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# Centers for Independent Living Compliance, Performance, Recovery Act Reporting, and Monitoring

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## FINAL AUDIT REPORT



**ED-OIG/A06K0011**  
**September 2012**

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U.S. Department of Education  
Office of Inspector General  
Dallas, Texas

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## **NOTICE**

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

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**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE OF INSPECTOR GENERAL

AUDIT SERVICES

September 12, 2012

**Memorandum**

**TO:** Michael Yudin  
Acting Assistant Secretary  
Office of Special Education and Rehabilitative Services (OSERS)

Edward Anthony  
Deputy Commissioner  
Rehabilitation Services Administration

**FROM:** Patrick J. Howard /s/  
Assistant Inspector General for Audit

**SUBJECT:** Final Audit Report  
Centers for Independent Living Compliance, Performance, Recovery Act  
Reporting, and Monitoring  
Control Number ED-OIG/A06K0011

Attached is the subject final audit report that covers the results of our review of Centers for Independent Living (CIL) Compliance, Performance, Recovery Act Reporting, and Monitoring for the period October 1, 2007, through September 30, 2009, with Recovery Act reporting from October 1, 2009, through September 30, 2010. Because Recovery Act funds were not disbursed to the CILs until December 2009, we reviewed all Recovery Act reports submitted covering the year ending September 30, 2010. An electronic copy has been provided to your Audit Liaison Officers. We received your comments concurring with the findings and recommendations in our draft report.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department of Education's (Department) Audit Accountability and Resolution Tracking System. Department policy requires that you develop a final corrective action plan (CAP) for our review in the automated system within 30 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the audits that remain unresolved after 6 months from the date of issuance.

Michael Yudin  
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In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

We appreciate the cooperation given us during this review. If you have any questions, please call Keith Maddox at (214) 661-9540.

Enclosures

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## **Abbreviations/Acronyms/Short Forms Used in This Report**

704 Report	Section 704 Annual Performance Report for Centers for Independent Living Program
AACIL	Ann Arbor Center for Independent Living, Ann Arbor, MI
CAP	Corrective Action Plan
C.F.R.	Code of Federal Regulations
CIL	Centers for Independent Living
CSR	Consumer Service Record
Department	U.S. Department of Education
ED-OIG	U.S. Department of Education Office of Inspector General
FTE	Full-Time Equivalent
FY	Fiscal Year
IL	Independent Living
OMB	Office of Management and Budget
OSERS	Office of Special Education and Rehabilitative Services
Part C funds	Centers for Independent Living Program funds authorized under Title VII, Chapter 1, Part C of the Rehabilitation Act
Recovery Act	American Recovery and Reinvestment Act of 2009
Rehabilitation Act	Title VII of the Rehabilitation Act of 1973, as amended
RSA	Rehabilitation Services Administration
VR	Vocational Rehabilitation
WILC	Westchester Independent Living Center, White Plains, NY

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## EXECUTIVE SUMMARY

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The Centers for Independent Living (CIL) program is authorized by Title VII of the Rehabilitation Act of 1973, as amended (Rehabilitation Act). The goal of the CIL program is to integrate those individuals with disabilities into the mainstream of American society. The CILs are designed and operated within a local community by individuals with disabilities and provide a wide range of Independent Living (IL) services.

The purpose of our audit was to determine whether the CILs (1) received adequate monitoring and oversight from the U.S. Department of Education Rehabilitation Services Administration (RSA), (2) offered the core services, (3) met evaluation standards and assurances in compliance with the Rehabilitation Act and applicable Federal regulations, (4) complied with the reporting requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act), and (5) used grant funds for allowable costs and maintained adequate documentation for the use of grant funds. Our audit covered the period October 1, 2007, through September 30, 2009, with Recovery Act reporting from October 1, 2009, through September 30, 2010. Because Recovery Act funds were not disbursed to the CILs until December 2009, we reviewed all Recovery Act reports submitted covering the year ending September 30, 2010.

We found that RSA had not provided adequate monitoring and oversight of the CILs. We also found that the Section 704 Annual Performance Reports for Centers for Independent Living Program (704 Reports) were not fully supported by the documentation available at the CILs reviewed and that consumer service and other records did not contain the documentation required by the program regulations. Over the 3 fiscal years covered by our audit, RSA conducted onsite monitoring reviews at 40 CILs nationwide. The 40 onsite monitoring reviews were well below the 15 percent or a total of 153 reviews that were required to be conducted during the 3 fiscal years as mandated by the Rehabilitation Act. RSA also did not randomly select the CILs as required by the Rehabilitation Act. We also found that one of two IL Specialists interviewed selected Consumer Service Records (CSR) from the current active cases, at the time of the monitoring visit, instead of those supporting the most recent performance report as required by RSA's Onsite Review Protocol. As the 704 Report covers an already ended reporting period, selecting CSRs from active cases at the time of the monitoring visit does not test the validity of the numbers reported in the most recent 704 Report (Finding No. 1).

Using a risk-based approach and considering funding, financial practices, and geographical location, we judgmentally selected 12 CILs in 11 States (see Enclosure 1 for a listing of CILs sampled) for review. Based on our review we found that all 12 CILs offered services that met the requirements of the four core services named in the Rehabilitation Act:

- Information and Referral,
- IL Skills Training,
- Peer Counseling, and
- Individual and Systems Advocacy.

The 1998 amendments to the Rehabilitation Act guaranteed that all CILs that had been awarded a grant as of September 30, 1997, will be funded as long as they continue to meet evaluation standards and assurances. According to an RSA official, no CIL grants have been terminated in the last 5 years for not meeting evaluation standards and assurances. We were unable to determine whether most CILs reviewed met selected evaluation standards and assurances because we found that they did not maintain adequate evidence of compliance and the 704 Reports submitted for the audit period were only partially supported. Specifically, we found that most CILs in our review did not adequately maintain records sufficient to document selected IL compliance activities. We also found that the documentation provided by 8 of the 12 CILs to support numbers of consumers served was inconsistent with the numbers reported on the 704 Reports, and 5 of the 12 CILs misreported the sources and amounts of funds and resources for the operation of the CILs (Finding No. 2).

We found instances of noncompliance with the reporting requirements of the Recovery Act at 8 of the 12 CILs reviewed. Five of the eight CILs used an inaccurate methodology for calculating jobs created or retained (Finding No. 3).

The expenditures we tested at most CILs were allowable and adequately supported. However, we found inadequately supported expenditures totaling \$39,123 out of \$77,587 at 3 of the 12 CILs reviewed (Finding No. 4).

As a result of the inadequate monitoring and oversight, partially supported performance reports, and inadequately documented files, RSA did not have sufficient, accurate information to provide required oversight of the grant programs at the CILs reviewed. Appropriate oversight is essential to ensuring that the program goals are met.

We recommend that RSA explore alternatives to assist in meeting the 15 percent onsite monitoring reviews required by the Rehabilitation Act; randomly select CILs for review as required; work with Congress to evaluate the appropriate monitoring for the program and propose changes to the Rehabilitation Act; implement standardized sampling methodology for onsite validation of 704 Report data, and provide the findings and recommendations in this report to all CILs to encourage them to develop strong management controls.

We also recommend that RSA require all CILs in this review verify that they have established or enhanced policies and procedures to maintain documentation supporting their compliance with evaluation standards and assurances as well as supporting the data submitted in annual 704 Reports and itemize the sources of funds reported. Additionally, we recommend that RSA remind all CILs of their responsibility to maintain adequate documentation to support their compliance with the evaluation standards and assurances, as well as their 704 reports.

We further recommend that RSA (1) provide Recovery Act technical assistance to eight CILs and make broad training available to the universe of CILs to address similar potential issue areas that could be present at the additional CILs, (2) require five CILs to follow the Office of Management and Budget guidance in calculating jobs created or retained for future reporting periods and (3) require the affected CILs to provide supporting documentation for \$39,123 in expenditures charged to the grant or return the funds to the U.S. Department of Education, and (4) implement payroll procedures requiring time and effort certifications for time spent on grant activities.

In its response to the draft audit report, the Office of Special Education and Rehabilitative Services (OSERS) and RSA accepted all findings and recommendations and provided comments to Findings 1 and 3. OSERS and RSA also submitted additional information to provide context as well as the effect RSA's monitoring and oversight has on CIL compliance. OSERS and RSA's comments are summarized at the end of Findings 1 and 3. The full text of the response is included as Enclosure 5 to this report. We did not include exhibits due to length; those documents are available on request.

We made no changes to our findings as a result of OSERS and RSA's response to the draft audit report. However, we changed Recommendation 1.2 by removing the last sentence and rewording it to be Recommendation 1.4. We also made minor changes to the report as suggested by OSERS and RSA to improve context and clarity.

