedies?

yes _____ no _____ (If yes, this is a potential compliance issue. Describe restrictions. It could be that the restrictions found here are applicable to the answer to #3 above.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 4?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 5:

The authority to pursue remedies described in paragraph 4 includes the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The designated agency meets this requirement if it has the authority to pursue these remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources.

COMPLIANCE REQUIREMENTS/CITES:

Same cites as for Assurance 4.

Key cite -- 34 CFR 370.20(b)(2)

The authority to pursue remedies described in paragraph (b)(1) of this section must include the authority to pursue those remedies against the State vocational rehabilitation agency and other appropriate State agencies. The designated agency meets this requirement if it has the authority to pursue those remedies either on its own behalf or by obtaining necessary services, such as legal representation, from outside sources.

ADDITIONAL GUIDANCE:

**See also: PR-86-11A
PR-86-09**

HOW TO DETERMINE COMPLIANCE:

- 1.The CAP director (of the designated and operating agencies, if different) could provide relevant information.**
- 2.Review the CAP's recent annual reports to determine whether the CAP has participated in any legal or administrative actions on behalf of an individual.**

REVIEW QUESTIONS:

- 1.If it was determined under Assurance 4 that the designated/operating CAP has the general authority to pursue legal, administrative and other appropriate remedies, does it have the authority to pursue those same remedies against the VR agency and the other State agencies?**

yes _____ no _____ (If no, this is a potential compliance issue. If yes, skip #2.)

***** NOTE: If it was determined under Assurance 4 that CAP did NOT have the general authority to pursue legal, administrative and other remedies then most likely CAP will be out of compliance with Assurance 5 as well.**

REVIEW QUESTIONS (CONTINUED):

2.If no, does the designated/operating CAP agency contract with another entity to pursue legal remedies against the VR agency and other State agencies?

yes _____ no _____ (If no, this is a compliance issue.)

3.Has the designated/operating CAP or contractor ever provided legal services to an individual in an action against the VR or other State agency?

yes _____ no _____ (If no, review this issue more closely. See more detailed note at question #3 for Assurance 4. Describe.)

4.If the designated CAP is internal to the State VR agency or is part of State government in some other way, how does the designated CAP pursue legal remedies against VR or other State agencies (i.e. staff attorney, contract, etc.)?

5.Are there any restrictions on CAP/contractor in pursuing these legal remedies?

yes _____ no _____ (If yes, this is a potential compliance issue. Describe restrictions. It could be that the restrictions found here are applicable to the answer to #3 above.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 5?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 6:

The State will ensure that all entities conducting, administering, operating, or carrying out programs within the State will advise all individuals seeking or receiving services under the Act of the existence of the CAP, the services provided by the CAP, and how to contact the CAP.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(f):

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

34 CFR 370.20(c):

Each State also shall submit to the Secretary assurances that:

- (1) All entities conducting, administering, operating, or carrying out programs within the State that provide services under the Act to individuals with disabilities in the State will advise all clients and client applicants of the existence of the CAP, the services provided under the program, and how to contact the designated agency....**

ADDITIONAL GUIDANCE:

**See also: PQ-84-12
 PR-86-12
 PR-86-17**

HOW TO DETERMINE COMPLIANCE:

- 1. The CAP director (of the designated and operating agencies, if different), Governor's office liaison, and VR director(s) could provide relevant information.**
- 2. It is also recommended that the reviewer speak with the project directors of discretionary projects in the State that are funded by RSA and NIDRR.**
- 3. The reviewer also may want to review a random sampling of VR case files to verify that clients and client applicants are notified about the existence of CAP.**

REVIEW QUESTIONS:

1.Does the State VR agency(ies) advise all clients and client applicants of the existence of the CAP, its services, and how to access CAP?

yes _____ no _____ (If no, this is a compliance issue.)

***** NOTE: In addition to questioning CAP staff about this issue, the reviewer may want to review a random sampling of VR case files to ensure that the State VR agency is informing individuals about CAP.**

2.Do other programs funded under the Act advise all clients and client applicants of the existence of CAP, its services, and how to access CAP?

yes _____ no _____ (If no, this is a compliance issue.)

3.How do the programs funded under the Act advise individuals about CAP (i.e. brochure, boilerplate language on the application, IWRP, etc.)?

4.Does CAP follow up with the programs funded under the Act to ensure they advise their clients and client applicants about CAP?

yes _____ no _____

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 6?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 7:

The designated agency will submit to the Secretary an annual report on the operation of the CAP during the previous year consistent with 34 CFR 370.44, including a summary of the work done and the uniform tabulation of all cases handled by the CAP in the format prescribed by RSA.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(g):

The Secretary shall prescribe regulations applicable to the client assistance program....

