



CENTERS FOR INDEPENDENT LIVING
COMPLIANCE REVIEW REPORT

Southern Maryland Center for Independent Living (SMCIL)

Grant Award Number: H132A050003

REVIEW DATES: November 14 - 16, 2011

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REHABILITATION SERVICES ADMINISTRATION

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I. PURPOSE OF THE ON-SITE MONITORING REVIEW

Sections 706(c) and 722 of the *Rehabilitation Act of 1973*, as amended (*Rehabilitation Act*) mandate that the Rehabilitation Services Administration (RSA) conduct on-site reviews of Centers for independent living (CILs) funded under Title VII, Part C, Section 722. The objectives of on-site reviews are to:

- assess compliance with the requirements of Section 725(b) and (c)(3) of the *Rehabilitation Act* and 34 CFR 366.60-360.63;
- study program operations, organizational structure and administration of the CIL under Section 725(c)(1), (2), (5) and (6) of the *Rehabilitation Act* and 34 CFR 366.2 and 366.50;
- review documentation sufficient to verify the accuracy of the information submitted in the most recent 704 Annual Performance Report;
- verify that the CIL is managed in accordance with federal requirements in the Education Department General Administrative Regulations (EDGAR);
- assess CIL conformance with its work plan, developed in accordance with Section 725(c)(4) of the *Rehabilitation Act* and 34 CFR 366.50(d)(2), conditions of the CIL's approved application and consistency with the State Plan for Independent Living (SPIL);
- identify areas of suggested or necessary improvements in the CIL's programmatic and fiscal operation and provide technical assistance resources available on the local, state, regional and national level;
- identify areas of exemplary work, projects and coordination efforts and make this information available to the larger CIL community; and
- provide an opportunity to share information with experienced nonfederal individuals involved in the operations of CILs and make available technical assistance to enhance CIL operations or to minimize or to eliminate problem areas.

II. METHODOLOGY

The on-site review of the Southern Maryland Center for Independent Living (SMCIL) in Mechanicsville, Maryland was conducted on November 14 - 16, 2011. The program review covered the independent living (IL) operations and activities of SMCIL. The financial review examined the center's participation in Title VII, Part C, of the *Rehabilitation Act*. RSA used the On-Site Review Guide (ORG) to conduct the on-site review. During the review, interviews were conducted with the center's board of directors, management, staff, consumers, and stakeholders. In addition to the interviews, program and financial documents were reviewed in accordance with the protocol required by RSA's ORG, including a sample of consumer service records (CSRs), and other documents that verified compliance with standards and indicators. CSRs were selected for review on a random basis. The review team conducted an exit conference at the conclusion of the review to provide feedback on initial impressions from the review.

The RSA review team included the following individuals:

- Pamela Hodge, RSA program specialist; and,
- Daniel Kessler, nonfederal reviewer and Executive Director of the Birmingham Independent Living Center.

III. MISSION AND DESCRIPTION

The mission of SMCIL is to provide services and advocacy to help empower persons with disabilities to live self-directed, independent and productive lives in the community. SMCIL serves St. Mary's, Charles and Calvert counties and was first awarded a RSA grant under Title VII, Chapter 1, Part C, of the *Rehabilitation Act* in 2005.

In addition to the four core services, SMCIL is involved in the programs and projects described below on behalf of individuals with significant disabilities.

- Ticket to Work Employment services – SMCIL provides employment services to consumers with significant disabilities. Services include, but are not limited to: employment etiquette; employment discovery through job search; cover letter and resume writing; interviewing skills; and job searches and job placement. SMCIL has an agreement with the Social Security Administration (SSA) that states that if consumers are placed in jobs for at least 30-90 days, the CIL will receive funds for such placements. SMCIL has been able to place consumers in jobs. However, at the time of the review, these consumers had not remained employed for the necessary amount of time for the CIL to receive funds from SSA.
- Assistive Technology services (AT) – SMCIL receives AT funds via a grant through the Maryland Division of Rehabilitation Services (DORS) in the amount of \$68,000 to purchase adaptive equipment, vehicle modifications and home modifications for consumers with disabilities. Purchase of such equipment and modifications assists consumers in remaining independent in their homes and communities.

IV. ORGANIZATIONAL STRENGTHS AND EMERGING PRACTICES

- SMCIL is well-connected in the community and has developed partnerships with organizations, including Jude House and the Maryland Transportation Program. The Jude House has referred homeless consumers with disabilities to SMCIL, which in turn, the center has been able to assist with housing needs and re-establish residence in their communities. The Maryland Transportation Program has established a partnership with SMCIL to provide travel training to consumers to assist with independent travel throughout the community.