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## BACKGROUND

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The Centers for Independent Living (CIL) program is authorized by Title VII of the Rehabilitation Act of 1973, as amended (Rehabilitation Act). The 1978 reauthorization of the Rehabilitation Act included funding for the establishment of CILs throughout the country and training for independent living. The goal of the CIL program is to integrate individuals with disabilities into the mainstream of American society by maximizing their leadership, empowerment, independence, and productivity. The CILs are nonprofit, consumer-controlled, community-based, cross-disability, nonresidential organizations operated by individuals with significant disabilities and provide a wide range of Independent Living (IL) services.

### **RSA Organizational Structure and Responsibilities**

Authorized by Congress to carry out specified portions of the Rehabilitation Act, the Rehabilitation Services Administration (RSA), within the U.S. Department of Education (Department), is responsible for administering the CIL program. RSA is led by a Commissioner who reports to the Assistant Secretary for Special Education and Rehabilitative Services. Before September 30, 2005, RSA had 43 staff positions located in 10 regional offices across the nation and 61 staff positions at its headquarters in Washington, D.C. The RSA staff in Washington, D.C., and the regional offices provided technical assistance and leadership to States and other grantees in carrying out the purposes and policies outlined in the Rehabilitation Act. As of October 1, 2005, the 10 regional offices were closed and the responsibilities of the staff positions were transferred to RSA headquarters. The closing of the regional offices and reorganization of headquarters resulted in RSA decreasing staff positions from 104 to 68.

RSA is statutorily required to perform onsite review at least 15 percent of grantees every year. Before this requirement was added to the Rehabilitation Act in 1986, CIL grants were awarded to State agencies, which would in turn award subgrants to CILs. If a State agency did not apply for a grant, RSA awarded grants directly to CILs. As such, a majority of the awards were made to State agencies, and RSA was required to conduct onsite compliance reviews at State agencies but not CILs themselves.

In 1992, the Rehabilitation Act was amended to create the CIL program as it exists today. Under the amendment, RSA is required to provide grants directly to CILs.<sup>1</sup> However, the requirement for RSA to conduct annual onsite monitoring of at least 15 percent of the grantees did not change. Because CILs are now grantees rather than subgrantees, the number of required onsite monitoring reviews of grantees increased from about 9 in 1992 to about 51 in 2010.<sup>2</sup>

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<sup>1</sup> Massachusetts and Minnesota administer the CIL program in their states under section 723 of the Rehabilitation Act.

<sup>2</sup> The number of reviews RSA was required to conduct in 1992 was about 9 (15 percent of the 50 states plus territories) and in 2010 about 51 (15 percent of 337 CILs funded in 2010).

## **CIL Structure, Funding, and Consumers Served**

Each CIL varies in size, services, and management experience and is overseen by a governing Board. Staff at each CIL is composed of a director and paid and/or volunteer staff. RSA funded 337 CILs in Fiscal Years (FYs) 2008, 2009, and 2010. The 1998 amendments to the Rehabilitation Act guaranteed that all CILs that had been awarded a grant as of September 30, 1997, will be funded as long as they continue to meet evaluation standards and assurances. CILs are financed through various funding sources such as grants from the Department, other Federal agencies, State and local government funds, private donations, and program income. Grants from the Department include American Recovery and Reinvestment Act of 2009 (Recovery Act) stimulus funds, which provided a significant one-time increase in funding for the CIL program.

A State population-based formula determines the total amount available for Department grants to CILs in each State. CIL program funds authorized under Title VII Chapter 1, Part C of the Rehabilitation Act (Part C funds) increased from \$48 million in FY 2000 to \$77.3 million in FY 2009. In FY 2010, the funding for CILs more than doubled to \$167.8 million. The FY 2010 funding included \$87.5 million in Recovery Act grant funds, which are available for use through September 2015. The CILs included in our review were awarded more than \$14 million in grant funds, which included \$3.3 million in Recovery Act funds, for the audit period.<sup>3</sup>

Nationwide, CILs reported providing IL services to 201,917 consumers in FY 2008 and to 241,177 consumers in FY 2009. The 12 CILs in our review reported providing IL services to 12,730 consumers in FY 2008 and to 13,684 consumers in FY 2009.

## **Program Provisions**

The Rehabilitation Act defines IL services as 4 core services and 21 other services, such as counseling, therapies, training and development skills, community awareness, and preventative services.<sup>4</sup> The four core services explicitly required by the Rehabilitation Act are—

1. Information and Referral—provides information about services available from the CILs and those available from other resources;
2. IL Skills Training—designed to help people with disabilities gain skills that will enable them to live independently;
3. Peer Counseling—pairs individuals with disabilities with other individuals with disabilities who live independently in the local community; and
4. Individual and Systems Advocacy—works with individuals with disabilities to obtain necessary support services from other agencies in the community. In addition, Systems Advocates initiate activities to make changes in the community, such as changes to buildings, transportation, health care, and employment opportunities, to increase the level of independence for persons with disabilities.

The Rehabilitation Act sets forth 15 assurances and 7 evaluation standards for CILs to ensure that all programs, activities, and services are provided efficiently and effectively and are planned, conducted, administered, and evaluated in a manner consistent with the purpose of the program. As

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<sup>3</sup> See Enclosure 1 for a listing of grants awarded to the 12 CILs sampled.

<sup>4</sup> The IL services are listed and defined in paragraph 18 of Section 7—Definitions of the Rehabilitation Act.

required by the Rehabilitation Act, RSA developed six compliance indicators that CILs must meet to demonstrate minimum compliance with the seven evaluation standards.

#### Assurances

The Rehabilitation Act requires that each CIL provide 15 assurances, to include adhering to evaluation standards, preparing an annual performance report, and maintaining adequate records to measure performance against the evaluation standards. The assurances are incorporated into the CIL program regulations at Title 34 of the Code of Federal Regulations (C.F.R.) § 366.50.

#### Evaluation Standards

The seven evaluation standards established under the Rehabilitation Act outline broad overarching principles that CILs must comply with to be eligible to receive funding. The evaluation standards include the requirements that all CILs offer the four core services and facilitate the development and achievement of IL goals for consumers. The evaluation standards are incorporated into the CIL program regulations at 34 C.F.R. § 366.60.

#### Compliance Indicators

The six compliance indicators established by RSA are codified at 34 C.F.R. § 366.63 and establish the evidence that a CIL must present in its annual performance report to demonstrate its minimum compliance with the evaluation standards. Compliance with the indicators must be evidenced in records maintained by the CIL.

#### Other Program Regulations

Other program regulations are found throughout 34 C.F.R. Parts 364 and 366. They establish additional requirements for how CILs are to provide and document services to their consumers, further ensuring that services comply with the evaluation standards and assurances.

The evaluation standards, assurances, compliance indicators, and related CIL program regulations make up a range of compliance activities that CILs are required to perform and document. Documentation of these compliance activities serves as evidence as to whether CILs appropriately provided certain required services to consumers and complied with program requirements. Documentation of these activities also represents some of the data supporting information provided in a CIL's annual performance report.

#### Reporting Requirements

CILs report the extent of their compliance in their annual performance report, known as the Section 704 Annual Performance Report for Centers for Independent Living Program (704 Report). The 704 Report includes the CIL's specific performance and financial information and narrative explanations of a CIL's conformity with the evaluation standards. CILs must maintain adequate evidence to support information submitted in the 704 Report. If a CIL fails to provide adequate evidence of compliance in its 704 Report, or if it otherwise fails to meet program requirements, it may lose eligibility for Part C funding.

CILs are required to track and account for Recovery Act CIL funds separately from their regular fiscal year CIL grant funds and have until September 2015 to use Recovery Act funds. In addition, projects funded with Recovery Act funds must provide quarterly reports as required by Section 1512 of the Recovery Act.

### **RSA Review of Compliance**

RSA determines CILs' compliance by evaluating information submitted by CILs in their 704 Reports and by conducting onsite monitoring visits. IL Specialists assigned to the State in which a CIL is located review and approve the 704 Reports submitted by the CILs. The review process includes a mathematical test to verify that the numbers of consumers served match or correlate to the demographic breakdowns of those consumers served.

The IL Specialists read the CIL's narrative descriptions for (1) the individual services and achievements, (2) the extent to which the CIL has complied with the evaluation standards, (3) annual program and financial planning objectives, (4) training and technical assistance needs, and (5) additional information. The IL Specialists then approve or disapprove the 704 Report, which also represents approval or disapproval of a CIL's continuation award. According to the IL Unit Chief, RSA has not terminated any grants to CILs in the last 5 years for not meeting evaluation standards and assurances.

