



CENTERS FOR INDEPENDENT LIVING COMPLIANCE REVIEW REPORT  
Living Independence for Everyone, Inc (LIFE)

Grant Award Numbers: 2001MSILC3, 2101MSILCL, and 2201MSILCL Jackson, MS

***Virtual Onsite Review Dates:*** August 21-25, 2023

***Exit Conference:*** August 31, 2023

***Draft Report:*** January 30, 2024

***CIL Response:*** March 28, 2024

***Final Report:*** August 30, 2024

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## I. Introduction

Thank you for your participation in the Administration for Community Living (ACL) virtual onsite Compliance and Outcome Monitoring Protocol (COMP) review conducted August 21-25, 2023, of the Center for Independent Living (CIL) – Living Independence for Everyone (LIFE) of Mississippi, Inc. We appreciate your agency's openness and flexibility during this process. The review team noted the passion of the LIFE staff for both the IL philosophy and mission of your organization. This is clearly a strength for LIFE.

This report from the site review summarizes the review team's findings. The review team found several programmatic and fiscal compliance issues with LIFE's management of the federal award, including a lack of staff and board training, inadequate record keeping and file management processes; and a lack of accounting, internal controls, and administrative deficiencies, in addition to \$98,144.63 in unallowable costs.

There are a number of resources that can assist, which are discussed in this report.

## II. PURPOSE OF THE VIRTUAL ONSITE<sup>1</sup> COMPLIANCE REVIEW

Sections 706(c) and 722 of the *Rehabilitation Act of 1973, as amended* (Rehabilitation Act) mandate that the Administration for Community Living (ACL) conduct reviews of centers for independent living (CILs) funded under Title VII, Part C, Section 722. The objectives of reviews are to:

- assess compliance with the requirements of Section 725(b) and (c)(3) of the Rehabilitation Act; study program operations, organizational structure, and administration of the CIL under Sections 725(c)(1), (2), (5) and (6) of the Rehabilitation Act (Rehab Act);
- review documentation sufficient to verify the accuracy of the information submitted in the most recent CIL Program Performance Report (PPR);
- verify that the CIL is managed in accordance with federal requirements;
- assess CIL conformance with its work plan, developed in accordance with Section 725(c)(4) of the Rehabilitation Act, conditions of the CIL's approved application, and consistency with the State Plan for Independent Living (SPIL);
- identify areas of improvements in the CIL's programmatic and fiscal operation and provide technical assistance (TA) available on the local, state, regional and national level;
- identify exemplary work, projects and coordination efforts and make this information available to the larger CIL community;
- identify technical assistance to enhance CIL operations or to minimize problem areas;
- assess compliance with the Uniform Guidance 2 Code of Federal Regulations (CFR) Part 200 as codified by 45 CFR Part 75; and the Standard Terms and Conditions of the Notice of Award (NoA) for the fiscal year in which the grant was originally awarded; and
- ensure that funds are expended for the intended purpose and that funds were not subjected to fraud, waste, and abuse.

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<sup>1</sup> Technology enables ACL to thoroughly review program and fiscal components remotely via virtual methods. This cost-effective approach to monitoring allows ACL to focus resources on services that directly support people with disabilities in their communities

### III. Methodology

The Office of Independent Living Programs (OILP), part of ACL's Administration on Disabilities (AoD), and the Office of Fiscal Operations (OFO), part of ACL's Center for Management and Budget (CMB) identified Living Independence for Everyone Inc (LIFE) for a comprehensive virtual onsite monitoring review. LIFE failed to timely submit single audit reports (SAR) to the Federal Audit Clearinghouse for FY 2020 and FY 2021, despite receiving more than \$4.8 million in both Part C and supplemental Coronavirus Aid, Relief, and Economic Security (CARES) Act funding between FY 2019 and FY 2022. 45 CFR 75.501 states that "A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with 45 CFR 75.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section." Additionally, LIFE's FY 2019 single audit report included a finding concerning a failure to follow internal controls for approving salaries and wages, for which ACL was unable to verify resolution because no subsequent single audit reports were submitted.

This virtual onsite monitoring review was conducted on the following awards:

Centers for Independent Living (CILs) Part C Formula Awards

- o FY 2021 – 2101MSILCL (Project Period - 9/30/2021 – 9/29/2022)

- o FY 2022 – 2201MSILCL (Project Period - 9/30/2022 – 9/29/2024)

CARES COVID-19 Supplemental Award to Part C CILs

- o FY 2020 – 2001MSILC3 (Project Period - 4/1/2020 – 9/30/2022) The virtual onsite monitoring review team participants were:

Jennifer Martin, Program Officer, OILP / AoD, Programmatic Review Lead

Ed Ahern, Program Officer, OILP / AoD

Aaron Taylor, Supervisory Grants Management Specialist, OFO / CMB

May Ling Mckee, Supervisory Grants Management Specialist, OFO / CMB

Bob Hand, Non-Federal Reviewer

Through the virtual onsite monitoring, ACL completed a detailed review of LIFE's programmatic, administrative, and fiscal functions. ACL conducted interviews with LIFE's management, staff, consumers, and members of the board. In addition to the interviews, ACL reviewed program and financial documents in accordance with OILP's Compliance and Outcome Monitoring Protocol (COMP) evaluation tool and OFO's assessment of compliance with Notice of Award (NoA) terms and conditions. The documentation reviewed included written policies and procedures, accounting and expenditure documents, contracts, consumer files, and budgets.

The review team provided feedback to LIFE throughout the virtual onsite monitoring event. At the exit conference on August 31, 2023, the review team provided a comprehensive summary of its review, including identified strengths, areas for improvement, opportunities for technical assistance, and concerns of potential non-compliance.

#### **IV. CIL ORGANIZATIONAL BACKGROUND**

The LIFE mission is to empower people with significant disabilities to be independent and as fully involved in their communities as they can and want to be. LIFE is the only CIL in Mississippi and therefore works to serve persons with disabilities across all regions of the state. LIFE has a main office in Jackson, MS and has five satellite offices: Tupelo, Indianola, Hattiesburg, McComb, and Gulfport. At the time of the virtual onsite review, LIFE had a staff roster totaling 25, including full-time, part-time, and contracted staff. The provided staff roster included the disability status of all individuals. LIFE had 11 board members, 6 of whom self-identified as having disabilities. Based on program year 2022 reporting to ACL, LIFE had total income of \$1,570,934 with \$1,478,448 (94%) coming from Federal funds.

In Program Year (PY) 2022, LIFE served a total of 1,717 consumers. The largest racial or ethnic category was African American. The largest disability category was physical. The service that LIFE provided most was information and referral.

#### **V. IDENTIFIED Strengths**

During staff and consumer interviews, the review team noted that the individuals interviewed expressed passion for the IL philosophy and mission of the organization. LIFE has taken the following steps to improve its processes:

When the CARES award was issued, LIFE took intentional steps to separate expenses from the Part C award by:

- creating a new cost center in QuickBooks (LIFE-1 COVID-19),
- updating timesheet templates and
- creating a separate purchase approval form.

LIFE is currently in the process of implementing a new timekeeping system (Zenefits), which will standardize time reporting for all offices and staff and improve the efficiency of processing salary payments.

#### **VI. FINDINGS AND CORRECTIVE ACTIONS**

**During its review activities, OILP and OFO identified compliance findings that are discussed in this section. Within 30 calendar days of receipt of the final report, LIFE must submit a corrective action plan (CAP) to OILP/ AoD for review and approval. The CAP should include: (1) the specific corrective actions that the CIL will undertake in response to each finding; (2) the methodology that the CIL will utilize to evaluate if each corrective action has been effective; and (3) the timetable for the implementation and evaluation of the corrective action.**

**As noted above, ACL and ILRU staff are available to assist with technical assistance during this period.**

ACL reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, draw down restrictions, funds withholding, or grant terminations, pursuant to HHS policy and the Uniform Guidance (45 CFR 75). Participation in this virtual onsite review does not preclude ACL from implementing additional oversight activities related to these findings.

The review identified unallowed costs, questioned costs, and other financial and programmatic compliance issues indicated below.

## Programmatic Compliance Findings

### Finding 1: Some building areas are not fully accessible to all people with disabilities.

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#### Legal Requirement: 29 U.S.C. § 796f-4

**Discussion:** LIFE staff provided a live, virtual tour of their main office. During the review, the team identified the following accessibility concerns.