V. OBSERVATIONS AND RECOMMENDATIONS

During its review activities, RSA identified the observations below and made recommendations that SMCIL may consider.

1. Board Training Plan

Observation: SMCIL does not have a training policy and/or plan for board members. RSA interviewed four of the five board members and learned that board members were not familiar with key components of their programmatic and fiscal oversight responsibilities, such as a review of the center's budget and expenditures. Board members indicated they do not

understand the specific requirements for each of its funding streams and how funds should be allocated across the center's various funding sources. The board also indicated that it does not understand that the CIL must provide the four core IL services as a priority. Therefore, other services such as employment services and AT services are priorities.

Recommendation: RSA recommends that SMCIL:

1.1 develop and implement a training policy and plan for all board members that addresses grants management and financial requirements in EDGAR, OMB Circulars such as A-122, and Title VII of the *Rehabilitation Act*, including the Standards and Assurances in Section 725.

Technical Assistance: Courses are available online, at training conferences and through other CILs and may be obtained through the Independent Living Research Utilization (ILRU) and the Association of Providers of Rural Independent Living (APRIL) as well as participation in other workshops and conferences may be utilized to fulfill requirements established in the center's forthcoming training policy and plan.

SMCIL Response: SMCIL did not respond to this recommendation.

VI. FINDINGS AND CORRECTIVE ACTIONS

RSA identified the compliance findings below. Within 30 days of receipt of the final report, SMCIL must submit a corrective action plan (CAP) to RSA 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.

Finding 1: Three-Year Program and Financial Planning Objectives

Legal Requirement:

34 CFR 366.50(d) To be eligible for assistance under this part, an eligible agency shall provide satisfactory assurances that—... The applicant will establish clear priorities through—

(1) Annual and three-year program and financial planning objectives for the center, including overall goals or a mission for the center;

(2) A work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided; and

(3) A description that demonstrates how the proposed activities of the applicant are consistent with the most recent three-year State Plan under section 704 of the Act;

Facts and Analysis: SMCIL included annual planning objectives in the 704 annual performance report. However, it has not established three-year program and financial planning objectives.

Finding: SMCIL is not in compliance with the requirements of 34 CFR 366.50(d) because it has not established clear priorities through three-year program and financial planning objectives for the center.

Corrective Action: SMCIL must take corrective action to establish clear priorities through three-year program and financial planning objectives for the center. The three-year plan must address the center's goals and mission and also incorporate the center's corrective action plan in response to this report. The three-year plan must form the basis for the center's work plan, in accordance with 34 CFR 366.50(d)(2). The three-year plan and the corresponding work plan must reflect the center's mission and priorities. Finally, as the principal governing body of the center, the board of directors must be actively involved in the development of the planning objectives and the work plan.

SMCIL Response: SMCIL is in agreement with this finding and will take the necessary steps to develop a 3-year strategic plan which will reflect the mission, vision and priorities of the agency under the direction and supervision of the SMCIL Board of Directors.

Finding 2: Purchasing Procedures

Legal Requirement:

EDGAR section 74.44 Procurement procedures -

(a) All recipients shall establish written procurement procedures.

These procedures must provide for, at a minimum, that--

- (1) Recipients avoid purchasing unnecessary items;
- (2) Where appropriate, an analysis is made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal Government; or
- (3) Solicitations for goods and services provide for all of the following:
 - (i) A clear and accurate description of the technical requirements for the material, product, or service to be procured. In competitive procurements, a description shall not contain features which unduly restrict competition.
 - (ii) Requirements which the bidder/offer or must fulfill and all other factors to be used in evaluating bids or proposals.
 - (iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - (iv) The specific features of brand name or equal descriptions that bidders are required to meet when these items are included in the solicitation.
 - (v) The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
 - (vi) Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment, and are energy efficient.

(b) Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:

- (1) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
 - (2) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
 - (3) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
 - (4) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.
 - (5) Use the services and assistance, as appropriate, of organizations such as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises.
- (c) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, purchase orders, and incentive contracts) shall be determined by the recipient but must be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of-cost" or "percentage of construction cost" methods of contracting must not be used.
- (d) Contracts are made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration is given to matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources. In certain circumstances, contracts with certain parties are restricted by E.O. 12549 (implemented by the Secretary in 34 CFR Part 85) and E.O. 12689--Debarment and Suspension.
- (e) Recipients shall, on request, make available for the Secretary, pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc., when any of the following conditions apply:
- (1) A recipient's procurement procedures or operation fails to comply with the procurement standards in this part.
 - (2) The procurement is expected to exceed the small purchase threshold fixed at 41 U.S.C. 403 (11) (currently \$25,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
 - (3) The procurement, which is expected to exceed the small purchase threshold, specifies a "brand name" product.
 - (4) The proposed award over the small purchase threshold is to be awarded to other than the apparent low bidder under a sealed bid procurement.
 - (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the amount of the small purchase threshold.