- (4)For the purposes of any periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.**

34 CFR 370.20(c)(3):

The designated agency will provide the Secretary with the annual report required by section 112(g)(4) of the Act and section 370.44.

34 CFR 370.44:

In addition to the program and fiscal reporting requirements in EDGAR that are applicable to this program, each designated agency shall submit to the Secretary, no later than 90 days after the end of each fiscal year, an annual report on the operation of its CAP during the previous year, including a summary of the work done and the uniform statistical tabulation of all cases handled by the program.

The annual report must contain information on:

- (a)The number of requests received by the designated agency for information on service and benefits under the Act and Title I of the ADA;**
- (b)The number of referrals to other agencies made by the designated agency and the reason or reasons for those referrals;**
- (c)The number of requests for advocacy services received by the designated agency from clients or client applicants;**
- (d)The number of the requests for advocacy services from clients or client applicants that the designated agency was unable to serve;**
- (e)The reasons that the designated agency was unable to serve all of the requests for advocacy services from clients or client applicants; and**
- (f)Any other information that the Secretary may require.**

ADDITIONAL GUIDANCE:

See also:1988 Commissioner's Memo (UP-88-11)

HOW TO DETERMINE COMPLIANCE:

- 1.The CAP director (of the designated and operating agencies, if different) could provide relevant information.**
- 2.Review the most recent CAP annual report (RSA-227) submitted by the CAP prior to the on-site review.**

REVIEW QUESTIONS:

- 1.Did the designated/operating CAP file its Annual CAP Report (RSA-227) for the prior fiscal year?**

yes _____ no _____ (If no, this is a compliance issue; explain further. If no, skip questions 2-3.)

- 2.If yes, was the RSA-227 submitted on time?**

yes _____ no _____ (If no, this is a compliance issue; explain further.)

- 3.Did the CAP complete the RSA-227 form accurately?**

yes _____ no _____ (If no, this is a compliance issue; explain further.)

- 4.How does CAP compile data for its annual report (i.e. by using intake/closure forms or some other method)? Describe.**

- 5.How does CAP verify the accuracy of the data used to compile the annual report?**

- 6.Does the data collected meet the minimum requirements of 34 CFR 370.44?**

yes _____ no _____ (If no, this is a compliance issue.)

REVIEW QUESTIONS (CONTINUED):

7. Who writes the narrative for the RSA-227 report?

8. Does the narrative identify systems issues and the steps taken to resolve those issues?

yes _____ no _____

COMPLIANCE:

1. Does the evidence support that the State has complied with Assurance 7?

yes _____ no _____ need more information _____

2. If more information is needed, what is missing to make this determination?

3. If no, what actions are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 8:

Pursuant to section 21 of the Act, the designated agency will address the needs of individuals with disabilities from minority backgrounds in the manner set forth in the State's application for CAP assistance.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(f):

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

Section 21(b)(6):

In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.

HOW TO DETERMINE COMPLIANCE:

- 1.The CAP director (of the designated and operating agencies, if different) could provide relevant information.**
- 2.Read the most recent RSA-227 report submitted by the CAP to determine whether efforts are made to reach underrepresented individuals with disabilities.**

REVIEW QUESTIONS:

- 1.How does the CAP meet the needs of individuals with disabilities who traditionally have been underrepresented?**
- 2.Describe CAP's outreach efforts to those who have been underrepresented.**

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 8?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 9:

A State must provide to the Secretary, as part of its application for assistance, an assurance that direct payment to the designated agency is not prohibited by or inconsistent with State law, regulation, or policy.

COMPLIANCE REQUIREMENTS/CITES:

Section 112(f):

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

34 CFR 370.20(d):

To allow a designated agency to receive direct payment of funds under this part, a State must provide to the Secretary, as part of its application for assistance, an assurance that direct payment to the designated agency is not prohibited by or inconsistent with State law, regulation, or policy.

ADDITIONAL GUIDANCE:

See also: PR-86-18

HOW TO DETERMINE COMPLIANCE:

1.The CAP director (of the designated and operating agencies, if different) and the Governor's office liaison could provide relevant information.

REVIEW QUESTIONS:

1.Is there any State law that prohibits CAP from receiving Federal funds to carry out its mandate?

yes _____ no _____ (If yes, this is a compliance issue; explain further.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 9?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

ASSURANCE 10:

The designated agency will meet each of the requirements set forth in section 112 of the Act and 34 C.F.R. Part 370.

