



CENTERS FOR INDEPENDENT LIVING

COMPLIANCE REVIEW REPORT

Living Independently For Today and Tomorrow, Inc. (LIFTT)

GRANT # H132A950037

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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* (the 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 act and 34 CFR 366.60-366.63;
- study program operations, organizational structure and administration of the CIL under Section 725(c)(1), (2), (5) and (6) of the 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 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 was conducted from May 3-6, 2011. The program review covered the independent living (IL) operations and activities of Living Independently For Today and Tomorrow (LIFTT), and the financial review examined the center's participation in Title VII, Part C, of the 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 management, staff, consumers, and members of the board of directors. In addition to the interviews, program and financial documents were reviewed in accordance with the protocol required by RSA's ORG, including written policies and procedures, 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:

- Elizabeth Akinola, RSA program specialist;
- Julie Clay, representative, designated state unit (Montana Disability Transitions Programs); and
- Daniel G. Kessler, non-federal reviewer

III. MISSION AND DESCRIPTION

Living Independently for Today and Tomorrow, Inc. (LIFTT) was founded as the Yellowstone Independent Living Center on October 25, 1988 in Billings, Montana. The organization's name was changed to LIFTT in 1994.

The mission of LIFTT is to empower persons with disabilities to live freely and equally in Montana through the provision of independent living services, which reduce societal barriers.

LIFTT has four offices located in Billings, Glendive, Hardin, and Ashland and provides services to individuals with disabilities residing in the counties of Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone.

In addition to providing the four IL core services, LIFTT operates a self-directed personal care assistance program. This program allows individuals with disabilities who qualify under Medicaid guidelines, or their representatives, to assume responsibility for hiring, training, and supervising the personal assistant working in their homes, allowing consumers to have maximum control over their daily lives.

IV. ORGANIZATIONAL STRENGTHS

Peer-to-peer mentoring program: LIFTT collaborates with schools and other community-based organizations to recruit individuals who have experience living with disabilities to act as peer mentors to the CIL's consumers who need support in adjusting to their disabling conditions. Through the peer-to-peer mentoring program, LIFTT provides educational and social opportunities to enhance the academic performance, community networking, and career options of its consumers. Peer mentors assist and empower mentees to identify their strengths and independent living needs. They then work with the peer mentee and the IL specialist to develop an independent living plan with defined goals and objectives to enhance the peer mentee's strengths and address needs. Peer mentors work with mentees to cultivate independence, self-confidence, and self-esteem and empower them to explore new options, resources, relationships, feelings, attitudes, and rights. Peer mentors also serve as a guide, educator, and advocate to mentees on disability-related issues.

Peer mentors report to a peer-to-peer mentor program coordinator who is a LIFTT employee. The peer mentors have access to the CIL's database where they document their activities with mentees. They are subject to all LIFTT policies detailed in the employee handbook including policies on confidentiality, professionalism, and the policy regarding the report of abuse, neglect, exploitation and/or fiduciary abuse to the Montana State Adult Protective Services, or Child Abuse Protective Services where appropriate. They also receive training on all CIL policies and procedures relating to IL service provision.

All peer mentors are volunteers who work on a part-time schedule not to exceed 30 hours a week. They undergo background checks before they are recruited. As compensation for their time and efforts, they receive a certificate of accomplishment. Peer mentors who meet all program requirements may use LIFTT as a job reference.

V. OBSERVATIONS AND RECOMMENDATIONS

During its review activities, RSA identified the observations below and made recommendations that LIFTT may consider to improve its overall operations and IL service delivery to consumers with significant disabilities.

1. Staff Performance Appraisals

Observation: LIFTT does not have policies and procedures in place to conduct annual evaluations and reviews for all staff by the executive director or for the executive director by the governing board. Information provided by the staff and executive director indicated that staff evaluation and reviews have been conducted but that there is no uniform staff evaluation or review schedule to ensure consistency. The executive director has received unscheduled verbal evaluation and reviews from the board in the last four years that she has been appointed to the position. The staff and executive director indicated that the lack of scheduled evaluations and reviews has not negatively impacted IL service provision or job performance. Staff indicated that they receive ongoing feedback from their supervisors but that it would be helpful to have a scheduled evaluation and review in addition to the informal feedback provided by the supervisors.

Recommendation: The review team recommends that LIFTT develop and implement policies, procedures, and processes for conducting regularly scheduled staff evaluations and reviews by the executive director as well as evaluation and review of the executive director's job performance by the CIL's governing board.

LIFTT Response: LIFTT will develop a policy and procedure to evaluate staff performance and implement it by October 31, 2011 to be approved by the Board of Directors at the October 2011 annual board meeting.

LIFTT will develop a separate policy and procedure to evaluate the executive director's performance and implement it by October 31, 2011 to be approved by the Board of Directors at the October 2011 annual board meeting.