- the CIL's waiting room does not have a designated wheelchair area
- one bathroom's grab bars were not placed according to accessibility guidelines
- one bathroom was identified as accessible yet lacked clear turning space rendering it inaccessible
- objects were placed in restrooms, thereby taking up accessible space rendering them inaccessible.

**Finding:** LIFE is not in compliance with 29 U.S. Code § 796f-4(b)(1)(D), because individuals with some disabilities cannot conveniently access all the parts of the LIFE building to fully use LIFE's resources.

#### Corrective Actions/Milestones:

- 1) Within 90 calendar days of receipt of the final report, LIFE will put a visible sign outside its building explicitly stating that LIFE staff can assist when entering or leaving the office and providing use instructions.
- 2) Within 90 calendar days of receipt of the final report, LIFE will put tactile signage outside all its rooms that consumers may use.
- 3) Within 120 calendar days of the final report, LIFE will reassess all their physical facilities utilizing the ADA Checklist for Existing Facilities or a similar tool and develop a plan to address accessibility shortfalls. Contact, IL's ACL-funded technical assistance (TA) provider, Independent Living Research Utilization (ILRU) for assistance or for more information, visit <https://archive.ada.gov/rachek.pdf> or <https://www.ada.gov/law-and-regs/design-standards/2010-stds/#2010-standards-for-public-accommodations-and-commercial-facilities-title-iii>

#### LIFE Report Response:

LIFE has reassessed their existing physical facilities utilizing the ADA Checklist. LIFE has installed all necessary signage, corrected grab bar placement, and created a plan to address any location or spaces that are deemed inaccessible.



**Corrective Action:**

LIFE reviewed the ADA Checklist and revisited each satellite office to make the necessary adjustment to each facility. Each facility was accessed, and corrections made to ensure each satellite office was ADA compliant.

**Methodology:**

LIFE has reassessed their existing physical facilities utilizing the ADA Checklist. LIFE has installed all necessary signage, corrected grab bar placement, and created a plan to address any location or spaces that are deemed inaccessible.

**Timetable:**

Each satellite office received an ADA Checklist walk through and updates to each facility was made to ensure compliance as of May 29, 2024. ED will check bi-annually to ensure no changes are updates will be needed to ensure each satellite office stays in compliance. Next Review will be due November 2024.

**ACL Final Response:**

Based on photo evidence provided by LIFE which show that the accessibility issues have been adequately addressed, we accept and approve the Corrective Action Plan.

**Finding 2: Inadequate recording of services in consumer information files (CIFs) and Independent Living Plans (ILPs).**

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**Legal Requirement: 29 U.S. Code § 796f-4; 45 CFR § 75.303; 45 CFR § 75.342**

**Discussion:** The ACL team reviewed policies, procedures and 47 active CIFs. They also interviewed multiple staff members about LIFE's CIFs and Independent Living Plans (ILPs), as required. Grantees are required to demonstrate active internal controls necessary to assure that they are managing the awards in compliance with Federal statutes, regulations, and the terms and conditions of the award (45 CFR § 75.303 (a-c)). Part C CILs are also required to prepare annual reports (CIL PPRs) and demonstrate that they are maintaining records that are adequate to measure performance (45 CFR § 75.342) with respect to the standards (29 U.S. Code § 796f-4(c)(8)) set forth in the Rehab Act.

All 47 CIFs that ACL reviewed had deficiencies in at least one of the following areas: signed release of information, notification of opportunity to express satisfaction or dissatisfaction, notification of opportunity to appeal, notification to the consumer of the availability of the Client Assistance Program, and notification about goals met resulting in CIF closure.

For FY 2021, LIFE reports having developed 1,708 ILPs with 9 additional individuals having waived their right to develop an ILP. The consumer data reported was not substantiated with a waiver or an ILP.

Of the documentation received, information contained within the files was inconsistent. Every file was missing information required by the Rehab Act. For example, many of the CIFs that the team reviewed did not adequately document ILPs, goals, services and their relationships to the goals, evidence of required core services provided, or progress toward the goals.

Other findings include:

- a) LIFE was not able to provide any intake or case closure policies or procedures.
- b) Many CIFs do not adequately connect services to goals.
- c) Four CIFs indicate that services were provided but have no case notes.
- d) At least one CIF indicates services were provided but there were no associated goals or notes.
- e) HIPAA forms and consent to exchange information forms are not present in any of the reviewed CIFs nor are they listed on the Case Review Checklist.
- f) Multiple CIFs show services were established, but there was very little documentation that demonstrated the provision of services, as required.
- g) Some CIFs show handwritten notes that were not entered into the data reporting system.
- h) When asked for consumer files, LIFE leadership indicated that one staffer had not input any of their data into the database for the year.

During the time of the review, several CIFs suggested a lack of contact with consumers over extended periods of time, suggesting those CIFs could potentially be closed. In some cases, there were consumer files open with no contact for multiple years. Additionally, there were no intake procedures; it is unclear how or when intakes/consumer records are established.

While LIFE provided a CIL Checklist document, and the contracted Program Manager indicated the CIFs were reviewed for accuracy every six months, there is no evidence of a written policy or proof that the reviews took place. LIFE should strengthen their internal controls and processes to assure accuracy of the data reported in the CIFs and the ILPs.

**Finding:** LIFE is not in compliance with 45 CFR § 75.303(a–c) because it does not have sufficient internal controls related to CIFs/ILPs. As a result, LIFE cannot assure that information submitted on official Federal reports is an accurate reflection of agency performance and is therefore unable to demonstrate it is meeting standards set forth in the Rehab Act (29 U.S. Code § 796f–4(c)(8)).

**Corrective Actions/Milestones:**

- 1) Within 30 calendar days of receipt of the final report, LIFE will begin working with the TA provider, ILRU, to establish standards of practice for required CIF/ILP components including development and maintenance of ILP goals and services. In addition, ACL requires that LIFE establish and implement intake and case closure procedures and provide training to staff.
- 2) Within 90 calendar days of receipt of the final report, LIFE will implement these practices through all relevant agency policies and procedures, including staff training, evaluation, and any relevant board activities. These practices should include a quality-assurance component necessary to assure ongoing implementation and validity of numbers submitted from CIFs/ILPs. This finding will be closed when LIFE can document that this step has been completed.
- 3) Within 120 calendar days of receipt of the final report, all of LIFE's CIFs and ILPs will properly reflect all services that LIFE is providing to all its consumers and all progress that all of them are making. (This factor will be the key compliance indicator.)

**LIFE Report Response:**

LIFE is actively revising and updating all Consumer Information File (CIF) standards, policies, and procedures to ensure compliance with 45 CFR § 75.303 (a-c) and the standards set forth in the Rehab Act. The updates will be reviewed and approved by LIFE's board. To support these efforts, LIFE will seek Technical Assistance (TA) for review and approval of the revised policies and procedures.

**Corrective Action:**

LIFE is revising CIF and Independent Living Plan (ILP) standards, policies, and procedures to align with 45 CFR § 75.303 (a- c) and Rehab Act standards.

The board will approve the updated policies and procedures.

Quality assurance protocols are being established to monitor CIF and ILP data accuracy.

**Training and Quality Assurance:**

LIFE has reviewed ILRU's consumer file procedures, conducted training, and developed a checklist guide for specialists.

The Executive Director (ED) will conduct monthly reviews of 20 consumer files per Independent Living Specialist to ensure adherence to updated policies and procedures.

**Methodology:**

LIFE will seek guidance from ILRU and ACL to identify any additional specific training needs or recommendations.

A comprehensive approach will be used to address all identified gaps and ensure effective implementation of corrective actions.

**Timetable:**

Ongoing: Continuous efforts will be made to update policies, conduct training, and ensure compliance. Documentation of these activities will be provided to ACL as they are completed, November 30, 2024.

**ACL Final Response:**

Based on additional documentation provided by LIFE that shows progress in addressing the concerns, which included updated CIF policies and procedures, training protocols for staff on CIF procedures and management, and case review checklists that meet expectations, we accept and approve the Corrective Action Plan.

### **Finding 3: The Board is not the principal decision-making body.**

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**Legal Requirement:** 29 U.S. Code § 796f-4

**Discussion:** The review team reviewed board minutes (from meetings held April 2022, September 2022, January 2023, and April 2023) and interviewed the board president, but could not find evidence of the following information or practices as required by CIL by-laws:

- A board approved overall agency budget
- Board evaluation of the Executive Director (ED)
- Board input and review of the strategic plan
- Consistent board review of financial reports
- Board review and approval of policies
- Board review and approval of major commitments, such as leases, large purchases, changes in personnel structure, overall staff pay rates, etc.