COMPLIANCE REQUIREMENTS/CITES: Following are other requirements for the CAP mandated by the Rehabilitation Act and its implementing regulations.

Section 112(d):

The agency designated under subsection (c) of this section may not bring any class action in carrying out its responsibilities under this section.

(See also 34 CFR 370.45.)

Section 112(f):

No grant may be made under this section unless the State submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary to meet the requirements of this section.

Section 112(g)(1)-(3):

The Secretary shall prescribe regulations applicable to the client assistance program which shall include the following requirements:

- (1) No employees of such programs shall, while so employed, serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State. (See also 34 CFR 370.41.)**
- (2) Each program shall be afforded reasonable access to policy making and administrative personnel in the State and local rehabilitation programs, projects, or facilities. (See also 34 CFR 370.42.)**
- (3) Each program shall contain provisions designed to assure that to the maximum extent possible mediation procedures are used prior to resorting to administrative or legal remedies. (See also 34 CFR 370.43.)**

34 CFR 370.20(c)(2):

Each State shall submit to the Secretary assurances that:

- (2) The designated agency will meet each of the requirements in this part....**

34 CFR 370.48(a)-(b):

(a) All personal information about individuals served by any designated agency under this part, including lists of names, address, photographs, and records of evaluation, must be held strictly confidential.

(b) The designated agency's use of information and records concerning individuals must be limited only to purposes directly connected with the CAP, including program evaluation activities. Except as provided in paragraphs (c) and (e) of this section, this information may both be disclosed, directly or indirectly, other than in the administration of the CAP, unless the consent of the individual to whom the information applies, or his or her parent, legal guardian, or other legally authorized representative or advocate (including the individual's advocate from the designated agency), has been obtained in writing. A designated agency may not produce any report, evaluation, or study that reveals any personally identifying information without the written consent of the individual or his or her representative.

ADDITIONAL GUIDANCE:

See also: **PR-86-18**
 PR-86-09
 PR-86-11A

HOW TO DETERMINE COMPLIANCE:

- 1. The CAP director (of the designated and operating agencies, if different) could provide relevant information on all of the issues raised.**
- 2. The VR director(s) could provide information on the extent to which (a) CAP engages in mediation prior to resorting to administrative or legal remedies and (b) CAP is involved with policy-making efforts with the State agency.**
- 3. Directors from other programs and projects funded under the Act could provide information on the extent to which CAP is involved with policy-making with them.**
- 4. A review of case files, as well as the most recent RSA-227 report submitted, can shed some light on the CAP's mediation and policy-making efforts, as well as on the CAP's practice of protecting personally-identifiable information about its clients. These documents also will provide information on whether the CAP has engaged in any class action.**

REVIEW QUESTIONS:

1.Has the CAP ever participated in a class action lawsuit?

yes _____ no _____ (If yes, this is a compliance issue.)

2.Do any CAP employees serve as staff or consultants of any rehabilitation project, program, or facility receiving assistance under this Act in the State?

yes _____ no _____ (If yes, this is a potential compliance issue; describe. If no, skip #4.)

3.Do any CAP employees serve on an external board/council (e.g., SRAC or SILC)?

yes _____ no _____ (If no, skip #4.)

4.If yes to either #2 or 3, does CAP meet the exceptions of 34 CFR 370.41(b)?

yes _____ no _____ (If no, this is a compliance issue.)

5.Describe CAP's policy-making efforts with programs funded under the Act. (If there is none, determine whether CAP has access to policy making personnel. If it does not, this is a compliance issue.)

6.Did mediation precede every case that rose to the administrative or legal remedy level during the prior fiscal year (according to the RSA-227 report)?

yes _____ no _____ (If yes, skip #7.)

***** NOTE: If there is a discrepancy between the number of individuals who were served by CAP at the administrative or legal level versus those provided mediation services, this is a potential compliance issue. Look at this issue more closely to determine whether CAP satisfied its legal mandate to engage in mediation to the maximum extent possible prior to initiating a formal administrative or legal action.**

REVIEW QUESTIONS (CONTINUED):

7.If no, list reasons why CAP did not engage in mediation. (Do these reasons satisfy regulatory requirements and the guidance set forth in the Mediation TAC?)

8.Does CAP have a mediation policy in effect?

yes _____ no _____ (If no, this is a potential compliance problem.)

9.Does CAP maintain confidentiality of all personally identifiable information about the individuals it serves?

yes _____ no _____ (If no, this is a compliance issue.)