Facts and Analysis: SMCIL does not have written procurement policies and procedures available for the board and staff to follow.

Finding: SMCIL is not in compliance with the procurement requirements in EDGAR 74.44(a)--(e) because the center does not have written purchasing policies and procedures.

Corrective Action: SMCIL must develop written purchasing policies and procedures to be reviewed and approved by the board and RSA, and as part of the implementation process provide training to the board and staff.

SMCIL Response: SMCIL has purchasing policies and procedures which were written in 2008 with limited instructions or clear directions on procurement processes. SMCIL will develop written purchasing policies and procedures to be reviewed and approved by the board and RSA. Additional training will be provided to the board and SMCIL staff.

Finding 3: Property Procedures

Legal Requirement:

EDGAR Sections 74.31 through 74.37 - establish uniform standards governing management and disposition of property furnished by ED whose cost was charged to a project supported by a Federal award. Recipients shall observe these standards under awards. The Secretary does not impose additional requirements, unless specifically required by Federal statute. The recipient may use its own property management standards and procedures provided it observes the provisions of Sec. Sec. 74.31 through 74.37.

Facts and Analysis: SMCIL has a written policy for purchasing property but the policy does not address the areas described below.

- Property records do not contain: description of each piece of equipment; purchase date/cost; manufacturer's serial number, model number, federal stock number, national stock number, or other ID number; source of equipment award number; where title vests; information from which federal participation can be calculated; location and condition of the equipment, date information was reported; and ultimate disposition as required in EDGAR 74.34(f)(1).
- The policy does not address how the CIL guards against loss, damage or theft of property as required in EDGAR 74.34(f)(4) and disposition of property as required in EDGAR 74.34(g).

Finding: SMCIL is not in compliance with the requirements of EDGAR Sections 74.31 through 74.37 because the CIL's property policy does not address all federally established uniform standards governing management and disposition of property furnished by ED whose cost was charged to a project supported by a federal award.

Corrective Action: SMCIL must take the necessary steps to ensure that the CIL's property policy is revised to address all of the federally established uniform standards governing management and disposition of property furnished by ED whose cost was charged to a project supported by a federal award in accordance with EDGAR sections 74.31 through 74.37.

SMCIL Response: SMCIL is in agreement with this finding and will make the necessary steps to revise the CIL's property policy requirements as required in EDGAR Sections 74.31 through 74.37 in the Corrective Action plan.

Finding 4: Cost Allocation Plan

Legal Requirement:

The Education Department General Administrative Regulations (EDGAR) in 34 CFR 74.27 provide that the allow ability of costs is determined in accordance with the cost principles applicable to the entity incurring the costs.

EDGAR 76.560 addresses general indirect cost rates exceptions; EDGAR 76.561 deals with approval of indirect cost rates; EDGAR 76.563 outlines the programs covered by restricted indirect cost rate requirements; and EDGAR 76.564 addresses restricted indirect cost rate formula.

The Office of Management and Budget (OMB) Circular A-122, “Cost Principles for Non-Profit Organizations,” governs cost principles for nonprofit organizations. OMB Circular A-122 provides that the federal government bear its fair share of costs, except where restricted or prohibited by law, and that in order to be allowable under an award costs charged must be allocable to that award. A cost is allocable to a particular grant award in accordance with the relative benefits received under that award.

Facts and Analysis: SMCIL does not have a U.S. Department of Education-approved cost allocation plan because the CIL has not submitted one to the U.S. Department of Education. RSA confirmed that SMCIL does not have an approved cost allocation plan through the U.S. Cost Allocation Group within the U.S. Department of Education.

Finding: SMCIL does not have a U.S. Department of Education-approved cost allocation plan in accordance with OMB Circular A-122 because the CIL has never submitted a cost allocation plan for approval.

Corrective Action: SMCIL must submit a cost allocation plan or indirect cost rate proposal to the U.S. Department of Education’s Indirect Cost Group, at mary.gougisha@ed.gov, within three months (90 days) of the issuance of the final report.

Technical Assistance: The RSA Commissioner Memorandum of May 2004, clarifies the requirements for allocating indirect costs to federal grant awards received by CILs, particularly with respect to awards received under Title VII, Part C, of the Rehabilitation Act. As technical assistance, a copy of the Commissioner Memorandum is included as an attachment to this final report.

Also, while onsite, RSA provided SMCIL the contact information for the U.S. Department of Education Office of the Chief Financial Officer, the office responsible for receiving and approving indirect cost rates and cost allocation plans.