In addition, the board does not have a written process for identifying and recruiting board members or a governing board member training and development program. Furthermore, as required, the CIL does not have a strategic plan, approved by the Board, that outlines measurable objectives, persons responsible for each objective or activities to accomplish objectives.

**Finding:** LIFE is not in compliance with 29 U.S. Code § 796f-4(c) (4)) because it does not have sufficient internal controls and is therefore unable to demonstrate it is meeting standards set forth in the Rehab Act (29 U.S. Code § 796f-4(c)(4)).

#### **Corrective Actions/Milestones:**

- 1) Within 30 calendar days of receipt of the final report, LIFE will provide ACL with a copy of the current annual budget with certification by all board members that it has been reviewed and approved by the board.
- 2) Within 30 calendar days of receipt of the final report, the LIFE board will develop and provide the policy for the ED evaluation process and a copy of the most recent review.
- 3) Within 60 calendar days of receipt of the final report, LIFE will provide ACL with its Board of Director policies and procedures that outline board member requirements, including the 5 bulleted items listed above.
- 4) Within 120 calendar days of receipt of the final report, LIFE will seek guidance from ILRU and then develop a curriculum and facilitate a Board of Director training that clearly outlines all board member responsibilities, including, but not limited to, the bulleted items listed above. Further, LIFE will submit signed confirmation from each board member that they participated in the training. The board training curriculum should be provided to ACL. This finding will be closed when LIFE can document that these steps have been completed.

**LIFE Report Response:**

LIFE's board, along with the Executive Director (ED), is now the principal decision-making body for the agency. A board meeting was held in April 2024 to enhance agency policies, responsibilities, and requirements for board members. During this meeting, the board reviewed and approved the current annual budget, evaluated the ED, and made recommendations for policy updates.

LIFE Board members will receive a training to review the process. This training will be developed after Technical Assistance (TA) reviews and approves the updated policies and protocols.

LIFE's ED will ensure that all board members understand the updated procedures. Signed confirmations from each board member verifying their participation in the training will be submitted to ACL, along with the training curriculum.

**Corrective Action:**

Since the review LIFE's ED met with the Board of Directors and provided each member with LIFE's policies and procedures. These policies and procedures outline each board member's requirements and commitments.

**Methodology:**

LIFE is working closely with ILRU to develop and facilitate a Board of Director training curriculum that clearly outlines board member responsibilities. This training will be designed to address all board requirements and responsibilities.

**Timetable:**

Ongoing: Implementation of the updated policies and training will continue. LIFE will provide evidence of these activities to ACL as they are completed.

**ACL Final Response:**

Based on additional documentation submitted by LIFE in its 5-31 response that included adequate documentation of a board approved budget, board ED evaluation, and board training plan, we accept and approve the Corrective Action Plan. LIFE must provide ACL with its Board of Directors policies and procedures that outline board member requirements within 120 days of the final report.

**Finding 4: Failure to maintain adequate records of staff and board members with significant disabilities.**

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**Legal Requirement: 29 U.S. Code § 796f-4 and § 705(21)(B)**

**Discussion:** The Rehab Act distinguishes between a person with a disability and a person with a significant disability with regard to CIL staffing and board composition. The term "individual with a significant disability" means "an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively" (29 U.S. Code § 705(21)(B)). CILs are required to follow this definition.

CILs are also required to maintain information on the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center, and to take actions to employ and advance in employment qualified individuals with significant disabilities. The review team reviewed LIFE's employee roster and did not find a listing of employees with significant disabilities as required by 29 U.S. Code 796f-4 (c)(8)(E).

**Finding:** LIFE is not in compliance with 29 U.S. Code § 796f-4(c)(8) because it is not maintaining appropriate records set forth in the Rehab Act.

**Corrective Actions/Milestones:**

- 1) Within 30 calendar days of receipt of the final report, LIFE will submit an updated employee roster identifying individuals with significant disabilities.

**LIFE Report Response**

LIFE has submitted an updated employee roster that identifies individuals with significant disabilities, addressing the compliance findings noted in the review.

**Corrective Action:**

LIFE has revised both the staff directory and the Board of Directors' roster to reflect accurate information regarding individuals with significant disabilities.

**Methodology:**

*Review and Identification: LIFE conducted a comprehensive review of each employee's disability status and updated the employee directory to ensure it accurately identifies individuals with significant disabilities.*

**Timetable:**

*Ongoing: The updates to the employee roster and Board of Directors' roster will be maintained and reviewed regularly to ensure continued compliance. Documentation of these updates will be provided to ACL as required.*

**ACL Final Response:**

ACL concurs with this response. Based on additional documentation received, the staff directory has been updated to reflect individuals with significant disabilities. Documentation must be provided to reflect board members with significant disabilities within 120 days.

**Finding 5: Inconsistent staff training protocols and procedures.**

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**Legal Requirement:** 29 U.S. Code § 796f-4

**Discussion:** During the review, LIFE staff indicated that training was provided at staff meetings and through manuals, as needed. The review team did not observe any training records or training schedules. In addition, the organization's work plan does not include staff, board member or volunteer training.

**Finding:** LIFE is not in compliance with 29 U.S. Code § 796f-4(c)(11), which requires staff to receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

**Corrective Actions/Milestones:**

- 1) Within 90 days of receipt of the final report, LIFE will consult with ILRU as a training and technical assistance provider and develop and implement an annual training strategy for staff, board, and volunteer members across the organization. The training strategy will include how to serve unserved and underserved populations, including minority groups and urban and rural populations. The training strategy must also include record keeping of training topics, dates, and attendance.

**LIFE Report Response:**

*LIFE has engaged with the Independent Living Research Utilization (ILRU) for training and technical assistance (TA). We have updated and implemented an annual training schedule to enhance our outreach efforts. We are continuously working to expand our coverage and improve our outreach strategies.*

*LIFE's flyer has a list of all the services provided which was designed to reflect the community we serve. When it comes to reaching out to the unserved and underserved across the state of Mississippi this will be an ongoing plan of action.*

**Corrective Action:**

1. Updated Training and Outreach:  
LIFE has consulted with ILRU and incorporated their recommendations into our annual training schedule.  
We have enhanced our outreach by continuing to use proven methodologies, such as word of mouth, leveraging religious institutions, community networks, and outreach events.
2. Service Promotion:  
LIFE has updated its flyer to include a comprehensive list of services provided, tailored to reflect the needs of the community we serve.
3. Community Engagement:  
We are focusing on outreach to unserved and underserved populations across Mississippi, including Native American and Vietnamese communities.
4. Social Media and Additional Resources:  
LIFE is increasing our activity on social media platforms to reach a broader audience.  
We will continue to seek additional materials and training from ILRU to address any remaining gaps in our outreach efforts.

**Methodology:**

Training and Resources: LIFE will collaborate with ILRU and ACL to develop and implement additional outreach training programs.

Community Focus: We will continue to use community-specific methods, such as leveraging local networks and events, while expanding our efforts to reach diverse groups.

**Timetable:**

Ongoing: LIFE's outreach and training initiatives are ongoing. We will continuously review and adjust our strategies to ensure effectiveness and compliance. Evidence of our efforts and updates will be provided to ACL as required.

**ACL Final Response:** ACL concurs with this response and expects LIFE to complete this finding within 120 days.



# Fiscal Compliance Findings

## Finding 6: Insufficient financial management policies and procedures

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**Legal Requirement:** 45 § 75.302 and 45 § 75.303

**Discussion:** LIFE provided a three-page document entitled “Financial Review Procedures.” These procedures serve as a reconciliation checklist for the bookkeeper. The document does not provide comprehensive guidance on fiscal management policies and procedures or internal controls. LIFE has not written standard operating procedures for its financial management policies and procedures and internal controls. Further, LIFE has not documented and explained the modifications it made to key business processes during the COVID-19 pandemic.

**Finding:** LIFE is out of compliance with the requirements of 45 § 75.302 and 45 § 75.303 as LIFE does not have effective financial management systems and standards and internal controls in place to manage Federal awards in compliance with applicable federal statutes, regulations, and the award terms and conditions.

The findings include:

- Inadequate system and internal controls for managing financial data, including budget, revenue, and expenses,
- Inadequately defined key positions and staff responsibilities,
- Insufficient checks and balances in place for payment review processes,
- Insufficient descriptions of key processes (i.e., payment approval, budget creation/reconciliation, financial reporting, etc.),
- No timetable of key events in the fiscal year, and
- Minimal oversight of Federal award management responsibilities, such as award setup, award terms and conditions, required reporting, and applicable Acts, Statutes, and regulations.