10.Do case files indicate that clients gave written consent prior to CAP obtaining or releasing personal information about the clients?

yes _____ no _____ (If no, this is a compliance issue.)

11.Does CAP's RSA-227 report include personal information about clients?

yes _____ no _____ (If yes, this is a potential compliance issue.)

COMPLIANCE:

1.Does the evidence support that the State has complied with Assurance 10?

yes _____ no _____ need more information _____

2.If more information is needed, what is missing to make this determination?

3.If no, what actions by the State are planned to assure that compliance is achieved?

NOTES/RECOMMENDATIONS:

PART III
CASE REVIEW GUIDE

**PART III
CASE REVIEW GUIDE**

LEGAL REQUIREMENTS/CITES:

ELIGIBILITY:

1.34 CFR 370.3

2.34 CFR 370.5(b)

AUTHORIZED SERVICES TO BE PROVIDED:

34 CFR 370.4

OTHER CASE WORK REQUIREMENTS/PROHIBITIONS:

1.Mediation -- 34 CFR 370.43(a) and Section 112(g)(3) of the Act

2.Class actions -- 34 CFR 370.45 and Section 112(d) of the Act

3.Confidentiality -- 34 CFR 370.48

KEY ELEMENTS TO REVIEW IN THE CASE FILE:

1.Eligibility for CAP services.

2.Minority representation.

3.Alternative formats/accessible communication.

4.Issues raised fall within the scope of CAP services (merit).

5.CAP pursued all appropriate/authorized remedies for the individual.

6.Resolution of the issue and CAP's involvement in that resolution.

**7.Timing in terms of intake, initial contact with the client, resolution of the issues,
and case closure.**

8.Client confidentiality protected; release in file.

9.CAP services provided.

10.Attempts to resolve case at lowest possible level.

11.Was mediation used prior to resorting to a formal hearing or litigation?

12.Case closure.

CASE FILE REVIEW GUIDE

Reviewer _____ **Date of review** _____

State _____ **Client/File #** _____

CLIENT INFORMATION:

1.Age _____

2. Sex _____

3.Race/Ethnicity _____

4.Major disabling condition _____

5.If the individual is non-English-speaking or visually or hearing impaired, does the case file indicate that information was provided to the individual in alternative formats?

yes _____ no _____ (If no, explain further.)

THE CASE FILE:

1.At the time of the review, was the case file open?

yes _____ no _____

2.Intake date _____

3.Case opening date _____

4.Case closure date (if closed) _____

***** Note any unusual time delays/lapses in the provision of CAP services:**

ELIGIBILITY:

1. With what program/project funded under the Act is the person having problems?

- a. State VR agency (Title I, section 110) _____
- b. Comprehensive Rehabilitation Center _____
- c. American Indian project (Title I, section 130) _____
- d. Supported Employment (Title VI, Part C) _____
- e. Independent Living (Title VII, Part A) _____
- f. Center for Independent Living (Title VII, Part B) _____
- g. Independent Living for Older Blind (Title VII, Part C) _____
- h. Severely Handicapped project (Title I, section 311) _____
- i. Migratory and Farmworkers project (Title I, section 312) _____
- j. Special Recreation project (Title I, section 316) _____
- k. Projects with Industry (Title I, section 621) _____
- l. Employer _____
- m. Other (specify) _____

******NOTE: If "other" is marked, the individual is NOT eligible for CAP representation. He/she is eligible only for information. Skip the rest of the case review questions. CAP should not have served this individual.**

2. In terms of the above programs funded under the Act, the individual is a:

- a. client _____
- b. applicant _____

ELIGIBILITY (CONTINUED):

3.If "employer" is marked above in #1, is:

a.the individual also a VR agency client/applicant?

yes _____ no _____ (If no, client is not eligible for CAP representation. He/she is eligible only for information from CAP. Therefore, skip the rest of the case review questions. CAP should not have served this individual.)

b.the issue directly related to the services that the individual is receiving or seeking from the State VR agency?

yes _____ no _____ (If no, the client is not eligible for CAP representation. He/she is eligible only for information from CAP. Skip the rest of the case review questions. CAP should not have served this individual.)

ISSUES/SCOPE OF CAP SERVICES:

1.What was the source of the individual's concern?

a.State VR agency only _____

b.Other Rehab Act-funded source only _____

c.Both VR agency and other source funded under the Act _____

d.Both VR agency and the individual's employer _____

e.none of the above _____ (If this, individual falls outside the scope of CAP services. Skip the rest of the case review questions. CAP should not have served this individual.)

2.What issue/problem did the individual raise?