LIFTT will develop a separate policy and procedure to evaluate LIFTT's board of director's performance and implement it by October 31, 2011 to be approved by the Board of Directors at the October 2011 annual board meeting.

These policies will be submitted to RSA November 2011 for review.

2. Travel Policy

Observation: LIFTT's current travel policies lack specific information regarding staff and board travel. For example, the current travel policy does not address travel by governing board members and it does not indicate whether LIFTT has established a specific mileage reimbursement rate or whether it uses the standard federal mileage reimbursement rates. Also, the policies do not include the reimbursement rates for lodging, meals, and expenses for overnight travel.

The executive director explained that none of the governing board members has yet engaged in travel on behalf of the CIL and that as a general practice, reimbursements are made on a per diem basis.

Recommendation: The review teams recommends that LIFTT review and revise its written travel policies to address:

- travel by governing board members for, or on behalf of LIFTT;
- reimbursement of travel costs based on actual costs incurred, per diem, or a combination of both approaches; and
- mileage reimbursement rates.

LIFTT Response: LIFTT has started to review and revise its written travel policies to address the above recommendations to be implemented by October 31, 2011 to be approved by the Board of Directors at the October 2011 annual board meeting and submitted to RSA by November 2011 for review.

3. Outreach Activities

Observation: LIFTT conducts community advocacy, technical assistance to the community regarding equal access of programs and services, public information and education through outreach, systems advocacy and systems change activities in communities within the CIL's service area. Besides providing IL services from Billings and Glendive, LIFTT has opened offices in Hardin and Ashland, communities that it considered underserved. However, information obtained from consumers interviewed during the on-site review indicated the need for increased aggressive outreach, public awareness and education, collaboration with service providers, schools, other agencies, and organizations by LIFTT and its consumers.

At the Glendive office, consumers indicated that there is an inadequacy of outreach, systems advocacy and systems change activities in the more rural communities within LIFTT's service area, including Glendive. They said this inadequacy has resulted in unmet IL needs of individuals with significant disabilities and their families because they are largely unaware of the existence of LIFTT or the IL services it provides.

Consumers indicated they were unaware of the existence of the CIL or the services it provides. They all indicated the need for increased outreach and public awareness activities by LIFTT in the community.

Parents of two individuals with disabilities indicated the need for increased education and collaboration between LIFTT, service providers, and schools in the community regarding providing services tailored to meet the needs of the individual consumer, and youth transition.

Recommendation: The review team recommends that LIFTT increase aggressive outreach, public awareness and education, collaboration with service providers, schools, other agencies, and organizations to better meet the IL needs of individuals with disabilities in the CIL's service area, especially those individuals residing in the more rural communities.

LIFTT Response: LIFTT will expand their public relations campaign to include media strategies that include all 18 counties. LIFTT for reporting year 2010-2011 has increased their outreach to their 18 county service area, by defining outreach loops and will evaluate data for outcomes. This outreach will be measured and will work on finding the correct balance to provide service to all 18 counties within their defined contractual areas. LIFTT will also hire a part time Systems Change Advocacy Coordinator to assist in advocacy efforts within LIFTT's 18 county service area. This position is targeted to be hired by October 1, 2011.

VI. FINDINGS AND CORRECTIVE ACTIONS

RSA identified the compliance findings below. Within 30 days of receipt of the final report, LIFTT 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: Equal Physical Access to CIL's facilities

Legal Requirement:

34 CFR 366.63(a)(4) - The center shall provide evidence in its most recent annual Performance report that it (i) ensures equal access of individuals with significant disabilities, including communication and physical access, to the center's services, programs, activities, resources, and facilities, whether publicly or privately funded. Equal access for purposes of this paragraph means that the same access is provided to any individual with a significant disability regardless of the individual's type of significant disability.

Facts and Analysis: The review team identified barriers at LIFTT's offices in Billings and Glendive that impacted accessibility for consumers with significant disabilities. These are described below.

- The elevator at the Billings office is small and cannot accommodate a wheelchair user accompanied by a personal care assistant. In addition, there is no Braille signage by the operation button.
- The Billings office is located in the basement of the building and the descending staircase is close to the front door creating a potential hazard for individuals visiting the center, including individuals who are blind or visually impaired or individuals with limited mobility. Similarly, carpeting at the bottom of the stairs at the Billings office is not glued to the floor and therefore presents a potential hazard to individuals. In both instances, individuals are at risk of personal injury. Also, such hazards increase the center's liability for any injuries that may be incurred.
- In the Billings office, when the door leading to the front desk is open, the signage is not visible, thus making it more difficult to identify the correct office.
- The soap and paper towel dispensers at the Billings office are placed too high on the wall for access by a wheelchair user.
- Thick carpeting at the Billings office makes it difficult for manual wheelchair users to move easily throughout the office.