### Corrective Actions/Milestones:

- 2) Within 30 calendar days of the issuance of the final report, LIFE will contact ILRU for technical assistance.
- 3) Within 120 calendar days of the issuance of the final report, LIFE will submit the draft policies and procedures to ACL for review and feedback.

**LIFE Report Response:**

LIFE has submitted comprehensive, board-approved fiscal policies that offer an in-depth overview of fiscal operations. These new policies were not included in the initial review. LIFE is committed to ensuring that these updated policies comply with ACL requirements. If any discrepancies are found, LIFE will promptly make the necessary adjustments.

**Corrective Action:**

LIFE has provided a revised fiscal management policy that has been approved by the Board. This revision aims to address any gaps identified in the initial review.

**Methodology:**

LIFE will seek additional guidance from ILRU (Independent Living Research Utilization) and ACL (Administration for Community Living) to ensure that all fiscal management practices meet current requirements and standards. This includes reviewing any further updates or steps that may be necessary.

**Timetable:**

The process of seeking guidance and making any required updates is ongoing. LIFE will continue to monitor and adjust policies as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

For the fiscal findings, we acknowledge that the grantee has taken actions to address many of the findings, however the deliverables submitted will need additional revisions and updates because of the significant management and staffing changes ongoing and forthcoming. The updated policies submitted do not account for all the organizational and staffing changes. The policies will need to be updated to align with LIFE's new structure.

LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies.

**Finding 7: Ineffective internal controls in expense review and payment processes**

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**Legal Requirement:** 45 § 75.303(a) and 75.305

**Discussion:** LIFE has no written process for purchase (expense) review and approval. Prior to the COVID-19 pandemic, purchases were approved by the Executive Director and checks were approved and signed by a board member. During the COVID-19 pandemic, the board member stopped conducting in-person business. Therefore, LIFE changed the review process, resulting in the Executive Director serving as both the reviewer and approver. In the documentation reviewed, this process change correlated to all purchases having no "Approved by:" signature on the check request form and the Executive Director signing checks for the purchases they approved. Therefore, the tiered review system that was in place was flattened, leaving all approvals in the hands of one individual. The Executive Director is the only person in the organization with a Payment Management System (PMS) account, meaning they have sole authority for financial report submission and grant award drawdown.

The forms used by LIFE to document purchase requests and check requests (payment approval) do not include key award information or identification of applicable award terms and conditions. At a minimum these forms should include the grant number and project period. These forms should also facilitate compliance review such that the staff involved in financial management can provide assurances that all funds are used in accordance with applicable award terms and conditions.

LIFE has no written policies and procedures for the expense review and payment processes. Further, most of these processes, including all approvals, rest with one individual (Executive Director). Without a tiered review structure, written processes, and intentional checks and balances, LIFE is at an increased risk of using funds improperly.

**Finding:** LIFE is out of compliance with the requirements and expectations of 45 CFR 75.303(a) and 45 CFR 75.305 by having no separation of duties in place to ensure award funds are expended and drawn in accordance with applicable regulations and award terms and conditions.

**Corrective Actions/Milestones:**

- 1) Within 120 calendar days of the issuance of the final report, LIFE will provide draft policies and procedures for the expense review and payment processes to ACL for review and feedback.
- 2) Within 120 calendar days of issuance of the final report, LIFE will obtain access to PMS for an additional staff member and introduce controls in the financial reporting and drawdown processes utilizing this new user.

**LIFE Report Response:**

LIFE has submitted updated internal control draft policies and procedures for the expense review and payment processes to ACL for review and feedback. Additionally, LIFE has enhanced their financial oversight by adding a new staff member to ensure thorough review and compliance with these procedures.

**Corrective Action:**

LIFE's bookkeeper has conducted a walkthrough of the accounting classifications with Paula McElwee from ILRU TA. The review confirmed that the QuickBooks accounting information is acceptable, with cost centers properly classified and no overlap.

**Methodology:**

LIFE will continue to collaborate with ILRU and ACL to ensure that all financial policies and procedures are properly implemented and compliant with relevant standards.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies. ACL will meet with LIFE to obtain a demonstration of the updated internal controls.

**Finding 8: Comingling of cost centers – Inadequate accounting system to track Part C award data**

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**Legal Requirement: 45 § 75.302(b) and 75.303(a)**

**Discussion:** LIFE uses QuickBooks as their accounting system. All Part C awards are managed in a single cost center called “LIFE.” In the “LIFE” cost center, credits, and debits applicable to a single award are captured by date, such that all transactions recorded between 10/1 – 9/30 apply to a single award. Multiple federal awards should not be setup and tracked using the same cost center. Each award (each grant number) should have its own cost center. The strategy of searching transactions by date instead of using separate cost centers is limiting because Part C awards have a two-year project period, meaning there is an increased risk of comingling transactions.

Further, LIFE has been tracking transactions on a 10/1 – 9/30 calendar, however Part C awards have a 9/30 start date and a 9/29 award end date. LIFE needs to create separate cost centers for each award. Each cost center should have an associated grant number, project period, funder, and program name. The award and cost center setup should establish checks and balances to account for the unique award terms and conditions.

**Finding:** LIFE is not in compliance with 45 § 302(b) and 45 § 75 303(a). LIFE’s accounting system does not establish a unique cost center to separately track award transactions. These practices jeopardize LIFE’s compliance with applicable federal statutes, acts, regulations, and the award terms and conditions.

**Corrective Actions:**

- 1) Within 30 calendar days of the issuance of the final report, LIFE will provide evidence, including the accounting system screenshots and transaction logs, that active Part C awards (FY 2022 and FY 2023) are setup as separate cost centers in their accounting system.

**LIFE Report Response:**

*LIFE has submitted updated internal control draft policies and procedures for expense review and payment processes to ACL for their review and feedback. Additionally, LIFE has strengthened their financial oversight by adding a new staff member to enhance review and compliance efforts.*

**Corrective Action:**

LIFE’s bookkeeper has completed a walkthrough of the accounting classifications with Paula McElwee from ILRU TA. The review confirmed that the QuickBooks accounting information is acceptable, with cost centers correctly classified and no overlap.

**Methodology:**

LIFE will continue collaborating with ILRU and ACL to ensure that all financial policies and procedures are effectively implemented and adhered to.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL

requirements.

**ACL Final Response:**

ACL acknowledges that LIFE has worked with ILRU to review its accounting system. ACL will meet with LIFE to obtain a demonstration of accounting system updates.

**Finding 9: Minimal oversight in budget reconciliation activities**

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**Legal Requirement:** 45 § 75.302(b) and 75.303

**Discussion:** Two individuals maintain most of the organization's financial knowledge, and these same two individuals control almost all the organization's financial processes. One of these individuals is the Executive Director and the other person is a part-time contracted Bookkeeper. During interviews, ACL learned that the Board President had little knowledge of the organization's finances and had little participation in the budget process. The Bookkeeper appears to have sole discretion in reconciling expenses to the approved budgets and maintaining data integrity in a mostly paper environment. The burden on the Bookkeeper, especially as a part time contractor, is too high and LIFE lacks appropriate checks and balances to ensure the accuracy of its budget develop and reconciliation.

**Finding:** LIFE lacks adequate assignment of responsibilities and oversight to ensure proper budget development and reconciliation in line with 45 § 75.302(b) and 75.303.

**Corrective Actions:**

- 1) Within 120 calendar days of the issuance of the final report, LIFE will provide draft policies and procedures for its budget development and reconciliation processes to include a process for internal oversight that clearly defines the Board's role.

**LIFE Report Response:**

LIFE has reviewed and updated its Financial Policies and Procedures, which have been presented to and approved by the Board. The updates include enhancements to the budget development and reconciliation processes, incorporating a clear internal oversight process that defines the Board's role.

Moving forward, the forecasted budget will be reviewed monthly with the new Executive Director (ED). There will be a standing meeting between the ED and the Board Treasurer, and the budget review will be reported at each quarterly Board meeting.

**Corrective Action:**

LIFE has reorganized its financial team by adding an additional staff member to the financial process to strengthen oversight and management.

**Methodology:**

The ED and Board will hold a standing monthly meeting to compare the forecasted budget with the actual budget. During these meetings, the Board Treasurer will review monthly expenditures to ensure adherence to processes and guidelines. Any discrepancies identified will be addressed and reclassified before closing out each month.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:** LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies.