SMCIL Response: SMCIL is in agreement with this finding and will submit a cost allocation plan as required by RSA within 90 days of the issuance of the final report.

Finding 5: Financial Management Systems

Legal Requirement:

EDGAR 74.21(b). Recipients' financial management systems shall provide for the following: (5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR Part 205--Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs.

EDGAR 74.22(b)(1). Recipients are paid in advance, provided they maintain or demonstrate the willingness to maintain—(i) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and (ii) Financial management systems that meet the standards for fund control and accountability as established in §74.21. (2) Cash advances to a recipient organization are limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project.

Facts and Analysis: SMCIL does not have financial policies or procedures that contain provisions to minimize the time elapsing between the transfer of funds and their expenditure by the CILs in accordance with 34 CFR 74.21(b)(5) and 74.22(b)(1). Grant funds are drawn down and applied to expenditures until the funds are depleted and then another drawdown is executed and used as a cash pool from which to pay expenditures as they occur, instead of requesting the funds for specific, immediate needs as required in EDGAR 74.22(b)(2). As of April 1, 2012, SMCIL had drawn down 96.41 percent of its available Part C funds and had not drawn down any of its Part C funds under the American Recovery and Reinvestment Act of 2009.

RSA conducted a follow-up on-site visit along with the Maryland Division of Rehabilitation Services to review SMCIL's progress. SMCIL did not provide the requested financial information after repeated requests and the CIL was required to maintain such documentation to support charges made against the award and the drawdown of federal funds. SMCIL's inability to provide timely and accurate financial reports demonstrates a lack of financial accountability that raises concerns regarding the grantees ability to ensure federal funds are used only for allowable and allocable costs. As indicated in Finding #4 above, SMCIL has not submitted a cost allocation plan in a timely manner and has not reconciled previously unallowable grant award charges. Additionally, the grantee has not implemented financial policies or appropriate internal controls.

Finding: SMCIL is not in compliance with EDGAR 74.21(b)(5) and EDGAR 74.22(b) because it does not minimize the time elapsing between the transfer of funds to the recipient and its disbursement for program purposes (72 hours), or ensure that drawdowns are based on actual expenditures within the grant.

Corrective Action: SMCIL must take corrective action to ensure that it develops written procedures to minimize the time elapsing between the transfer of funds to and their disbursement

by the center (within 72 hours) and follow correct drawdown procedures to ensure that funds drawn down are done so to match the expenditures.

SMCIL Response: SMCIL is in agreement with this finding and will address in the Corrective Action plan how it will avoid similar circumstances of transferring and disbursement of funds in the future as well as provide correct drawdown procedures.

Finding 6: Board of Directors Oversight

Legal Requirement:

Section 725(b)(2) of the Rehabilitation Act: 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.

Facts and Analysis:

SMCIL's board of directors is comprised of individuals with disabilities. The bylaws designate the board as the center's principal governing body and delineate board roles and responsibilities such as officer positions and duties. SMCIL's bylaws outline other board responsibilities, including: supervision and evaluation of the executive director; review results of consumer satisfaction surveys; review and approval of annual budget; three-year strategic planning for fiscal and program planning; and review and update SMCIL policies and procedures on an annual basis. However, RSA found several examples, cited below, that demonstrate the board is not providing responsible programmatic and fiscal oversight of the center.

- The board minutes do not indicate that the board periodically evaluates the executive director's job performance or the center's performance with respect to the work plans, standards and assurances or customer satisfaction surveys.
- Board minutes do not reflect the presentation of an annual budget from the executive director. Thus, the board did not approve an annual budget as required in SMCIL policies and procedures. Board minutes and interviews did not reflect any strategic planning beyond the current and following fiscal years.
- Policies and procedures for the center have not been updated within the past three years.
- During the review and throughout post review activities, RSA and Maryland DORS requested specific financial information on four separate occasions, in order to complete this report. The fourth submission of the information resulted in accurate financial data.

Taken as a whole, these examples show that the board does not function independently and does not approve financial or administrative matters. In addition, the board does not take an active role in the key personnel or programmatic decisions of the center.

Finding: SMCIL is not in compliance with section 725(b)(2) of the Rehabilitation Act because the board of directors is not providing responsible programmatic and fiscal oversight of the center.

Corrective Action: SMCIL must take corrective action to ensure that the board of directors provides responsible fiscal and programmatic oversight of SMCIL. The corrective action must include review and revision of the center's and the board's policies and procedures as well as training on board organization, development and fiscal and programmatic oversight responsibilities.

SMCIL Response: SMCIL did not respond to this finding.

RSA Response: SMCIL is required to address this finding in its corrective action plan.