- Round doorknobs create a barrier for individuals with limited hand dexterity to open doors.
- The entrance doorway at the Glendive office has two doors side by side, creating a barrier for wheelchair users that may need to have the second door opened to provide width for entry.
- The men's bathroom at the Glendive office is not accessible because the doorway is too narrow, the stall is too small, and the door opens into a hallway that is already too narrow for wheelchair users.

The CIL board and management informed the review team that LIFTT has a year and a half left on the lease at the Billings office but indicated they will contact the landlord of the building to make modifications that can be made before the end of the term of the lease. They also indicated they will work with the landlord at the Glendive office to make the entrance, bathrooms and hallway accessible.

Finding: LIFTT is not in compliance with the requirements of 34 CFR 366.63(a)(4) due to physical barriers at the Billings and Glendive office that create accessibility issues for consumers with significant disabilities.

Corrective Action: LIFTT must take corrective action to ensure that its offices provide equal access to individuals with significant disabilities.

Technical Assistance: When LIFTT's lease ends at the current locations, it should work with the landlord to ensure that the new location meets the Americans with Disabilities Act standards.

LIFTT Response: LIFTT is committed to find new accessible space for both the Glendive and Billings offices. This process will coincide with the current leases. Glendive's lease expires 2-12 and Billings 12-12. LIFTT will also correct those items listed above that are correctable by August 31, 2011. The list is as follows:

- Braille signage by operation button of elevator
- Large throw rugs will be tacked down with two sided tape at the bottom of stairs.
- Signage for LIFTT with Braille next to door.
- Soap and Paper towel dispensers relocated per ADA requirements
- Door knobs for Billings' office need to be a lever door knob.

Conversation has been started with Glendive's landlord concerning entrance bathrooms and hallway accessibility. Outcomes of conversations will be reported to RSA by August 31, 2011.

Finding 2: 704 Part II Reporting of FTEs and Consumer Demographics

Legal Requirement:

34 CFR 366.50(h) - To be eligible for assistance under this part, an eligible agency shall provide satisfactory assurances that the applicant will conduct an annual self-evaluation, prepare an annual performance report, and maintain records adequate to measure performance with respect to the standards in subpart G.

34 CFR 366.50 (i) - The annual performance report and the records of the center's performance required by paragraph (h) of this section must each contain information regarding, at a minimum (1) The extent to which the center is in compliance with the standards in section 725(b) of the Act and subpart G of this part (Cross-reference: See Secs. 366.70(a)(2) and 366.73); (2) The number and types of individuals with significant disabilities receiving services through the center; (3) The types of services provided through the center and the number of individuals with significant disabilities receiving each type of service.

34 CFR 364.35 - In addition to complying with applicable EDGAR recordkeeping requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will maintain--

- 1) Records that fully disclose and document--
 - a) The amount and disposition by the recipient of that financial assistance;
 - b) The total cost of the project or undertaking in connection with which the financial assistance is given or used;
 - c) The amount of that portion of the cost of the project or undertaking supplied by other sources; and
- 2) Compliance with the requirements of chapter 1 of title VII of the Act and this part; and
- 3) Other records that the Secretary determines to be appropriate to facilitate an effective audit.

34 CFR 364.36 - With respect to the records that are required by Sec. 364.35, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will submit reports that the Secretary determines to be appropriate.

Facts and Analysis: The review of CSRs, data collection and recording practices of LIFTT demonstrated that the data reported by the CIL in the 704 Part II Report are not statistically accurate. Information provided in LIFTT's most recent 704 Part II report is inaccurate for the reasons described below.

- In subpart I, section A, item 4(I), the CIL reports membership fees as income. Review of the CIL's financial records indicates that the amount reported is an expense, not income.
- The CIL has dollar amounts in subpart I, section A, item 5, pass through funds, but LIFTT does not receive any pass through funds on behalf of consumers that are subsequently passed on to consumers. The dollar amounts are from fees for service under the Self-Directed Care program and should be entered in subpart I, section A, item 4(k).
- In subpart III, section A of the report, LIFTT indicates that the CIL provides services such as mental restoration, physical restoration and preventive services, therapeutic treatment, and prostheses. However, information provided to the review team by staff indicates that these services are provided only through information and referral since the CIL does not have professionals on staff who are licensed/able to directly provide the services.
- The fulltime equivalent (FTEs) numbers provided in subpart IV (b) are inaccurate because LIFTT's definition of FTE in employee job descriptions varies from 32 hours to 40 hours worked per week.

Finding: LIFTT is not in compliance with the reporting requirements because the review of CSRs, data collection, and recording practices indicated that the data submitted in LIFTT's FY 2010 704 Part II Report were not statistically accurate.

Corrective Action: LIFTT must take the steps necessary to report accurate data in its annual 704 Part II Report consistent with the reporting requirements.