MERIT OF ISSUE:

1.Does the issue fit within the scope of CAP's mandated/authorized services?

yes _____ no _____ (If no, CAP should not have taken the case. Skip the rest of the case review questions because CAP should not have served this individual.)

2.Is there a basis in the law or regulations to support the individual's request?

yes _____ no _____ (If no, the case lacks merit. CAP should not have taken the case.)

3.Is there a reasonable chance the individual could win?

yes _____ no _____

***** NOTE: If no, this does not necessarily mean the case lacks merit. Following are two common scenarios: (1) Sometimes, there is little likelihood the individual will prevail; however, the matter is so important that it necessitates CAP taking on the case. (2) CAP may determine there is little likelihood the individual can win at the administrative hearing level but that the individual has a reasonable chance of prevailing in court on appeal; so, CAP accepts the case.**

CAP SERVICES PROVIDED:

1.CAP provided the following services to the individual:

- a.Information/advice about CAP/rights/benefits under the Act _____
- b.Information/advice about rights under Title I of the ADA _____
- c.Referral to another appropriate entity _____
- d.Assistance/advocacy through negotiation to resolve dispute _____
- e.Assistance/advocacy with the informal appeal process _____
- f.Assistance/advocacy with mediation (or other ADR procedure) _____
- g.Assistance/advocacy with the formal appeal process _____
- h.Assistance/advocacy with pursuing legal remedies _____
- i.Transportation (i.e. to a hearing) _____
- j.Other (specify) _____ (Does it fall within the scope of CAP services?)

CAP SERVICES PROVIDED (CONTINUED):

2.If mediation (#f above) is not marked but formal appeal process (#g above) or legal remedies (#h above) is marked, does the file document why mediation was not used?

yes _____ no _____ not applicable _____ (If no, this is a problem.)

3.If yes is marked in #2, what reasons were given?

ISSUE RESOLUTION/CAP INVOLVEMENT:

1.Was the issue(s) resolved?

yes _____ no _____

2.If yes, what was the resolution? How did CAP help resolve the matter?

3.If no, is the case still open?

yes _____ no _____ (If no, explain why not.)

4.Does the individual need further CAP services? What?

CONFIDENTIALITY OF CLIENT INFORMATION:

1.Is there a signed written release form in the case file?

yes _____ no _____ (If no and #2 is yes, this is a compliance issue.)

***** NOTE: "Best practice" would encourage CAPs to document that all rights of confidentiality are explained to the individual prior to the individual signing a consent for release of information form.**

2.If CAP shared information with another entity, was it directly related to CAP purposes?

yes _____ no _____ not applicable _____ (If no, this is a compliance issue.)

CASE CLOSURE:

1.Is the case closed?

yes _____ no _____ (If no, skip this section.)

2.How was the client told case was closed?

- a.closing letter _____
- b.telephone call _____
- c.in-person meeting _____
- d.other (specify) _____

e.client was not notified (explain) _____

3.Is the notification documented in the case file (i.e. copy of closing letter, case note)?

yes _____ no _____ (If no, this is a problem.)

OTHER REVIEWER COMMENTS/NOTES:

PART IV
FISCAL REVIEW GUIDE

**PART IV
FISCAL REVIEW GUIDE**

COMPLIANCE/LEGAL REQUIREMENTS/CITES:

Section 112(c)(3)

34 CFR 370.5

34 CFR 370.40

34 CFR 370.47

Other Fiscal Issues to Review:

Fiscal Management System: See 34 CFR 74.21; 74.40 through 74.48; 74.51 and 74.52; 34 CFR 76.700 through 76.707; 76.720; and 76.730; 34 CFR 80.20; 80.36; 80.40; 80.41.

Funding Sources: See 34 CFR 74.22; 34 CFR 76.707 and 76.760; 34 CFR 80.21; and 34 CFR 370.47.

Contract Provisions: See 34 CFR 74.48; 34 CFR 80.36(i) and 80.37; and 34 CFR 370.1.

Record Retention: See 34 CFR 74.53 and 34 CFR 80.42.

Accounting System: See 34 CFR 74.21 and 34 CFR 80.20.

Grant Related Income: See 34 CFR 74.24 and 34 CFR 80.25.

Property/Equipment: See 34 CFR 74.30 through 74.37 and 34 CFR 80.31 through 80.32.

Personnel System: See 34 CFR 370.41.

Travel Expenditures: See OMB Circulars 87 and A122; and 34 CFR 370.40(c).

Financial Audits: See OMB Circular A133 (promulgated 6/30/97); and 34 CFR Part 80 Appendix.