**Finding 10: Inadequate internal controls & oversight of timekeeping processes**

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**Legal Requirement:** 45 § 75.303, 45 § 75.430, 45 § 75.459

**Discussion:** ACL reviewed LIFE’s “Personnel Policies” Handbook, position descriptions, organizational chart, staff roster, and timesheet samples, and conducted interviews with organization staff. The timekeeping system in place for most of the awards reviewed was paper based. LIFE is currently transitioning to a digital timekeeping system on the FY 2022 Part C award but will not be fully digital until the FY 2023 Part C award launches. The “Personnel Policies” fail to provide sufficient guidance to the staff or management on the timesheet process; it provides no guidance on how to complete timesheets, what template to use, and how to split hours if an employee is working on multiple programs. Further, the policies make no connection between the work done by the employee (type and quantity), hours logged, and specific grant (cost center) charged. For almost every non-COVID-19 timesheet reviewed, hours were charged to the “LIFE” project, meaning the Part C award. ACL observed at least one instance when a non-Part C employee was logging their hours on the “LIFE” project. To support charges for salaries and wages, timesheets should identify: a grant or cost center being worked on; number of hours worked on each (regular hours); numbers of hours not worked (Paid Time-off (PTO) such as vacation, holiday, sick and other leave); description of work performed; and employee’s and approver’s signatures.

LIFE staff teleworked during the COVID-19 pandemic, and LIFE staff work in six offices. The timekeeping policies do not include a process for tracking time while staff are teleworking or the expectations for staff working at satellite offices. The supervisor for the satellite staff is centrally located and the current structure of oversight is insufficient to properly track the actual work performed and time logged by satellite office staff. The first line supervisor for most LIFE staff is the contracted Compliance Coordinator. The first line supervisor role is not clearly outlined in the Compliance Coordinator’s job description.

LIFE has its contracted staff completing timesheets like permanent employees. However, the contracted staff are not permanent employees. LIFE needs to update its policy to establish reporting expectations for independent contractors, including how time and performance will be tracked. The time reporting and approval process for all staff should be explained in LIFE’s policies and be clearly outlined in agreement with any contracted staff.

**Finding:** LIFE is out of compliance with the requirements and expectations of 45 § 75.303 and 45 CFR 75.430 because they lack adequate systems and controls to track and charge for work performed on each award. LIFE is also out of compliance with the requirements and expectations of 45 § 75.459 because it lacks adequate policies and controls to manage its current contracted staff, including establishing clear expectations for how time worked, and tasks completed will be documented and tracked.

**Corrective Actions/Milestones:**

- 1) Within 120 calendar days of the final report, LIFE will provide ACL with a walk through of the new Zenefits timekeeping system.
- 2) Within 120 calendar days of the issuance of the final report, LIFE will provide ACL with draft updated "Personnel Policies," which address time reporting and approval process for all staff, including independent contractors.

***LIFE Report Response:***

LIFE has initiated the implementation of TriNet Zenefits, a new Human Resource Information System (HRIS). Both LIFE and its Board are updating personnel policies and procedures to more clearly define the processes for staff and contractor time reporting and approval. The new system eliminates the use of paper timesheets, streamlining payroll functions and improving timekeeping accuracy across all offices.

**Corrective Action:**

On March 15, 2024, LIFE established the TriNet payroll system and completed its rollout to employees. Training was provided to ensure effective use of the system. Moving forward, paper timesheets will no longer be used, and the Policy Manual will be updated to reflect the new system.

**Methodology:**

TriNet will manage payroll administration services, with self-service tools that enhance efficiency and compliance. The system supports paperless tracking of time and attendance, and automates the recording of total hours, overtime accruals, and project expenses. Employees can view their schedules, and clock in and out directly through the system, ensuring adherence to payroll regulations and requirements.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies. ACL will meet with LIFE to obtain a demonstration of updated timekeeping systems and review the records produced.

**Finding 11: Inadequate contracting and procurement processes and insufficient documentation of contracting and procurement actions**

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**Legal Requirement:** 45 § 75.303, 45 § 75.328-329, 45 § 75.459

**Discussion:** LIFE has procured independent contractors to deliver or conduct core functions, such as project management, supervision, accounting, marketing, and information technology (IT). LIFE’s one page “Independent Contractor” policy document is insufficient to address the complexity of issues that go into managing these individuals, assessing renewals, scoping contract language, and evaluating risk. Contracts for the current independent contractors (contracted staff) have been renewed multiple times and the review team saw no evidence of LIFE’s process of assessing the contracted staff or their decision-making process for renewing contracts.

LIFE has a consultant agreement with its IT Specialist (Resurrection IT). Resurrection IT services are rendered by a single individual. During the CARES award, LIFE also hired the same individual (Resurrection IT) to setup and deliver a series of technology courses to disabled seniors (SilverTech). In addition, LIFE contracted with Resurrection IT as the vendor for the purchase of computers (more than 130 units) for distribution at the SilverTech training events and the purchase of headphones for LIFE staff and consumers. LIFE’s policies were inadequate to explain the processes utilized to procure these different services and explain how LIFE managed any conflict-of-interest risks involved with choosing the same vendor (individual) to deliver multiple services simultaneously. LIFE provided some supporting documentation to explain their vetting process for these contracting actions, however the documentation failed to demonstrate that the procurement actions were implemented in accordance with a documented process (45 § 75.327 and 329), procurement needs were adequately competed (45 § 75.328), contractor credentials were certified (45 § 75.327(h), and the products purchased were reasonable for the project scope and consumer needs (45 § 75.329 and 459).

ACL is concerned that LIFE is allowing personal relationships and existing connections to drive business decisions such as items purchased and quantities requested, which is negatively impacting LIFE’s ability to justify cost reasonableness and increases the risk of unallowable costs. The review team found these issues in the September 2022 purchase (FY 2021 Part C award) of marketing materials from Lambert Industries and the November 2021 purchase (CARES Act Award) of laptops, computer mice, and headphones from Resurrection IT.

The review team did not receive general procurement or contracting policies and procedures. These missing policies and the lack of clear management controls introduce major risks for all past and current contracting and procurement actions, including an inability to show that contracted services or procured goods comply with the award terms and conditions, meet the needs of consumers, and are allowable and reasonable costs.

**Finding:** LIFE is out of compliance with the requirements and expectations of 45 § 75.303 and 45 §



75.328-329 because it lacks adequate systems, controls, and oversight to ensure proper contracting and procurement actions and that contracted work is properly scoped and monitored. LIFE is also out of compliance with requirements and expectations 45 § 75.459 because it lacks adequate policies and controls to manage its current contracted staff and LIFE has failed to adequately assess the risks of placing contract staff in key positions instead of hiring permanent employees.

**Corrective Actions:**

- 1) Within 30 days of the issuance of the final report, LIFE will reach out to ILRU for support on improving its contracting and procurement policies and procedures.
- 2) Within 120 days of the issuance of the final report, LIFE will provide ACL with draft updated contracting and procurement policies and procedures (including updates to the current “Independent Contractor” policy).

**LIFE Report Response:**

LIFE and its Board have updated their procurement and contractor policies, processes, and procedures, incorporating support and recommendations from ILRU (TA). The revised Contracting and Procurement policy, which includes procedures for acquiring independent contractors, has been submitted to ACL for review and approval.

**Corrective Action:**

LIFE has implemented a new Contracting and Procurement policy.

**Methodology:**

All contracts will be reviewed by the Board. Contract positions will terminate as per the agreements, and the new Executive Director (ED) will conduct an assessment of contractual needs and present the findings to the Board.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies.

**Finding 12: Current management and staffing model is inadequate to ensure internal controls**

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**Legal Requirement:** 45 § 75.303

**Discussion:** Contractors hold four key staff positions: Compliance Coordinator, Marketing Coordinator, Bookkeeper, and IT Specialist. As contractors, these individuals are responsible for many operational functions, including first line supervision, program delivery and oversight, program marketing, community engagement, accounting, and technology systems. In all cases, the current job descriptions

do not accurately depict the full responsibilities of the position, and the contracts in place are not adequately scoped. The contracts provide vague guidance on job responsibilities, reporting, and how compensation is aligned with work implemented. LIFE needs to provide greater specificity within the contract document to establish clear expectations and ensure that the work scope communicated aligns with organizational need as required in 45 § 75.459.