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## AUDIT RESULTS

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We found that RSA had not provided required and consistent monitoring and oversight of the CILs as specified in the Rehabilitation Act. We also found partially supported performance information reports and inadequately documented files at the CILs reviewed. As a result of the inadequate monitoring and oversight, partially supported performance reports, and inadequately documented files, RSA did not have sufficient, accurate information to provide required oversight of the grant programs at the CILs reviewed. Appropriate oversight is essential to ensuring that the program goals are met.

Through our review of service files at each CIL in our sample, we found that all 12 of the CILs offered services that met the requirements of the 4 core services named in the Rehabilitation Act (see Enclosure 1 for a listing of 12 CILs sampled).

We were, however, unable to determine whether most CILs reviewed met selected evaluation standards and assurances because they did not maintain adequate evidence of compliance, and the 704 Reports submitted for the audit period were only partially supported. Specifically, we found that most CILs in our review did not adequately maintain records sufficient to document selected IL compliance activities. We also found that the documentation provided by 8 of the 12 CILs to support numbers of consumers served was inconsistent with the numbers reported on the 704 Reports, and 5 of the 12 CILs misreported the sources and amounts of funds and resources for the operation of the CILs.

We also found that 8 of the 12 CILs had not adhered to all the reporting requirements of the Recovery Act.

Of the \$266,281 in grant expenditures tested at the 12 CILs, we found expenditures totaling \$39,123 that were inadequately documented at 3 CILs.

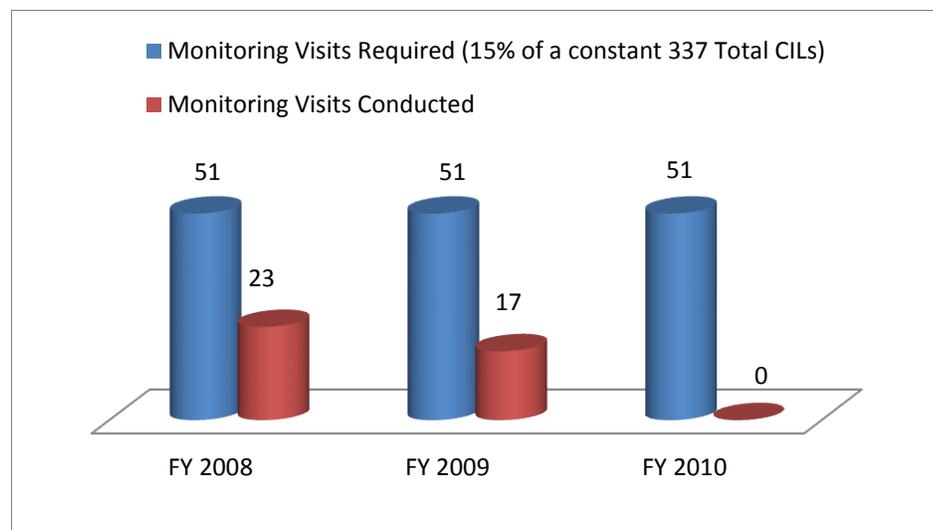
### **FINDING NO. 1 – RSA Did Not Perform Required and Consistent Monitoring and Oversight**

RSA did not conduct onsite monitoring reviews of CILs as required and did not randomly select the CILs for review. In addition, one of two IL Specialists interviewed selected Consumer Service Records (CSRs) from the current active cases instead of those supporting the most recent 704 Report as required by RSA's Onsite Review Protocol.

### Inadequate Number of Onsite Monitoring Reviews Conducted

RSA did not conduct onsite monitoring reviews for the required 15 percent of all CILs. As shown in Figure 1, RSA has conducted fewer onsite reviews than required.<sup>5</sup> Specifically, the 40 onsite monitoring reviews conducted by RSA over the 3 fiscal years covered in our audit were well below the 15 percent or 153 reviews that were required to be conducted during the 3 fiscal years as mandated by the Rehabilitation Act.

**Figure 1: Required Monitoring Visits Versus Conducted Monitoring Visits**



Section 706(c)(1) of the Rehabilitation Act states that on an annual basis, the Commissioner of RSA will randomly select the CILs for review and conduct onsite compliance reviews of at least 15 percent of CILs receiving funds.

RSA stated that it has too few staff to conduct the required 15 percent of monitoring reviews of all CILs nationwide. The IL Unit is composed of five IL Specialists who are tasked with reviewing CILs. The IL Specialists oversee CIL program funds directly awarded to the CILs and are tasked with managing the discretionary award process for the CIL program, including development of priorities, and the review, evaluation, and documentation of all applications for funding. These IL Specialists participate in the State Vocational Rehabilitation (VR) program reviews and lead the onsite monitoring reviews of CILs in those States. The five-member unit also supports VR State teams in their IL State plan approval, monitoring processes, and program improvement efforts.

According to an RSA director, in prior years other Department staff members were used to assist with onsite monitoring visits. This resulted in only moderate success because of the unique nature and complexities of the CIL program and the extensive training required for the added staff. One RSA director and a Unit Chief<sup>6</sup> further stated that site visits were not conducted in FY 2010 because of the time needed to satisfy mandated allocation requirements for the Recovery Act and regular IL Part C funding.

<sup>5</sup> RSA completed 20 monitoring visits for FY 2011.

<sup>6</sup> Unit Chiefs are a part of RSA management.

RSA management stated that IL staff responsibilities significantly increased because of passage of the Recovery Act. RSA management stated that in addition to reviewing annual performance reports for continuation awards and State VR monitoring, IL staff participated in discussions to develop the policy and process for implementing the Recovery Act provisions.<sup>7</sup> RSA management indicated that this included:

- determining funding levels for States, existing CILs, and any newly approved CIL applications;
- discussing processes with the Department's General Counsel and budget services staff;
- discussing processes with each Designated State Unit and Statewide Independent Living Council;
- reviewing current State plans to verify the amount of CIL program funds available to the State;
- determining funding options for current CILs in each State and the sustaining of any new CILs after Recovery Act funds expire in 2015; and
- reviewing and approving required State plan amendments resulting from the Recovery Act distribution proposals in 37 States in addition to the 56 State plans for fiscal years 2011 through 2013.<sup>8</sup>

In RSA management's opinion, they are unable to perform monitoring site visits at 15 percent of all CILs nationwide with current staffing levels and other assigned responsibilities. RSA management did not provide any studies, analyses, or assessments of the number of CILs that could be monitored onsite with the current staffing level.

Because of the lack of prescribed monitoring visits, RSA has only limited verification regarding CILs' performance.

### **Judgmental Risk-Based Approach Rather Than Random Selection of CILs for Onsite Reviews**

RSA judgmentally selected the CILs for onsite review rather than randomly as required by the Rehabilitation Act. According to the IL Unit Chief, IL Specialists judgmentally select and submit a listing of CILs each year based on their professional judgment and a risk-based approach using factors such as past performance, programmatic or fiscal concerns, and complaints against a CIL. RSA management makes the final selection of CILs to include on the annual monitoring schedule based on IL Specialists suggestions and justifications for reviewing that CIL.

Although the use of professional judgment and a risk-based approach may allow for a more prioritized method of performing grant monitoring,<sup>9</sup> Section 706(c) of the Rehabilitation Act requires the RSA Commissioner to randomly select the CILs and State units for review.

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<sup>7</sup> We did no testing to verify RSA's process of implementing Recovery Act provisions and the resulting effect on other staff responsibilities.

<sup>8</sup> The State plans include the 50 States, the District of Columbia, and 5 territories.

<sup>9</sup> Such a monitoring approach was generally encouraged by the Office of Inspector General (ED-OIG) in a 2007 perspective paper (ED-OIG/S09H0007: "An OIG Perspective on Improving Accountability and Integrity in ESEA Programs," October 2007, pages 15–18) and by a 2006 Departmental Executive Steering Committee asked to review the efficiency and effectiveness of the Department's discretionary and formula grants processes (Department of Education Grant Pilot Project Final Report, January 26, 2007, pages 9–10).

## **Inconsistent Methodology Used to Sample 704 Report Data During Onsite Reviews**

RSA conducts onsite reviews of CILs to assess compliance with the program requirements and to review documentation sufficient to verify the accuracy of the information submitted in the most recent 704 Report. RSA has a detailed monitoring protocol and is currently updating its review guidance. The protocol calls for the team leader to determine a method of file selection so that the number of files reviewed is sufficient to verify that the CIL is providing the services and conducting the activities reported in the 704 Report. One of two IL Specialists interviewed selected CSRs from the current active cases instead of the cases that supported the most recent 704 Report. The methodology used by the IL Specialist that tested service files from current active cases does not satisfy RSA's Onsite Review Protocol and is not reflective of the consumers who were actually served and reported on the 704 Report. Because the 704 Report covers an already ended reporting period, selecting CSRs from active cases at the time of the monitoring visit does not test the validity of the number reported in the most recent 704 Report.