Lobbying: See 34 CFR Part 82.

Debarment and Suspension Requirements: See 34 CFR 74.13; 34 CFR 80.35; and 34 CFR 85.100 through 85.510.

Drug Free Workplace Requirements: See 34 CFR 85.600 through 85.630.

FISCAL REVIEW GUIDE

FISCAL MANAGEMENT SYSTEM:

1.Does the CAP director have copies of the Federal statutes and regulations pertinent to the CAP?

yes _____ no _____ (If not, why?.)

2.Who is responsible for maintaining information relating to Federal law, regulations and other requirements affecting CAP?

3.Have appropriate staff received orientation and instruction in the Federal requirements related to CAP?

yes _____ no _____ (If not, why?)

4.Does the CAP have policies and procedures for:

- a.accounting yes _____ no _____
- b.budgeting yes _____ no _____
- c.internal controls yes _____ no _____
- d.purchasing yes _____ no _____
- e.personnel yes _____ no _____
- f.travel yes _____ no _____
- g.record retention yes _____ no _____
- h.property management yes _____ no _____

5.Identify the individuals who have fiscal responsibility for the receipt, obligation and expenditure of CAP funds? (A CAP organizational chart may be helpful.)

6.Who is responsible for developing the CAP budget?

FISCAL MANAGEMENT SYSTEM (CONTINUED):

7. Is there coordination between program and fiscal staff in the development of the CAP budget?

yes _____ no _____ (Describe further.)

8. What is the approval process for the CAP budget?

9. Who monitors CAP expenditures to assure they are appropriate and within budgeted costs?

10. How often are expenditures reviewed?

11. What are the regular requirements and practices of the organization with respect to bonding or insurance?

12. Who prepares the Financial Status Report, Standard Form 269 (SF-269)?

13. Who signs the SF-269?

14. Is the SF-269 submitted to RSA on a timely basis?

yes _____ no _____ (If no, why?)

15. Is the SF-269 reconciled with the Education Payment System SF-272?

yes _____ no _____ (If no, why?)

******Request to review with the CAP director, or designee, copies of the CAP budgets for the grant years included in the review. Also, review SF-269 and RSA-227 reports for the same time periods.**

FUNDING SOURCES:

1.How does the designated (and/or operating) CAP agency receive the Federal funds for operation of the CAP (i.e. letter of credit, treasury check, etc.)?

2.Has the CAP experienced delays in receiving Federal funds?

yes _____ no _____ (If yes, explain.)

3.Are CAP services funded only with RSA funds?

yes _____ no _____ (If no, list all other sources and amounts of funding.)

4.Specify the total amount of funds budgeted for the present fiscal year. Be sure to include Federal and non-Federal funds.)

5.Specify the total funds expended last fiscal year.

6.Is the designated agency aware that CAP funds not obligated or expended at the end of the appropriated fiscal year, remain available for obligation and expenditures during the succeeding fiscal year?

yes _____ no _____ (If no, this is a compliance issue.)

7.Is the designated agency aware that it is considered a State and governed by 34 CFR 76.707 for the purposes of when obligations are to be made with CAP funds?

yes _____ no _____

8.Does the designated agency receive funds from sources to support programs or projects other than the CAP?

yes _____ no _____ (If yes, describe.)

FUNDING SOURCES (CONTINUED):

9.If yes, is there an approved cost allocation plan or indirect cost rate? (NOTE: There is no prior approval requirement for non-profits using a direct allocation methodology.)

yes _____ no _____

10.If no, what methodology is used for the allocation of administrative costs?

11.If yes, does the cost allocation plan include all programs which are administered by the designated agency, including the CAP?

yes _____ no _____ (If no, explain.)

12.Did the review of the cost allocation plan reveal an equitable distribution of administrative costs to the program? (NOTE: Only allowable costs should be included.)

yes _____ no _____ (if no, explain.)

******Request a copy of the cost allocation plan.**

CONTRACT PROVISIONS:

1.Is the designated agency the sole provider of CAP services?

yes _____ no _____ (If yes, skip the rest of this contracts section.)

2.If no and the designated CAP contracts with another entity to provide CAP services, list the amounts and purposes of each of the contracts funded, in whole or part, by the designated CAP agency. (NOTE: Some designated CAPs contract with more than one entity to provide services.)

CONTRACT PROVISIONS (CONTINUED):

3. Do all contracts specifically relate to the purposes of CAP, as described in 34 CFR 370.1?

yes _____ no _____ (If no, this is a compliance issue. Explain.)