LIFE is taking large risks in procuring independent contractors to serve key staff roles because these individuals may lack the permissions as permanent employees to execute organizational functions, such as supervise permanent employees and approve administrative or financial actions. Further, LIFE's policies do not currently delineate whether independent contractors can execute operational functions in coordination with or in lieu of permanent staff. This has created an environment in which LIFE has filled several senior positions with independent contractors who lack clear authority to serve as a necessary check and balance for the Executive Director. As discussed in Finding 3, LIFE's Board needs to be actively involved in implementing these controls and establishing key decision-making authority.

Additionally, LIFE's organizational chart does not provide a comprehensive depiction of the CIL's staffing. The independent contractors are not accurately depicted, and the organizational chart does not show which staff are in satellite offices. Without proper management and staffing, LIFE is unable to ensure internal controls over its federal funding.

**Finding:** LIFE's current management and staffing model is inadequate to meet the internal control expectations outlined in 45 § 75.303.

**Corrective Actions:**

- 1) Within 30 days of the issuance of the final report, LIFE will reach out to ILRU for support in analyzing its current staffing model and utilization of independent contractors.
- 2) Within 120 days of the issuance of the final report, LIFE will provide evidence of a board discussion about CIL's staffing setup to ensure proper internal controls.
- 3) Within 120 days of the issuance of the final report, LIFE will provide updated job descriptions for supervisory staff and any independent contractors.

- 4) Within 120 days of the final report, LIFE will provide an updated organizational chart that clearly identifies those individuals that are supervisory and those individuals that are contracted in addition to clearly displaying all satellite offices.

**LIFE Report Response:**

LIFE and its Board have updated the organizational structure, including position descriptions and responsibilities. The restructured model has been approved by the Board. LIFE will seek ACL's review and feedback on these changes.

**Corrective Action:**

The reorganization of the central office was necessary to enhance adherence to the organization's policies and procedures. This restructuring includes the appointment of an Operational Specialist who will oversee controls in the accounting and financial processes. The Operational Specialist is a full-time employee responsible for maintaining rigorous financial review and accounting practices. Additionally, the reorganization involves the reduction of contracted positions, which will only be utilized when necessary to address peak business needs and ensure cost-effectiveness. As current contracts approach expiration, the new Executive Director (ED) will assess the need for renewal and present recommendations to the Board.

**Methodology:**

The Executive Director and Board will continuously review both staffed and contracted positions to ensure they align with the agency's mission and operational requirements.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE has shared documents outlining proposed updates to the organizational chart, position responsibilities, and utilization of contractors. LIFE is currently working with a hybrid of their old model until the fiscal year ends on September 30, 2024. ACL will look for LIFE to provide a finalized update of its management and staffing plan once FY 2025 begins.

**Finding 13: Inadequate controls to verify costs allow ability**

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**Legal Requirement:** 45 § 75.303, 45 § 75.309, 45 § 75.403-405, and 45 § 75.412

**Discussion:** LIFE’s process for reviewing purchases and charging expenses to specific awards lacks proper controls. These issues create multiple risks for cost allow ability. All expenses charged to grant awards must be compliant with the applicable award terms and conditions. All charged expenses must be program eligible (as set forth in the Rehab Act), allowable per 45 CFR 75 Subpart E, reasonable (45 CFR 75.404), and allocable (45 CFR.405). The charged expenses must also be obligated within the applicable project period and assignable to activities (work) completed within the applicable project period [also referred to as “period of performance”] (45 CFR 75.309, 45 CFR 75 Subpart E, NoA).

The ACL team reviewed supporting documentation for multiple expenses. Our review consistently failed to identify support for one or multiple of the factors discussed above. These failures resulted from the policy, process, and system deficiencies already stated in this report, plus a lack of internal controls and separation of duties in the expense review process. Two individuals maintain most of the organization’s financial knowledge and these same two individuals control almost all the organization’s financial processes. One of these individuals is the Executive Director and the other person is a part-time contracted Bookkeeper. The current situation creates an environment in which an inordinate balance of the knowledge, oversight, and decision making for award expenses are being controlled by a single person (Executive Director) without a clear system of checks and balances.

**Finding:** LIFE is out of compliance with the requirements and expectations of 45 § 75.303, 45 § 75.309, 45 § 75.403-405, and 45 § 75.412 because they lack adequate systems, controls, and processes to assess the allowability of award expenditures and ensure compliance with NoA terms and conditions.

**Corrective Actions:**

- 1) Within 30 days of the issuance of the final report, LIFE will contact ILRU for guidance on creating well-defined checks and balances in its financial processes.
- 2) Within 120 days of the issuance of the final report, LIFE will provide draft expense review policies and procedures and updated staff responsibilities to distribute review actions and decision making more equitably.

**LIFE Report Response:**

LIFE has developed and implemented new fiscal policies and processes and added staff to enhance internal controls. Additionally, LIFE and the Board have created a training plan aimed at achieving a more equitable distribution of duties and responsibilities within the finance and expense review process.

**Corrective Action:**

The Executive Director (ED) and the newly added staff member will adhere to the updated policies and procedures. The ED will conduct quarterly reviews of financials with the Board to ensure compliance with these policies.

**Methodology:**

The ED and Board will review financials on a quarterly basis to verify that they align with the new fiscal policies and procedures.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE submitted an updated policy document to ACL. LIFE informed ACL that significant staffing changes will occur in the coming months. LIFE will need to revisit the submitted policies to ensure that key processes can be upheld amidst the staff departures and changes to the organizational chart. ACL will work with LIFE on developing the needed policies.

## Finding 14: Inappropriate Use of Part C Funds

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**Legal Requirement:** 45 § 75.403-405, 45 § 75.421(e), 45 § 75.438

**Discussion:** The team reviewed supporting documentation for specific FY 2021 and FY 2022 Part C award drawdown vouchers, the Part C award general ledgers, and documentation on additional award expenditures. The review team identified several unallowable expenses where the grantee failed to demonstrate compliance with the award terms and conditions, including such factors as compliance with the Rehab Act, 45 CFR 75, and applicable project period. The unallowable costs are detailed below:

Lambert Industries (FY 2021 Part C Award – September 2022)

LIFE purchased \$38,084.76 in marketing materials to support its LIFE (Part C), POWER, and HOT programs. The associated invoice is dated September 23, 2022, and the transaction was recorded on FY 2021 Part C award general ledger on September 30, 2022. The project period for the FY 2021 Part C award ended on September 29, 2022, so the expense was recorded (obligated) to the award after the performance period ended, and none of the materials purchased were used in the performance of award. In addition, items were purchased for three programs but were only charged to Part C, and several of the materials purchased are not generally allowable per 45 § 75.421(e).

Rehab Act Title VI, Section 705 establishes authorized uses of funds for IL grantees. The Rehab Act provides CILs with some flexibility to conduct outreach and awareness activities, which may include purchase of supplies, however since LIFE purchased these marketing materials after the end of the project period, they did not have sufficient time to use the marketing materials to implement eligible activities. Therefore, the items purchased did not align with eligible program delivery on the charged award (FY 2021 Part C award).

Embassy Suites (FY 2021 Part C Award – September 2022)

LIFE planned an event and celebration banquet on March 16, 2023. LIFE identified a venue (Embassy Suites in Jackson, MS) because it provided more accessible rooms than other comparable venues in the area. In September 2022, LIFE received invoices for hotel rooms, meeting room rental, banquet facility rental, and food costs. LIFE paid \$17,405.87 towards this March 2023 event with the FY 2021 Part C award that ended on September 29, 2022. The expenses charged were not connected to activity delivery within the FY 2021 Part C award project period and the grantee acted outside of its purchasing norms by pre-paying the costs in full, when in past similar situations they would have only paid a deposit. Further, specific cost items outlined on the invoices were generally unallowable under the cost principles, specifically 45 § 75.438, because the costs associated with the banquet (food, drinks, space, etc.) were not clearly connected to a programmatic purpose and therefore would be considered non-permissible entertainment costs.

In the interviews, the grantee indicated that a reason for convening staff for the March event was internal training. None of the September 2022 documents provided mentioned internal staff training as the basis for reserving the venue, hotel rooms, and/or holding the banquet.

Staff Bonuses (FY 2021 Part C Award – September 2022)

LIFE charged \$42,654 in staff bonuses to the FY 2021 Part C award in September 2022, including \$10,500 in bonuses to contracted staff and consultants. The staff bonuses were processed in two groups. The first (larger) grouping was at the beginning of September and included all LIFE employees, plus the independent contractors and contracted IT consultant (Resurrection IT). The second group of bonuses were only distributed to the Executive Director and contracted Compliance Coordinator. LIFE's "Personnel Policies," "Independent Contractor" policies, and executed contracts provided no guidance on assessing staff performance and delivery of bonus payments. Nor was there guidance or a process in place for determining bonus amounts, obtaining adequate management approval, and/or determining appropriate charging to active awards. Without appropriate policies, controls, and processes in place, the bonuses charged to the Part C award are not considered reasonable or justified and are therefore unallowable.