## **RECOMMENDATIONS**

We recommend that the Assistant Secretary for the Office of Special Education and Rehabilitative Services require RSA to—

- 1.1 Explore options and models that would assist in meeting the 15 percent onsite monitoring reviews required by the Rehabilitation Act (e.g., using non-IL unit staff, leveraging any monitoring performed by States, and shortening the length of site reviews by including more desk review testing before site visits).
- 1.2 Randomly select CILs for review as required in the Rehabilitation Act and implement standardized sampling methodology for onsite validation of annual 704 Report data.
- 1.3 Provide information on the findings contained in this report to all CILs nationwide to encourage them to develop strong controls in the management of their local CIL programs.
- 1.4 Work with Congress to evaluate the appropriate monitoring of the program, including the need for a defined number of required reviews and the most effective method to select CILs for review, and propose changes to the Rehabilitation Act as needed.

## **RSA Comments:**

RSA accepted Finding 1 and our recommendations. RSA stated that the following factors make it extremely difficult to conduct onsite reviews of 15 percent of all CILs due to:

- growth in the number of CILs,
- limited staff with the required expertise,
- cost of providing reasonable accommodations for reviewers with disabilities,
- budget constraints prohibiting the hiring of new staff,
- limited travel resources, and
- State agencies' monitoring does not specifically cover RSA's Part C grants.

### **OIG Response:**

We recognize that RSA must address certain factors in order to meet the 15 percent onsite review requirement. However, we believe that implementing our recommendations and working with Congress to consider changes to the Rehabilitation Act, specifically related to the number of onsite reviews required, will help RSA make progress towards meeting the requirement.

In addition, we also recognize that RSA's use of State information is limited, but we believe that it should explore every option available with the States and consider nontraditional approaches to using State resources. For example, for those CILs with both Part B and Part C funding, an RSA IL specialist could join the State's review team to cover the Part C funding. The joint review could count toward the 15 percent mandate.

### **FINDING NO. 2 – Lack of Accurate Documentation by the CILs**

We found that most of the 12 CILs in our review did not adequately maintain records sufficient to document selected IL compliance activities. We also found that the documentation provided by eight CILs to support numbers of consumers served was inconsistent with the numbers reported on the 704 Reports, and five CILs misreported the sources and amounts of funds and resources for the operation of the CILs.

The Commissioner will award grants to any existing eligible agency unless the Commissioner finds that the agency involved failed to meet program evaluation standards and assurances set forth in Section 725 of the Rehabilitation Act.<sup>10</sup> Regulations at 34 C.F.R. Part 366, subparts F and G (§§ 366.50–366.63), incorporate the evaluation standards and assurances required by sections 725(b) and (c) of the Rehabilitation Act, and establish compliance indicators that CILs must meet to receive their funding. Compliance indicators listed under 34 C.F.R. § 366.63 establish the activities that a CIL must carry out to demonstrate minimum compliance with the Rehabilitation Act's evaluation standards. According to 34 C.F.R. § 366.61, if a CIL fails to satisfy any one of the indicators, then it is out of compliance with the evaluation standards. According to 34 C.F.R. § 366.50, compliance with these evaluation standards and assurances must be evidenced in a CIL's annual 704 Report and program documentation.

#### **Service File Documentation**

Across the 12 CILs sampled, we tested 590 service files for evidence of 12 IL compliance activities.<sup>11</sup> On average, we found that 17 percent of the IL service activities were not documented.<sup>12</sup> This included 13 percent of service files with no documentation of the consumer's eligibility to receive program services, 24 percent that lacked a signed IL plan or waiver, and 25 percent that had no documentation of at least an annual review of the IL plans. Enclosure 3 lists the tested results for the 12 IL compliance activities and the corresponding CILs.

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<sup>10</sup> An existing eligible agency is a CIL in existence on September 30, 1997.

<sup>11</sup> Enclosure 4 lists the 12 IL compliance activities we identified and tested from the review of the Rehabilitation Act, related regulations, RSA's Monitoring Protocol, and 704 Report Instructions.

<sup>12</sup> The 17 percent average was calculated by dividing the number of activities undocumented (1,192) by the total number of IL service activities tested 7,080 (590 service files x 12 IL service activities).

CILs must document that various activities related to IL services have been performed and maintain a CSR and an IL plan for each applicant and individual receiving IL services unless the consumer waives the IL plan (34 C.F.R. Parts 364 and 366).

Documentation of the IL compliance activities was missing because five CILs reviewed had no written procedures regarding file maintenance and documentation of services, while seven had inadequate written procedures to ensure complete and consistent documentation in all service files.

## **704 Reports**

### Consumers Served

Eight of 12 CILs reviewed provided consumer lists to support the numbers reported in their 704 Reports for FY 2008 and/or FY 2009 for the data fields, Total Consumers Served, Total Consumers Completed All Goals, and/or number of CSRs Active on September 30 that were inconsistent with the numbers reported.<sup>13</sup> The eight CILs overreported these data elements a total of eight times, and five of the CILs underreported these data elements a total of nine times. We considered data to be overreported or underreported if the numbers varied by more than 5 percent. These eight CILs received awards totaling about \$7.3 million (\$5.6 million in CIL grant funds and \$1.7 million in Recovery Act grant funds) for FY 2008 through FY 2010.

In addition, one CIL was unable to provide consumer lists to support any of the three data elements in the 704 Report for either FY 2008 or FY 2009. Another CIL was unable to provide consumer lists to support the three data elements in the FY 2008 704 Report and two of the data elements in the FY 2009 704 Report.<sup>14</sup>

The reasons why the numbers reported in the 704 Reports were different from the supporting documentation provided varied among the CILs and included the following:

- lacked internal controls over data input, which caused inaccurate categorization of consumer records as Active or Completed All Goals;
- used data management systems that did not allow for re-creation of historical data;
- did not maintain supporting documentation for previous 704 Reports at the time the reports were generated; and
- used two or more data systems that were incompatible when data from the systems were merged for reporting purposes.

CILs receiving grant funds are required to prepare an annual report (704 Report) and maintain records adequate to measure performance with respect to the evaluation standards (Section 725(c) of the Rehabilitation Act). Also, a grantee is required to keep records to show its compliance with program requirements (34 C.F.R. § 75.731). By reporting incorrect numbers of individuals served, the 704 Reports submitted by the CILs inaccurately represented the CILs' performance for the reporting year.

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<sup>13</sup> Total Consumers Served represents all consumers served during the reporting year. Total Consumers Completed All Goals represents the number of consumers that completed all goals and objectives and were no longer interested in receiving additional services. The number of CSRs Active on September 30 represents open files with consumers still receiving services on September 30 of the reporting year.

<sup>14</sup> See Enclosure 2 for comparison of the 704 Report data to the support documentation at the nine CILs for FY 2008 and FY 2009.

### Reported Part C Funds Received

CILs are required to report their funding sources on their 704 Report. The source of the funding can be from Part C, other Federal agencies, State and local governments, and private resources. The Part C funds are grants awarded directly to States or the CILs for the planning, conducting, administering, and evaluating CILs. Five of 12 CILs we reviewed inaccurately reported receiving more than double the amount of actual CIL grant funds awarded. Specifically, the Part C funds reported by the five CILs included other Federal funds rather than reporting the fund sources separately. Reporting incorrect Part C funds contributed to the inaccuracies of the 704 Reports submitted by the five CILs.

The incidence of documentation and reporting issues we found in our review of the 12 CILs raises concerns about the accuracy of the 704 Reports and the level of compliance with the evaluation standards and assurances.

### **RECOMMENDATIONS**

We recommend that the Commissioner for RSA—

- 2.1 Require all CILs in this review to verify that they have established or enhanced policies and procedures to maintain documentation supporting their compliance with evaluation standards and assurances.
- 2.2 Require all CILs in this review to verify that they have established or enhanced policies and procedures to maintain documentation supporting the data submitted in annual 704 Reports and that they itemize the sources of funds reported.
- 2.3 Issue guidance to all CILs reminding them of their responsibility to maintain adequate documentation to support their compliance with the evaluation standards and assurances, as well as their 704 reports.

### **RSA Comments:**

RSA accepted Finding 2 and our recommendations.

### **OIG Response:**

RSA's comments are responsive to our recommendations.