4. Do the contracts contain sufficient provisions to define a sound and complete agreement?

yes _____ no _____ (If no, this is a problem.)

5. Are advance payments made to contractors?

yes _____ no _____

6. For those contracts in excess of \$100,000 are there provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which contractors violate or breach contract terms, and provide for such remedial actions as appropriate?

yes _____ no _____ not applicable _____

7. For those contracts in excess of \$100,000 are there suitable provisions for termination by the awarding party?

yes _____ no _____ not applicable _____

9. Have the contractors provided adequate documentation for bonding and insurance?

yes _____ no _____ (If no, explain.)

RECORD RETENTION:

1. For what period of time does the CAP retain its fiscal records?

2. Do the record retention policies or guidelines of the CAP meet, at a minimum, the 3-year retention requirements in EDGAR 34 CFR 74.53 or 80.42?

yes _____ no _____ (If no, explain.)

****** Request a sample of fiscal records to verify minimum compliance with retention requirements.**

ACCOUNTING SYSTEM:

1. How is the accounting system maintained?

computerized _____ manually _____

2. The organization maintains a formal accounting system as reflected by:

a. general ledger _____

b. general journal _____

c. grant ledger _____

d. other (specify) _____

3. Do the records permit a clear and documented audit trail?

yes _____ no _____ (If no, this is a problem. Explain.)

ACCOUNTING SYSTEM (CONTINUED):

4. Did the reviewer have total access to the CAP accounting records?

yes _____ no _____ (If no, explain.)

5. Are CAP funds accounted for separately?

yes _____ no _____

6. Does the accounting system provide for recording expenditures for CAP by budget cost category?

yes _____ no _____

7. Does the accounting system adequately identify receipts and expenditures for CAP?

yes _____ no _____ (If no, explain.)

8. Does the accounting system require that all entries be supported by adequate documentation?

yes _____ no _____ (If no, this is a compliance issue. Explain.)

9. Are the purchasing and payment functions separated?

yes _____ no _____

10. Who signs the payments/authorizations?

11. In your opinion, does the internal control system for payment/billing have sufficient safeguards built in?

yes _____ no _____ (If no, this is a problem. Explain.)

ACCOUNTING SYSTEM (CONTINUED):

12. Does the accounting system provide for the prompt recording and reporting of all financial transactions?

yes _____ no _____

13. Are all vouchers consistent in detail and accountability?

yes _____ no _____ (If no, this is a problem.)

14. If yes, are they based upon written policies and procedures of the organization?

yes _____ no _____

******If a sampling of vouchers for several months indicates there is a trend of inconsistency or faulty documentation and accounting, you may want to review vouchers for an entire grant period.**

GRANT-RELATED INCOME:

1. Has the grantee generated grant-related income, or does it anticipate generating such income?

yes _____ no _____

2. If yes, specify the sources and anticipated amounts.

3. For non-State agencies: Has the designated agency deposited advances of grant funds in interest-bearing accounts or earned other investment income?

yes _____ no _____

GRANT-RELATED INCOME (CONTINUED):

4.If yes, have these funds been returned to the Department of Education?

yes _____ no _____

5.If program income has been or will be generated, how is the income used?

6.Is the program income documented in CAP records and identified as RSA grant funds and reported on the SF-269?

yes _____ no _____ (If no, explain.)

7.If the agency used the additional alternative for reporting program income, was prior approval received from RSA?

yes _____ no _____

PROPERTY/EQUIPMENT:

1.Does the organization maintain a record of all property/equipment purchased with grant funds, including date of purchase and costs?

yes _____ no _____ (If no, this is a problem. Explain.)

******If yes, review the record of all property/equipment purchases with grant funds.**

2.Is the property tagged or otherwise marked to identify it as organizational property?

yes _____ no _____

3.How frequently does the organization conduct property inventories?

PROPERTY/EQUIPMENT (CONTINUED):

4. Who conducts the property inventories?

5. Does the organization have written policies, procedures and controls for purchasing/disposing equipment/property obtained with grant funds?

yes _____ no _____

PERSONNEL SYSTEM:

1. Does the organization have a current personnel manual with written personnel policies and procedures?

yes _____ no _____

2. Is the manual periodically reviewed and updated?

yes _____ no _____

3. Does the manual contain clearly defined compensation policies, including fringe benefits, vacation, sick leave, etc.?

yes _____ no _____

4. Do the policies address conflict of interest matters?

yes _____ no _____ (If no, this is a compliance issue.)

5. Does CAP maintain time and attendance records for each employee by pay period?

yes _____ no _____ (You may want to review time/attendance sheets.)