Additionally, the Executive Director signed off on bonus amounts for the first group of bonuses in an August 15, 2022, internal memo to the Finance Office. This memo included a bonus of \$2,000 for the Executive Director. The second group of bonuses was issued based on memos from the Board President. These memos were not signed by the Board President, and they were directed to "TO WHOM IT MAY CONCERN," instead of the Finance Office.

Total Unallowable Costs on the Part C Awards

Cost Item	Unallowable Costs
Lambert Industries	\$38,084.76
Embassy Suites	\$17,405.87
Staff Bonuses	\$42,654.00
<b>TOTAL</b>	<b>\$98,144.63</b>

**Finding:** LIFE is out of compliance with the requirements and expectations of 45 § 75.403-405, because they failed to demonstrate that award expenses were allowable, reasonable, and allocable. Additionally, LIFE failed to consider the additional cost principles at 45 § 75.421(e), 45 § 75.438 and the requirements and expectations of the Rehab Act.

**Corrective Actions:**

- 1) Within 120 days of the issuance of the final report, LIFE will repay ACL \$98,144.63. If LIFE is unable to repay the balance in 120 days, ACL would be willing to discuss a repayment plan.

**LIFE Report Response:**

LIFE has addressed discrepancies in program delivery periods and cost allowability through corrections and training. The updated policies now provide clear guidance on the staff performance review process and the methodology for determining bonus amounts. LIFE and its Board are aware of the unallowable or unreasonable expenses and are developing a plan of action for any necessary repayment.

LIFE's consumers are categorized into two age brackets: Birth to 24 (Healthy Opportunities for Transition) and 25 and older, with an additional program focused on Promoting Opportunities Wellness, Entertainment, and Recreation Services. All individuals in these programs are considered LIFE consumers. During invoice submission, programs were labeled to assist in outreach material identification, ensuring that items purchased from Lambert Industries aligned with eligible program delivery.

LIFE's approved credit standing allowed for the purchase of outreach marketing materials to be delivered before invoicing and payment. LIFE initiated a new training for consumers at the Embassy Suite, which was outside the grant's scope. The training was successful, but deposits were required outside the grant's timeframe due to limited room availability at the venue.

Bonuses for exceptional job performance during and after COVID were requested by the ED and approved by the Board.

**Corrective Action:**

LIFE's new ED will ensure compliance with 45.75.403-405 requirements and will submit documentation demonstrating that award expenses are eligible, allowed, reasonable, and allocable. All expenditures and bonuses will be approved by the Board going forward. The ED has consulted with the insurance provider and will provide additional information if a claim is submitted after ACL's review. If repayment is required due to non-allowability, LIFE will develop a payment plan with ACL to assure costs are repaid from discretionary funds.

**Methodology:**

Implementation of LIFE's new financial policy and manual.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

The ED has consulted with the insurance provider and will provide additional information if a claim is submitted after ACL's review.

**ACL Final Response:**

LIFE has provided a partial response for the identified costs. ACL will work with LIFE to obtain a finalized response to determine the final repayment amount.



## Finding 15: Questioned CARES Act costs due to inadequate documentation

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**Legal Requirement:** 45 § 75.403-405

**Discussion:** The review team requested supporting documentation for specific CARES Act award drawdown vouchers. The team also reviewed the CARES Act award general ledger and requested documentation on additional award expenditures. For the expenses listed below, ACL requires additional documentation to determine whether the costs are allowable (Questioned Costs). Without this additional documentation, LIFE will have failed to demonstrate compliance with the award terms and conditions, including such factors as compliance with the Rehab Act, 45 CFR 75, and the applicable award project period. The questioned costs are detailed below:  
Aaron's Sales and Lease Ownership (CARES Act Award – November 2021)

LIFE made a \$1,929.40 payment toward an American Express card on November 5, 2021, to pay for the purchase of a dual reclining love seat and dual reclining sofa for a consumer. The supporting documentation provided included the receipt for furniture purchase dated September 20, 2021. The supporting documentation provided did not demonstrate why the purchase was made. It did not address such factors as the consumer served, confirmation that the consumer was eligible for services, reason the consumer needed the equipment, and verification that the furniture was delivered to the consumer. Without documentation validating that an eligible consumer was served, and that the furniture purchase was an approved service in the consumer's file, the identified costs will be classified as unallowable and subject to repayment.

Resurrection IT (CARES Act Award – November 2021)

LIFE purchased 38 headsets from Resurrection IT at a total cost of \$10,699.50. The headsets were purchased for LIFE staff and consumers to provide accessible and hands-free participation in video conference meetings, such as doctor visits, education, and other COVID-19 activities. The per unit cost for the headsets was more than \$280, which included a two-year protection plan on all units. As a basis for cost reasonableness, LIFE provided print screens of websites showing the retail prices for the units purchased.

The documentation provided failed to address the following factors:

The decision-making process for choosing Resurrection IT as the vendor and basis for selecting such high-priced units,

The distribution list for the headsets (staff and consumers receiving units),

Evidence that the consumers receiving units were eligible and approved for this assistance, and

Policies and procedures for technology purchases and documentation that the units for staff were inventoried and used only for their LIFE responsibilities and not personal activities.

Without documentation addressing the factors above, the identified costs will be classified as unallowable and subject to repayment.

Total CARES Act Award Questioned Costs

Cost Item	Questioned Costs
Aaron's Sales and Lease Ownership	\$1,929.40
Resurrection IT	\$10,699.50
<b>TOTAL</b>	<b>\$12,628.90</b>

**Finding:** LIFE is out of compliance with the requirements of 45 § 75.403-405 and the Rehab Act, because it failed to demonstrate that the award expenses were eligible, allowable, reasonable, and allocable.

**Corrective Actions:**

- 1) Within 30 days of the issuance of the final report, LIFE will provide supporting documentation for the questioned costs addressing all identified deficiencies.

**LIFE Report Response:**

LIFE has submitted supporting documentation to ACL to address the allowability of the questioned purchases. LIFE and its Board are aware of the expenses deemed unallowable or unreasonable and are developing a plan of action for any necessary repayment.

**Corrective Action:**

LIFE's Executive Director (ED) will await ACL's review and response regarding the classification of the expenditures.

**Methodology:**

The ED has consulted with the insurance provider and will provide additional information if a claim is submitted after ACL's review.

**Timetable:**

Ongoing-LIFE will continue to monitor and adjust procedures as needed to maintain compliance with ACL requirements.

**ACL Final Response:**

LIFE has provided a partial response for the identified costs. ACL will work with LIFE to obtain a finalized response to determine the final repayment amount.

## VII. Appendix: Legal Requirements

This Appendix contains the full text of the statutory and regulatory requirements cited in this report.

### 29 U.S.C. § 796f-4 Standards and Assurances for Centers for Independent Living

#### (a) In general

Each center for independent living that receives assistance under this subpart shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this subpart are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this part and the objective of providing assistance effectively and efficiently.

#### (b) Standards

##### (1) Philosophy

The center shall promote and practice the independent living philosophy of—

(A) consumer control of the center regarding decision-making, service delivery, management, and establishment of the policy and direction of the center;

(B) self-help and self-advocacy;

(C) development of peer relationships and peer role models; and

(D) equal access for individuals with significant disabilities, within their communities, to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

##### (2) Provision of services

The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this subchapter). Eligibility for services at any center for independent living shall be determined by the center and shall not be based on the presence of any one or more specific significant disabilities.

##### (3) Independent living goals

The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

##### (4) Community options

The center shall work to increase the availability and improve the quality of community options for independent living to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

##### (5) Independent living core services

The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

(6) Activities to increase community capacity

The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

(7) Resource development activities

The center shall conduct resource development activities to obtain funding from sources other than this part.