### **FINDING NO. 3 – CILs Did Not Comply With All Recovery Act Reporting Requirements**

Although 4 of 12 CILs had no Recovery Act reporting issues, we found instances of noncompliance with Recovery Act reporting requirements at 8 CILs reviewed.<sup>15</sup> The eight CILs expended \$403,072 in Recovery Act funds through the third quarter of FY 2010. Of the 26 reports due from these 8 CILs, 18 were missing data elements, were untimely, and/or used incorrect methodology for the job calculation. Specifically, we found the following for 8 of the 12 CILs reviewed:

- Four did not submit at least one quarterly report.
- One submitted one quarterly report after the 21st of the month following the end of the quarter.
- One submitted two quarterly reports that omitted (underreported) the amount of funds obligated; this CIL also did not submit at least one quarterly report.
- Five used an inaccurate methodology for calculating full-time equivalent (FTE) jobs created or retained. The 5 CILs reported creating or retaining approximately 41 jobs; however the number of jobs was overreported by 10.9 FTEs.<sup>16</sup>

FTE jobs are calculated with the following formula:

$\frac{\text{Total Number of Hours Worked and Funded by Recovery Act Within Reporting Quarter}}{\text{Quarterly Hours in a Full-Time Schedule}}$
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The Office of Management and Budget (OMB) presents detailed guidance on reporting jobs created or retained with the use of Recovery Act funding (Memorandum M-10-08). In addition, to ensure transparency and accountability, recipients are required to submit quarterly reports on Recovery Act awards, spending, and job impact not later than 10 days after the end of each calendar quarter (Section 1512(c) of the Recovery Act). Recipients can make changes to their report until the 21st day after the quarter (Department's Clarifying Guidance Section 1512).

The cause of the noncompliance with Recovery Act reporting requirements varied among the eight CILs and included, for example, the following:

- staff not obtaining a password or login information to access the FederalReporting.gov web site in time to meet the reporting deadline,
- staff not being aware that a report was required if no funds were expended,
- data quality checks not conducted before reports were submitted,
- positions counted rather than hours or percent of time worked on grant activities for jobs calculation as required,
- staff not being aware of the OMB guidance regarding calculation of jobs, and
- quarterly hours in a full-time schedule calculated using 24 pay periods per year instead of 26.

<sup>15</sup> The eight CILs cited for Recovery Act reporting noncompliance were Resource Center for Independent Living, Utica, NY; Center for Independent Living for Western Wisconsin, Inc., Menomonie, WI; Westchester Independent Living Center, White Plains, NY; Wyoming Services for Independent Living, Lander, WY; New Orleans Resources for Independent Living, Baton Rouge, LA; Center for Independent Living, Inc.—Berkeley, Berkeley, CA; Independent Living Resource Center of Northeast Florida, Jacksonville, FL; and Austin Resource Center for Independent Living, Austin, TX.

<sup>16</sup> Two of the five CILs also did not submit at least one quarterly report.

Because of noncompliance with the Recovery Act reporting requirements, one CIL underreported the amount of funds obligated and five CILs overreported the number of jobs created.

## **RECOMMENDATIONS**

Because CIL grantees have until 2015 to use Recovery Act funds, we recommend that the Commissioner for RSA—

- 3.1 Require the five CILs to follow OMB guidance in calculating jobs created or retained for future reporting periods.
- 3.2 Provide direct Recovery Act technical assistance to the eight CILs and make broad training available to the universe of CILs to address similar potential issue areas that could be present at the additional CILs.

### **RSA Comments:**

RSA accepted Finding 3 and our recommendations. RSA stated that it has made several efforts to inform its CIL grantees of the reporting requirements under the Recovery Act and provided documentation of these efforts. RSA also stated that it took enforcement actions when grantees did not comply.

### **OIG Response:**

We recognize RSA's efforts to inform CIL grantees of the reporting requirements under the Recovery Act. We consider RSA's comments responsive to our recommendations and its actions taken address this finding.

## **FINDING NO. 4 – Unsupported Use of Grant Funds**

Of the \$266,281 in grant expenditures tested at the 12 CILs, we found that \$39,123 of \$77,587 tested at 3 CILs (Westchester Independent Living Center, White Plains, New York [WILC]; Ann Arbor Center for Independent Living, Ann Arbor, Michigan [AACIL]; and disABILITY LINK, Decatur, Georgia), was inadequately documented.<sup>17</sup>

Two of the three CILs (WILC and AACIL) distributed salaries and wages with grant funds that totaled \$35,537 but did not maintain supporting documentation of time spent on the grant (\$18,841) or used projected percentages of time spent on the grant in payroll calculations instead of actual time spent on grant activities (\$16,696). In addition, AACIL payroll documentation did not reconcile with time spent on grant activities. For example, AACIL's payroll costs were based on annual projections of how much time each employee would spend on various grant activities with pay calculated based on those hard coded projections. However, the timesheets and certifications of actual time spent on grant activities did not match the grant amounts paid.

Two of the three CILs (AACIL and disABILITY LINK) did not provide supporting documentation for \$3,586 in nonpayroll costs. AACIL did not maintain sufficient supporting documentation for \$1,606 in gasoline and maintenance costs for a motor home owned by an AACIL volunteer. The documentation presented for review was not sufficient to determine how the use of the motor home met grant purposes. AACIL also did not have supporting documentation in the form of travel receipts or supervisory signatures to verify that the reimbursements were for grant purposes. The disABILITY LINK center paid for several credit card purchases without maintaining adequate supporting documentation for the expenditures. We found that the travel and training costs (\$1,980) were paid without sufficient documentation to indicate that the travel or training was for purposes related to the grant.

OMB Circular A-122 requires that salaries and wages charged to an award must be based on documented payrolls approved by a responsible official(s) and reports that reflect the distribution of activity of each employee whose compensation is charged to that award. In addition, all recipients of financial assistance will adopt fiscal controls and accounting procedures needed to ensure proper disbursement and accounting of funds (34 C.F.R. § 364.34).

The staff at WILC and AACIL were unaware that payroll charged to the grants must reflect actual time spent on grant activities. Unsupported costs were charged to the grants because of a failure to enforce written policies and procedures to obtain and review receipts for all grant expenditures before payment. As a result, the CILs are unable to confirm that the expenses charged to the grant were approved and appropriate for grant purposes.

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<sup>17</sup> The "disABILITY LINK" is the trade name for the Disability Action Center of Georgia, Inc.

## **RECOMMENDATIONS**

We recommend that the Commissioner for RSA—

- 4.1 Require WILC, AACIL, and disABILITY LINK to provide supporting documentation for \$39,123 in payroll and other costs or return the funds to the Department.
- 4.2 Require WILC and AACIL to implement payroll procedures requiring the maintenance of records certifying time spent on grant activities for salaries and wages charged to the grant.

### **RSA Comments:**

RSA accepted Finding 4 and our recommendations.

### **OIG Response:**

RSA's comments are responsive to our recommendations.

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## OBJECTIVE, SCOPE, AND METHODOLOGY

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The purpose of our audit was to determine whether the Centers for Independent Living (1) received adequate monitoring and oversight from RSA, (2) offered the core services, (3) met evaluation standards and assurances in compliance with the Rehabilitation Act and applicable Federal regulations, (4) complied with the reporting requirements of the Recovery Act, and (5) used grant funds for allowable costs and maintained adequate documentation for the use of grant funds. Because 704 Reports for FY 2010 were not due to RSA until January 31, 2011, which occurred during the middle of our fieldwork, we selected the preceding Federal fiscal years for our audit period. As such, our audit scope covered the period October 1, 2007, through September 30, 2009 (FY 2008 and FY 2009). We also reviewed Recovery Act reporting from October 1, 2009, through September 30, 2010 (FY 2010). We conducted onsite reviews of 12 CILs in 11 States—New York, Wisconsin, South Carolina, Missouri, Wyoming, Michigan, Georgia, Louisiana, California, Florida, and Texas. We conducted our fieldwork from October 2010 through May 2012. An exit conference was held with RSA on April 21, 2011.

We judgmentally selected the 12 CILs for review using a risk-based approach. We obtained data from RSA that identified all CILs and a list of CILs with potential financial management issues and those with potentially promising financial management practices. We reviewed CIL information, such as (1) annual funding, (2) single audit findings, (3) RSA's comments on CILs, and (4) geographical dispersion. Based on the aforementioned approach and information obtained, we considered funding, financial practices, and location in selecting the CILs.