PERSONNEL SYSTEM (CONTINUED):

6.Are CAP employee salaries based upon the level of compensation for non-Federally funded employees of equal status?

yes _____ no _____

TRAVEL EXPENDITURES:

1.Does CAP have a clearly written travel policy and implementing procedures?

yes _____ no _____ (If yes, you may want to review them.)

2.If no, what policies and procedures does CAP use for travel?

3.If yes, does the travel reimbursement policy comply with State or the organization's internal policies and procedures?

yes _____ no _____ (If no, this is a problem.)

4.The CAP travel policy, if applicable, provides for reimbursement by:

a.actual expense _____; or

b.per diem rate _____.

5.Are all trips using Federal funds justified and documented?

yes _____ no _____

6.What is the ratio of staff training travel to CAP client-related travel?

TRAVEL (CONTINUED):

7. Are funds provided to CAP clients to assure their attendance at required meetings or appointments?

yes _____ no _____

8. If yes, how much was spent for this purpose during the past year?

FINANCIAL AUDITS:

1. Has the designated agency been audited in accordance with the requirements in the revised OMB Circular A-133, which was promulgated on June 30, 1997?

yes _____ no _____

******If yes, get a copy of the CAP audit reports and related findings by the auditors, including the auditor's management letter.**

2. If yes, has a copy of the audit report been sent to the appropriate Federal office?

yes _____ no _____

4. Was the audit conducted in accordance with generally accepted auditing standards, including those of the U.S. General Accounting office, as specified in OMB Circular A-133?

yes _____ no _____ (If no, this is a problem.)

5. If the designated agency has not had an audit, is it familiar with the Federal audit requirements for grantees?

yes _____ no _____ (If no, this is a problem.)

FINANCIAL AUDITS (CONTINUED):

6.If the CAP was included in the recent audit, did the report contain any CAP recommendations?

yes _____ no _____ (If yes, explain.)

7.If yes, were the recommendations implemented?

yes _____ no _____ (If no, explain why.)

ANNUAL CAP REPORT FORM RSA-227:

1.Who is responsible for preparing the Annual CAP Report (RSA-227)?

2.Is the report reviewed by another individual to check the accuracy of reported financial and statistical information prior to the sign-off?

yes _____ no _____ (If yes, by whom?)

3.Who signs the Annual CAP Report (RSA-227)?

LOBBYING:

1.Does the designated CAP agency engage in lobbying and/or political activities as defined in appropriate OMB Circulars?

yes _____ no _____ (If no, skip the rest of this section.)

2.If yes, what funds does the designated agency use to support these activities?

3.How does the designated agency record these activities to assure no Federal funds are used?

DEBARMENT AND SUSPENSION REQUIREMENTS:

1.Does the agency comply with the governmentwide requirements concerning debarment and suspension?

yes _____ no _____ (If no, this is a problem.)

DRUG-FREE WORKPLACE REQUIREMENTS:

1.Does the agency comply with the governmentwide requirements for a drug-free workplace?

yes _____ no _____ (If no, this is a problem.)

PART V
CLIENT SATISFACTION REVIEW GUIDE

**PART V
CLIENT SATISFACTION REVIEW GUIDE**

Reviewer _____ **Date** _____

State _____ **Client name/case number** _____

1.How did you hear about CAP?

2.What services were you seeking from CAP?

3.What services did you receive from CAP?

4.Were you satisfied with the services you received from CAP?

5.How could CAP have improved its services to you?

6.Would you come back to CAP if you had problems again?

7.Additional comments:

PART VI
INTERVIEW GUIDE FOR CAP ADVOCATES

**PART VI
INTERVIEW GUIDE FOR CAP ADVOCATES**

Reviewer _____ Date _____

State _____ Advocate's name _____

1. When you are assigned a case, how do you approach it initially?

2. How do you see your role when working with a client?

3. Describe your style/approach to conflict resolution.

4. Are there any barriers that prevent you from doing your job effectively? If yes, what changes would you recommend?

5. Additional comments:

PART VII
INTERVIEW GUIDE FOR OTHER PROGRAMS

**PART VII
INTERVIEW GUIDE FOR OTHER PROGRAMS**

Reviewer _____ **Date** _____

State _____

Interviewee's Name _____ **Program** _____

1. What is your title? Responsibilities?

2. In what circumstances do you interact with CAP and its staff?

3. In your opinion, how effective is the CAP's advocacy? Explain.

4. What are CAP's strengths?

5. What are CAP's weaknesses?

6. What suggestions, if any, do you have for improving CAP?