(c) Assurances

The eligible agency shall provide at such time and in such manner as the Administrator may require, such satisfactory assurances as the Administrator may require, including satisfactory assurances that—

(1) the applicant is an eligible agency;

(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;

(3) the applicant will comply with the standards set forth in subsection (b);

(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 796c of this title;

(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 793 of this title;

(6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;

(7) the applicant will practice sound fiscal management;

(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

(A) the extent to which the center is in compliance with the standards;

(B) the number and types of individuals with significant disabilities receiving services through the center;

(C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

(D) the sources and amounts of funding for the operation of the center;

(E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and

(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

(9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;

- (10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural populations;
- (11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;
- (12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);
- (13) the center will prepare and submit a report to the designated State unit or the Administrator, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and
- (14) an independent living plan described in section 796c(e) of this title will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

## **29 U.S.C. § 705 Definitions –**

### **(21) Individual with a significant disability**

#### **(B)Independent living services and centers for independent living**

For purposes of subchapter VII, the term “individual with a significant disability” means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

## **45 § 75.302 - Financial management and standards for financial management systems**

(a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 75.450.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§ 75.361, 75.362, 75.363, 75.364, and 75.365):

(1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the HHS awarding agency, and name of the pass-through entity, if any.

(2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 75.341 and 75.342. If an HHS awarding agency requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.

(3) Records that identify adequately the source and application of funds for federally funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income, and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 75.303.

(5) Comparison of expenditures with budget amounts for each Federal award.

(6) Written procedures to implement the requirements of § 75.305.

(7) Written procedures for determining the allowability of costs in accordance with subpart E of this part and the terms and conditions of the Federal award.

#### **45 § 75.303 - Internal controls**

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

(e) Take reasonable measures to safeguard protected personally identifiable information and other information the HHS awarding agency or pass-through entity designates as sensitive or the non-

Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

#### **45 § 75.305 - Payment**

(a)

(1) For States, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR part 205 and TFM 4A–2000 Overall Disbursing Rules for All Federal Agencies.

(2) To the extent that Treasury-State CMIA agreements and default procedures do not address expenditure of program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds, such funds must be expended before requesting additional cash payments.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also § 75.302(b)(6). Except as noted elsewhere in this part, HHS awarding agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the HHS awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and must comply with applicable guidance in 31 CFR part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1693–1693r).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the HHS awarding agency sets a specific condition per § 75.207, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project.

When the reimbursement method is used, the HHS awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the HHS awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the HHS awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient working capital, the HHS awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the HHS awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the HHS awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§ 75.207, subpart D of this part, 75.371, or one or more of the following applies:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129 "Policies for Federal Credit Programs and Non-Tax Receivables."

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with § 75.375.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows:

(i) The HHS awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for



funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation, and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply:

(i) The non-Federal entity receives less than \$120,000 in Federal awards per year.

(ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances.

(iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of the payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information, if the payment originated from ASAP, NSF, or another federal agency payment system.

#### **45 § 75.309 – Period of Performance and Availability of Funds**

(a) A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance (except as described in § 75.461) and any costs incurred before the HHS awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity. Funds available to pay allowable costs during the period of performance include both Federal funds awarded and carryover balances.

(b) A non-Federal entity must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the final Federal Financial Report (FFR). This deadline may be extended with prior written approval from the HHS awarding agency.

#### **45 § 75.328- Competition**

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications,

requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

## 45 § 75.329 – Procurement Procedures

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited, and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, for local, and tribal governments, the bids must be opened publicly;
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The HHS awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

#### **45 § 75.403 - Factors affecting allowability of costs**

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- (a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- (b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- (d) 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.
- (e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- (f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also § 75.306(b).
- (g) Be adequately documented. See also §§ 75.300 through 75.309.

#### **45 § 75.404 – 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 the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

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

#### **45 § 75.405 – Allocable Costs**

(a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

(1) Is incurred specifically for the Federal award;

(2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and

(3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

(b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.

(c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

(d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 75.317 through 75.323 and 75.439.

(e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

#### **45 § 75.412 – Classification of Costs**

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in this subpart.

#### **45 § 75.421 – Advertising and Public Relations**

1) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like.

2) The only allowable advertising costs are those which are solely for:

- a) The recruitment of personnel required by the non-Federal entity for performance of a Federal award (See also § 75.463);
- b) The procurement of goods and services for the performance of a Federal award;
- c) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount; or
- d) Program outreach and other specific purposes necessary to meet the requirements of the Federal award.

3) The term “public relations” includes community relations and means those activities dedicated to maintaining the image of the non-Federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

4) The only allowable public relations costs are:

- a) Costs specifically required by the Federal award;
- b) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award); or
- c) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

5) Unallowable advertising and public relations costs include the following:

- a) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;
- b) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 75.432), including:
  - i) Costs of displays, demonstrations, and exhibits;
  - ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and
  - iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

- iv) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;
- c) Costs of advertising and public relations designed solely to promote the non-Federal entity.

#### **45 § 75.430 – Compensation – Personal Services**

(a) General. Compensation for personal services includes all remuneration, paid currently, or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in § 75.431. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this part, and that the total compensation for individual employees:

- (1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;
- (2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and
- (3) Is determined and supported as provided in paragraph (i) of this section, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by an HHS awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal Government may require that the effort of professional staff working on Federal awards be allocated between:

- (1) Non-Federal entity activities, and
- (2) Non-organizational professional activities. If the HHS awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) Unallowable costs.



(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g) Nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination must be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(h) Institutions of higher education (IHEs).

(1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (i) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the HHS awarding agency.

Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the HHS awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the period during which the faculty member worked on the award.

(2) Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the HHS awarding agency.

(3) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

(4) Periods outside the academic year.

(i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(5) Part-time faculty. Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

(6) Sabbatical leave costs. Rules for sabbatical leave are as follow:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(7) Salary rates for non-faculty members. Non-faculty full-time professional personnel may also earn "extra service pay" in accordance with the non-Federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.

(i) Standards for documentation of personnel expenses.

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted, and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) of this section for treatment of incidental work for IHEs.); and

(vi) [Reserved]

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal

award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

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

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (i)(1) of this section if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, "rolling" time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in paragraph (i)(5)(i) of this section may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved HHS awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal Government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

#### **45 § 75.438 – Entertainment Costs**

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the HHS awarding agency.

#### **45 § 75.459 – Professional Service Costs**

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal entity,

are allowable, subject to paragraphs (b) and (c) of this section when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. In addition, legal and related services are limited under § 75.435.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

- (1) The nature and scope of the service rendered in relation to the service required.
  - (2) The necessity of contracting for the service, considering the non-Federal entity's capability in the particular area.
  - (3) The past pattern of such costs, particularly in the years prior to Federal awards.
  - (4) The impact of Federal awards on the non-Federal entity's business (i.e., what new problems have arisen).
  - (5) Whether the proportion of Federal work to the non-Federal entity's total business is such as to influence the non-Federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.
  - (6) Whether the service can be performed more economically by direct employment rather than contracting.
  - (7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.
  - (8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).
- (c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

#### **29 U.S. Code § 796f-4 - Standards and assurances for centers for independent living**

(a) In general

Each center for independent living that receives assistance under this subpart shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this subpart are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this part and the objective of providing assistance effectively and efficiently.

(b) Standards

(1) Philosophy

The center shall promote and practice the independent living philosophy of—

(A) consumer control of the center regarding decision-making, service delivery, management, and establishment of the policy and direction of the center;

(B) self-help and self-advocacy;

(C) development of peer relationships and peer role models; and

(D) equal access for individuals with significant disabilities, within their communities, to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

(2) Provision of services

The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this subchapter). Eligibility for services at any center for independent living shall be determined by the center and shall not be based on the presence of any one or more specific significant disabilities.

(3) Independent living goals

The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

(4) Community options

The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with significant disabilities.

(5) Independent living core services

The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.

(6) Activities to increase community capacity

The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with significant disabilities.

(7) Resource development activities

The center shall conduct resource development activities to obtain funding from sources other than this part.

(b) Assurances

The eligible agency shall provide at such time and in such manner as the Administrator may require, such satisfactory assurances as the Administrator may require, including satisfactory assurances that—

- (1) the applicant is an eligible agency;
- (2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;
- (3) the applicant will comply with the standards set forth in subsection (b);
- (4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 796c of this title;
- (5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 793 of this title;
- (6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;
- (7) the applicant will practice sound fiscal management;
- (8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—
  - (A) the extent to which the center is in compliance with the standards;
  - (B) the number and types of individuals with significant disabilities receiving services through the center;
  - (C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;
  - (D) the sources and amounts of funding for the operation of the center;
  - (E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and



- (F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;
- (9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;
- (10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural populations;
- (11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;
- (12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);
- (13) the center will prepare and submit a report to the designated State unit or the Administrator, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and
- (14) an independent living plan described in section 796c(e) of this title will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.