We evaluated and performed work at each CIL individually and accomplished our objectives by reviewing records pertaining to services provided and adherence to the evaluation standards, assurances, and compliance indicators. We gained an understanding of how RSA uses the 704 Report to measure program performance at each CIL and tested the accuracy of information reported to the Department in the annual 704 Reports. We—

- Gained an understanding of the internal control structure and the policies, procedures, and practices the 12 CILs used in administering the CIL grant funds through:
  - review of organizational charts that identify decision makers and other staff,
  - interviews with CIL management and staff,
  - review of responses to our internal control and compliance questionnaire, and
  - observation.
- Reviewed the evaluation standards and assurances established in the Rehabilitation Act, the compliance indicators as set by RSA, the 704 Report requirements, as well as RSA's monitoring protocol to identify required IL compliance activities. We identified and selected 12 IL compliance activities to test that we could objectively determine whether documentation of compliance was maintained. The 12 IL compliance activities tested are listed and described in Enclosure 4.
- Examined program information and observed physical accessibility measures and services rendered to consumers onsite.
- Requested and identified funding sources at each CIL.
- Reviewed cash management controls at each CIL sampled and found no issues.

- Requested and reviewed general ledger detail expenditure reports at the 12 CILs reviewed for FY 2008 through FY 2010 from which we judgmentally selected samples of expenditures to determine that the expenditures were allowable under applicable laws, regulations, and cost principles. We reviewed supporting documentation for samples at the 12 CILs totaling \$266,281 from total grant funds drawn down of \$11,258,914:
  - From a payroll roster of all employees paid from Part C funds at each CIL in our sample, we separated the employees into categories of executive staff, full-time staff, and part-time staff. To pull a sample of five employees for testing we judgmentally selected, when possible, one executive staff, two full-time, and two part-time staff persons. We reviewed payroll documentation for the last two pay periods of FY 2010.
  - From the general ledger detail expenditure reports for nonpayroll expenditures paid with Part C funds sorted by expenditure type code, we judgmentally selected five transactions for review from high, medium, and low expenditure amounts, as well as any extreme fluctuations in dollar amounts (e.g., one monthly utility expenditure that varied dramatically from the remaining 11 months).
- Requested and reviewed grant award notifications at each CIL.
- Traced drawdowns to grantee bank accounts.
- Requested and examined the audited financial statements, audit reports, and management letters at each of the 12 CILs for the audit period, and previous reviews conducted by RSA at 5 CILs that were also in our sample.
- Examined and attempted to validate the information reported by the 12 CILs in their annual 704 Reports submitted to the Department by requesting consumer lists corresponding to Total Consumers Served, Total Consumers Completed All Goals, and CSRs Active on September 30th for FY 2008 and FY 2009.
- Used sample software to assign a random number to each consumer from the consumer lists provided by the CILs, then judgmentally selected the first 50 consumers to test for evidence of documentation of 12 IL compliance activities in their CSRs or other consumer records (see Table 1 following for details on our samples).
- Tested the validity of the Recovery Act quarterly reports submitted by the 12 CILs in our sample by reviewing the supporting documentation for each report for FY 2010.
- Gained an understanding of and assessed RSA's monitoring and oversight process through interviews, review of monitoring schedules, and prior reports issued.
- Determined the cost per consumer served for each CIL sampled by comparing the number of Total Consumers Served as reported in the 704 Reports with the amount of grant funds awarded in FY 2008 and FY 2009.

To achieve our audit objectives relating to meeting evaluation standards and assurances and adhering to the reporting requirements, we relied, in part, on computer-processed data. The CILs provided general ledger and consumer information generated from their data management systems for FY 2008 through FY 2010. We verified the authenticity of the data by comparing selected fields to source documents. We noted that the information in the source documents agreed with the information in the general ledger, which included all expenditures related to the CIL program for our audit period and did not include any transactions outside of our audit period. We also compared the consumer information to the data reported in the 704 Reports. Based on our testing, we concluded that, except for the discrepancies in Finding No. 2, the data were sufficiently reliable for the purposes of our audit.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Table 1 below provides the universe and sample size for consumer data selected for review for FY 2008 and FY 2009.

Center ID <sup>18</sup>	FY 2008				FY 2009				Total CSRs Sampled for the 2-Year Period
	Active CSRs on Sept 30th		Total Consumers Completed Goals		Active CSRs on Sept 30th		Total Consumers Completed Goals		
	Universe	Sample	Universe	Sample	Universe	Sample	Universe	Sample	
<b>A</b>	262	20	106	5	270	20	152	5	<b>50</b>
<b>B</b>	186	5	152	20	194	5	134	20	<b>50</b>
<b>C</b>	265	5	214	20	175	5	333	20	<b>50</b>
<b>D</b>	Unknown <sup>19</sup>	25	Unknown	0	532	25	Unknown	0	<b>50</b>
<b>E</b>	Unknown	0	Unknown	0	Unknown	0	Unknown	0	<b>0</b>
<b>F</b>	219	20	39	5	177	20	40	5	<b>50</b>
<b>G</b>	699	20	210	5	800	20	195	5	<b>50</b>
<b>H</b>	146	5	26	20	79	5	115	20	<b>50</b>
<b>I</b>	2,238	20	841	5	2,857	16	1,468	9	<b>50</b>
<b>J</b>	2,431	20	114	5	2,556	20	341	5	<b>50</b>
<b>K</b>	512	20	152	5	460	20	224	5	<b>50</b>
<b>L</b>	198	5	147	20	274	5	95	20	<b>50</b>
<b>Total</b>	<b>7,156</b>	<b>165</b>	<b>2,001</b>	<b>110</b>	<b>8,374</b>	<b>161</b>	<b>3,097</b>	<b>114</b>	<b>550</b>

One CIL could not provide any consumer lists for FY 2008 or FY 2009. Therefore, we judgmentally selected 25 consumers from FY 2010 consumer lists provided. Another CIL was able to provide a list of total consumers served and active CSRs for only FY 2009, so we judgmentally selected 25 CSRs still active for FY 2008 and 25 active CSRs for FY 2009. Because this CIL began using a new data management system in October 2010, we obtained and sampled 15 consumers from lists of consumers that completed goals and active CSRs in FY 2011. With the additional 25 service files sampled for FY 2010 and the additional 15 service files sampled for FY 2011, we tested a total of 590 service files.

<sup>18</sup> See Enclosure 1 for alphanumeric identifiers assigned to each CIL in our review.

<sup>19</sup> We were unable to determine the universe because the CIL could not provide client lists for the consumer numbers reported in the 704 Report.

**Enclosure 1: Alphabetical Listing of CILs Reviewed and Grant Awards**

Center ID <sup>20</sup>	Center	FY 2008	FY 2009	FY 2010	
		CIL Grant Funds Awarded	CIL Grant Funds Awarded	CIL Grant Funds Awarded	Recovery Act Funds Awarded
A	Ann Arbor Center for Independent Living, Ann Arbor, MI	209,680	202,047	209,119	47,824
B	Austin Resource Center for Independent Living, Austin, TX	399,441	396,796	410,684	430,236
C	Center for Independent Living for Western Wisconsin, Inc., Menomonie, WI	411,546	399,013	416,281	165,436
D	Center for Independent Living, Inc.-Berkeley, Berkeley, CA	218,970	228,129	228,323	116,351
E	Disability Action Center, Columbia, SC	509,051	499,391	516,870	377,485
F	disABILITY LINK, Decatur, GA	457,969	456,607	472,588	622,343
G	Independent Living Resource Center of Northeast Florida, Jacksonville, FL	223,325	219,371	232,780	330,334
H	New Orleans Resources for Independent Living, Baton Rouge, LA	139,131	127,393	134,018	182,504
I	Paraquad Independent Living Center, Inc., St. Louis, MO	408,757	397,746	420,454	572,510
J	Resource Center for Independent Living, Utica, NY	95,438	92,440	97,081	95,644
K	Westchester Independent Living Center, White Plains, NY	207,590	201,069	211,165	208,038
L	Wyoming Services for Independent Living, Lander, WY	353,136	353,136	370,416	117,965
<b>Total</b>		<b>\$3,634,034</b>	<b>\$3,573,138</b>	<b>\$3,719,779</b>	<b>\$3,266,670</b>

<sup>20</sup> For the purposes of this report, the CILs reviewed are listed in alphabetical order and assigned a corresponding alphanumeric identifier used in Enclosure 1, Enclosure 2, and Enclosure 3.

## Enclosure 2: 704 Report Data Compared to Support Documents

Center ID	Center ID	Per 704 Report	Per Support Documentation	Difference
<b>FY 2008</b>				
Total Consumers Served		2,870	345	2,525
	L	375	345	30
	E	247	Not Provided	247
	D	2,248	Not Provided	2,248
Total Consumers Completed All Goals		1,267	1,157	110
	A	95	106	- 11
	I	638	841	- 203
	E	82	Not Provided	82
	D	111	Not Provided	111
	G	341	210	131
Total Active CSRs on September 30th		1,994	1,211	783
	K	480	512	- 32
	E	123	Not Provided	123
	D	729	Not Provided	729
	G	662	699	- 37
<b>Total Title VII, Chapter 1, Part C Funds</b>		\$3,098,887	\$1,433,755	\$1,665,132
	J	\$340,377	\$136,114	\$204,263
	K	\$594,215	\$207,590	\$386,625
	I	\$1,031,208	\$408,757	\$622,451
	F	\$652,760	\$457,969	\$194,791
	G	\$480,327	\$223,325	\$257,002
<b>FY 2009</b>				
Total Consumers Served		9,901	7,211	2,690
	J	3,559	2,834	725
	A	536	486	50
	I	4,676	3,707	969
	E	349	Not Provided	349
	H	198	184	14
	D	583	Not Provided	583
Total Consumers Completed All Goals		545	419	126
	K	249	224	25
	E	112	Not Provided	112
	D	0	Not Provided	0
	G	184	195	-11
Total Active CSRs on September 30th		4,569	4,618	- 49
	J	2,396	2,556	- 160
	K	438	460	- 22
	A	255	270	- 15
	E	157	Not Provided	157
	D	583	532	51
	G	740	800	- 60
<b>Total Title VII, Chapter 1, Part C Funds</b>		\$1,191,115	\$ 495,940	\$695,175
	J	\$267,078	\$98,194	\$168,884
	I	\$924,037	\$397,746	\$526,291

### Enclosure 3: Undocumented Required IL Compliance Activities

<b>IL Compliance Activities Required<sup>21</sup></b>	<b>Number of Service Files Without Documentation of Required Compliance Activity<sup>22</sup></b>	<b>CILs Without Documentation of Required Compliance Activity (by Centers ID)</b>	<b>Percent of 590 Service Files Without Documentation of Required Compliance Activity</b>
1. Consumer counseling on client assistance program	157	A, C, D, E, F, G, I, J, K	27
2. ILP(s) were reviewed at least annually	149	A, D, F, G, H, I, J, K, L	25
3. Consumers given opportunity to express satisfaction or dissatisfaction	142	A, D, F, G, I, J, K	24
4. Hardcopy IL plan-joint development & signature or waiver*	140	A, D, E, F, G, I, J, K	24
5. Referrals made for eligible consumers of IL services and information and referrals for any requesting consumers	107	A, D, F, G, I, J, K, L	18
6. Maximum coordination of services with vocational rehabilitation, developmental disabilities and special education programs	106	A, D, E, F, G, H, I, J, K, L	18
7. Appeal notification given to consumer	103	A, D, F, G, I, J, K	17
8. Services requested by the consumer*	92	A, D, E, F, G, I, J, K	16
9. Documented eligibility or ineligibility for services*	79	A, B, D, F, I, J, K	13
10. Documented goals even if IL plan was waived*	75	A, D, F, G, I, J, K	13
11. Documented goals the consumer believes are achieved	26	A, B, D, F, G, I, J, K	4
12. Core services and other IL services actually provided*	16	A, J, K, L	3

<sup>21</sup> The asterisk identifies the IL compliance activities explicitly required in 34 C.F.R. § 364.53.

<sup>22</sup> For purposes of this report, service files included all CIL records available for review including the CSRs.

## **Enclosure 4: 12 IL Compliance Activities Tested**

### **IL Compliance Activity 1 (34 C.F.R. § 366.50(j))**

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.

### **IL Compliance Activity 2 (34 C.F.R. § 364.52(c)(1))**

The IL plan must be reviewed as often as necessary but at least on an annual basis to determine whether services should be continued, modified, discontinued, or whether the individual should be referred to a program of VR services or other program of assistance.

### **IL Compliance Activity 3 (34 C.F.R. § 366.63(c)(1)(iii))**

The center shall provide evidence in its most recent annual performance report that it . . . provides opportunities for consumers to express satisfaction with the center's services and policies in facilitating their achievement of IL goals and provides any results to its governing board and the appropriate State Independent Living Council.

### **IL Compliance Activity 4 (34 C.F.R. § 364.53)**

For each applicant for IL services (other than information and referral) and for each individual receiving IL services (other than information and referral), the service provider shall maintain a consumer service record that includes . . . (c) either the IL plan developed with the consumer or a waiver signed by the consumer stating that an IL plan is unnecessary; . . . (f) IL plan and waiver in writing (hardcopy) with signature.

### **IL Compliance Activity 5 (34 C.F.R. § 366.63 (e)(1))**

The center shall provide evidence in its most recent annual performance report that it provides . . . information and referral services to all individuals who request this type of assistance or services from the center in formats accessible to the individual requesting these services.

### **IL Compliance Activity 6 (34 C.F.R. § 364.52(d))**

The development of the IL plan and the provision of IL services must be coordinated to the maximum extent possible with any individualized (1) written rehabilitation program for VR services for that individual, (2) habilitation program for the individual prepared under the Developmental Disabilities Assistance and Bill of Rights Act, and (3) Education program for the individual prepared under part B of the Individual with Disabilities Education Act.

### **IL Compliance Activity 7 (34 C.F.R. § 364.58(a))**

Each service provider shall establish policies and procedures that an individual may use to obtain review of decisions made by the service provider concerning the individuals request for IL services or the provision of IL services to the individual.

### **IL Compliance Activity 8 (34 C.F.R. § 364.53(b))**

For each applicant for IL services (other than information and referral) and for each individual receiving IL services (other than information and referral), the service provider shall maintain a consumer service record that includes . . . the services requested by the consumer.

**IL Compliance Activity 9 (34 C.F.R. § 364.53(a))**

For each applicant for IL services (other than information and referral) and for each individual receiving IL services (other than information and referral), the service provider shall maintain a consumer service record that includes documentation concerning eligibility or ineligibility for services.

**IL Compliance Activity 10 (34 C.F.R. § 364.53(e)(1))**

For each applicant for IL services (other than information and referral) and for each individual receiving IL services (other than information and referral), the service provider shall maintain a consumer service record that includes the IL goals or objectives established with the consumer, whether or not in the consumer's IL plan.

**IL Compliance Activity 11 (34 C.F.R. § 366.63(c)(2)(i))**

The center shall provide evidence in its most recent annual performance report that the center maintains records on the IL goals that consumers receiving services at the center believe they have achieved.

**IL Compliance Activity 12 (34 C.F.R. § 364.53(d))**

For each applicant for IL services (other than information and referral) and for each individual receiving IL services (other than information and referral), the service provider shall maintain a consumer service record that includes . . . the services actually provided to the consumer.

**Enclosure 5: OSERS and RSA Response to Draft Report**

**RESPONSE:  
DRAFT OIG AUDIT REPORT  
ED-OIG/A06K0011  
CENTERS FOR INDEPENDENT LIVING  
COMPLIANCE, PERFORMANCE,  
RECOVERY ACT REPORTING AND  
MONITORING**



**U.S. DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND  
REHABILITATIVE SERVICES  
REHABILITATION SERVICES ADMINISTRATION  
JUNE 22, 2012**

**MEMORANDUM**

**TO:** Patrick J. Howard  
Assistant Inspector General for Audit

**FROM:** Alexa Posny, Ph.D. /s/  
Office of Special Education and Rehabilitative Services

Edward Anthony /s/  
Deputy Commissioner  
Rehabilitation Services Administration

**DATE:** June 22, 2012

**SUBJECT:** OSERS/RSA Response to Findings:  
Office of Inspector General Draft Audit Report  
Centers for Independent Living Compliance, Performance, Recovery Act Reporting  
and Monitoring  
Control Number ED-OIG/A06K0011

The Office of Special Education and Rehabilitative Services and the Rehabilitation Services Administration have reviewed the Office of Inspector General draft audit report, dated May 11, 2012, entitled "Centers for Independent Living Compliance, Performance, Recovery Act Reporting and Monitoring," Control Number ED-OIG/A06K0011.

We accept the findings and recommendations in the draft report and have attached our written comments to the report and our corrective action plan in both PDF and Word formats, as requested. In addition, we have provided a summary of technical comments on the draft report for consideration to be included in the final report.

Enclosures

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## **OSERS/RSA RESPONSE TO DRAFT FINDINGS**

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OSERS/RSA (hereinafter referred to as RSA) accepts the findings and recommendations identified in the Office of Inspector General (OIG) draft audit report, dated May 11, 2012, entitled “Centers for Independent Living Compliance, Performance, Recovery Act Reporting and Monitoring,” Control Number ED-OIG/A06K0011, subject to the modifications and information provided in the response below, which we request be considered and incorporated into the final report.

Our corrective action plan (CAP) is attached, including specific actions we will take to address the identified findings and recommendations, as well as those actions already taken, based on the OIG’s exit conference with RSA on April 21, 2011, and the OIG Finding Point Sheet provided to RSA on April 20, 2011, in conjunction with the exit conference.

In addition to the CAP, RSA submits the following information to provide a more comprehensive picture of RSA’s oversight and monitoring of the CIL program, and the affect it has on compliance by CILs with program requirements. We request that this information be incorporated into the final OIG report in the appropriate sections identified below.

### **Background**

The overarching factor to be addressed in the final report is the exponential growth of the number of CILs since the statutory changes of 1992, and the resulting increases in RSA’s oversight responsibilities and resource requirements. Specifically, the number of Part C-funded CILs has tripled since FY 1993 from 120 to 356 presently, including 20 new CILs established in FY 2010 through funding under the American Recovery and Reinvestment Act of 2009 (Recovery Act).

On page 5, in the last paragraph, and repeated in the Executive Summary on page 2, paragraph 1, the OIG states that RSA has not terminated any grants to centers for independent living (CILs) in the last five years for not meeting evaluation standards and assurances. While RSA has not terminated any CIL grants, due to its enhanced monitoring and oversight activities, since FY 2011, four CILs in California, New Jersey, Florida, and Iowa (Community Rehabilitation Services, Tri-County Independent Living Center, Center for Independent Living of Southwest Florida and Northeast Iowa Center for Independent Living, respectively) voluntarily relinquished their Part C grants due to significant program and fiscal deficiencies found by RSA that the CILs were unable to correct. In addition to the relinquishments, RSA has taken enforcement actions, including placing special conditions on grant awards, against other CILs in Indiana and Hawaii. Additional enforcement actions will be taken as necessary against other CILs pending the completion of RSA’s FY 2012 on-site monitoring activities, and the review, approval, and implementation of proposed corrective action plans by the CILs.

### **Finding No. 1**

#### **Inadequate Number of Onsite Monitoring Reviews Conducted**

On page 7, the OIG draft report reflects RSA’s comments regarding the insufficiency of staff and other resources to conduct the statutorily required 15 percent of monitoring reviews of all CILs

nationwide. There are additional factors, however, not reflected in the draft report, that make it extremely difficult for RSA to conduct so many reviews. We ask that the report be amended to include this additional background information. Specifically, at the time the 15 percent on-site review requirement was added to the Rehabilitation Act in 1986, the CIL grants were awarded to state agencies (specifically to Designated State Units), which in turn, subgranted funds to CILs, unless a state agency did not apply for a grant, in which case RSA awarded the grant directly to the CIL. However, the majority of awards were made to state agencies, and at that time, RSA was required to conduct on-site compliance reviews of at least 15 percent of “grantees” (state agencies) annually, not the CILs themselves (section 805 of P.L. 99-506 (October 1, 1986)). In 1992, the statute was amended to create the CIL program as it exists today, under which RSA is now required to provide grants directly to CILs (with the exception of Massachusetts and Minnesota, who administer the CIL program in their states under section 723 of the Rehabilitation Act), as opposed to state agencies. The requirement for RSA to conduct on-site monitoring of at least 15 percent of the “grantees” did not change. With the change of grantees to the CILs, the number of on-site monitoring reviews of grantees increased dramatically for RSA (currently 356). Thus, the monitoring of 15 percent of the CIL grantees each year became extremely difficult to complete.

The increased number of CIL grantees over time as noted above and the continued requirement to review 15 percent of the CILs have posed growing resource challenges. RSA has limited staff with expertise and background in the independent living program. While RSA has attempted to use additional staff from other units within RSA to assist in meeting the monitoring requirements, we have found it is essential that the monitoring staff have specific knowledge and background of the independent living program in order to conduct CIL monitoring reviews. In fact, such knowledge is required by section 706(c)(2)(A) and (B), which requires that knowledgeable staff carry out the on-site reviews. In addition, due to budget constraints, RSA has not been able to fill vacancies or hire new staff and does not anticipate the ability to do so in the immediate future. With their other responsibilities for administering the CIL, IL State Grants, and IL Services for Older Individuals Who are Blind programs, the five IL specialists must balance their time between administering the programs and monitoring CILs.

The increased number of CIL grantees has also placed a burden on resources for monitoring because of the need for increased travel and expense costs. RSA has experienced reductions in available travel resources by as much as 45 percent since FY 2010, while the number of grantees has increased. In addition to travel costs for staff to conduct the required on-site monitoring, another key factor associated with the costs of conducting CIL on-site reviews is the statutory requirement that the review team include at least one individual who is not a government employee and who has experience in the operation of CILs (section 706(c)(2)(C) of the Rehabilitation Act). In compliance with this statutory requirement, RSA selects non-government, non-federal peer reviewers from outside the state where the CIL under review is located, in order to prevent potential conflicts of interest. RSA is responsible for the travel, lodging, and other incidental costs of this required non-federal reviewer, along with a daily honorarium for services rendered during the on-site review. Moreover, due to the nature of the CIL program’s primary emphasis on individuals with significant disabilities, the non-federal reviewer, as well as the RSA staff leading the on-site review, may each or both require additional reasonable accommodations, e.g., specially equipped rental vehicle, reader, or interpreter, in the conduct of the review, thus increasing the overall costs associated with conducting the CIL on-site reviews (see Exhibit 1).

In its draft report in Recommendation 1.1, the OIG recommends that RSA explore options for meeting the 15 percent requirement, such as leveraging any monitoring performed by state agencies. RSA does currently utilize existing monitoring reports and other information from state agencies as a source of information in preparation for our CIL on-site monitoring. However, the Rehabilitation Act requires that RSA federal staff conduct the CIL review on-site (section 706(c)(1) and (2) of the Rehabilitation Act). In addition, except in those instances where the state agency is the recipient of the Part C funds under section 723 of the Rehabilitation Act (currently, only Minnesota and Massachusetts), state agencies' monitoring does not specifically cover RSA's Part C grants. The state agencies' CIL reviews focus not on the Part C funds, but on the use of state funds, federal Part B funds, and other federal funds that the state agencies may provide directly via contracts or subgrants. Moreover, not all of RSA's Part C CILs receive any such state agency funding. Therefore, RSA's ability to use state level resources to assist in meeting RSA's statutory obligations for monitoring is limited.

### **Judgmental Risk-Based Approach Rather Than Random Selection of CILs for Onsite Reviews**

As noted in the draft report, the OIG generally encourages a risk-based approach to monitoring. RSA had taken this approach in the CIL program because doing so permitted an efficient allocation of scarce resources to address CILs that have programmatic or fiscal performance problems. As good stewards of federal funds, RSA needs to select at least some CILs for review based on a risk-based approach, particularly when serious issues concerning CILs come to light, in order to protect the federal interest.

While section 706(c)(1) requires the RSA Commissioner to select the CILs reviewed under section 706 on a random basis, it also requires the RSA Commissioner to periodically conduct an on-site review of each center. Whenever necessary, RSA conducted on-site monitoring of CILs that posed a real risk to the appropriate delivery of services to individuals with significant disabilities and raised significant questions about the allowable use of federal funds.

### **Finding No. 3**

#### **CILs Did Not Comply With All Recovery Act Reporting Requirements**

On page 12, in the second to last paragraph, the draft report notes that OMB and the Department have issued guidance regarding grantee reporting obligations under the Recovery Act. We think it is important to include in the final report the efforts that RSA, in particular, made to inform its CIL grantees of the reporting requirements under the Recovery Act and the enforcement actions that RSA took when grantees did not comply (see Exhibit 7). RSA published guidance for the CIL program at the following Department Web site in June 2009 available at:

<http://www2.ed.gov/policy/gen/leg/recovery/factsheet/rehab-act.html>. In December 2009, RSA hosted a webinar featuring a PowerPoint presentation for CILs addressing all of the Recovery Act reporting requirements, including those related to jobs creation and retention: <https://ncrtm.org/moodle/mod/page/view.php?id=1883>. Also, in December 2009 and January 2010, RSA forwarded the revised OMB policy on job computation, and the Department's revised "tip-sheet" on job computation changes, to all CILs via the RSA CIL listserv (see Exhibit 7). Finally, via numerous e-mails and follow-up telephone calls between 2009 and 2012, RSA has provided ongoing technical assistance and guidance on Recovery Act reporting requirements and deadlines as well as

notified grantees who failed to report of enforcement actions the Department would take against them (see Exhibit 7).

In Finding No. 3, the OIG reports that it found instances of noncompliance with Recovery Act reporting requirements at eight CILs reviewed, but these CILs are not identified. To assist RSA in implementing its corrective actions, we request that you identify the CILs cited in this finding, including the five that failed to follow OMB guidance in calculating jobs created or retained. It would be helpful for the OIG to create an enclosure that charts the noncompliance of these CILs as the OIG did for Finding No. 2 in Enclosure 3.