LIFTT Response: LIFTT 's Executive Director(ED) has reviewed the 2009-2010, 704 report in which the membership fees were reported as income in which they were expenses and the Self Direct Personal Care program fee for service was reported on the wrong reporting line. The ED tried to amend the 704 but the system would not allow this to happen.

LIFTT's management team will together review the instructions for 704 reporting by September 30, 2011 and will ask for clarification from the RSA, program specialist on points not clearly understood. LIFTT's management team will review the 704 report prior to submission to RSA for reporting.

LIFTT will also review options for staff development and certification to assist in fulfilling services within the agency rather than referring all services out of house. This process will build a no wrong door service at the center and possible fee for service. LIFTT also understands that the in SubPart III – Individual Services and Achievements Section A that the number referred will not equal the number received in the center.

Lastly, LIFTT's new employee policy manual adopted April 15, 2011 defines full time at 32 hours. A final copy will be sent to RSA for their files.

Finding 3: CIL Work Plan

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: LIFTT's current annual work plan does not include specific objectives. The goals included are not measureable; and the work plan does not include strategies/action steps, responsible parties and timelines for achieving each goal, or the evaluation/method to measure goal performance. Additionally, the work plan does not include plans for training governing board members, employees, volunteers and consumers. Information provided to the review team by staff and consumers of the CIL indicated that they are not involved in developing the CIL's annual work plan. As a result of the above, LIFTT cannot evaluate the effectiveness of its work plan to determine where adjustments need to be made.

Finding: LIFTT is not in compliance with the requirements of 34 CFR 366.50(d) because the CIL's annual work plan does not include specific objectives.

Corrective Action: LIFTT must take corrective action to develop an annual work plan that includes specific objectives.

Technical Assistance: The review team encourages LIFTT to use data from its 704 Part II report and the goals/objectives and priority services outlined in the state plan for independent living to develop an annual work plan that includes measurable goals and objectives, strategies/action steps, responsible parties and timelines for achieving each goal and objective, and the evaluation/method to measure goal performance. The CIL's annual work plan should include plans for training governing board members, employees, volunteers and consumers. The CIL should involve staff and consumers in the annual work plan development process and solicit their input.

LIFTT Response: LIFTT will be hosting on August 4-5, 2011 a strategic planning session hosted at the Montana Center on Disabilities, Montana State University-Billings which will include members from the Board of Directors, staff, peers, consumers and collaborative agencies to identify and prioritize services for the CIL. Tools utilized during this planning session will be the latest 704 report, the current State Plan for Independent Living and LIFTT's consumer satisfaction surveys to assist in developing the next 3 year plan and annual plan. Each plan will be written with measurable goals and objectives, strategies/action steps and responsible parties and timelines for achieving each goal and objective with an evaluation/method to measure goal performance. Both the 3 year plan and annual plan will be submitted to the RSA, program specialist by October 31, 2011 for technical assistance. (The Alaska SPIL is one template LIFTT identified for a format.) A final copy will be sent to RSA for their files.

Finding 4: Staff and Board Development

Legal Requirement:

34 CFR 364.24 – The State plan must assure that the service provider establishes and maintains a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

34 CFR 366.50(1) - To be eligible for assistance under this part, an eligible agency shall provide satisfactory assurances that—

(1) Staff at centers will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

Facts and Analysis: LIFTT hires personnel who are specialists in the provision, development, support, and delivery of IL services. The CIL has also developed a plan for staff and board training and development. However, the plan does not contain information about specific descriptions of the types of training that staff and governing board members may receive. The training plan lacks clarity, and is not adequately implemented. Additionally, the CIL does have policies and procedures that address staff training but the policies and procedures only state that

staff will receive training. They do not provide specific steps that staff or governing board members should take to request or receive training. The policies and procedures are also not consistently followed. The CIL has recently hired six IL specialists and one IL specialist supervisor. One IL specialist has worked at LIFTT for about four years. These staff indicated that they have been trained to use the MYCIL database for entering data, and that there are spontaneous on-the-job trainings mostly regarding IL service provision. However, LIFTT does not conduct staff orientations or periodic training on topics such as IL history or philosophy. Also, none of the four members currently on the CIL's governing board has received any formal training in CIL governance, IL philosophy, or board roles and responsibilities.

As a result of the lack of clarity and inadequate implementation of LIFTT's training plan, and the CIL not consistently following its policies and procedures that address training, staff and governing board training needs are not being met in a systematic manner.

Finding: LIFTT is not in compliance with the requirements of 34 CFR 364.24 and 34 CFR 364.50(l) because the CIL does not implement its plan for staff and board training and development and because the CIL does not consistently follow its policies and procedures that address training.

Corrective Action: LIFTT must take the necessary steps to implement its staff and board training and development plan consistent with the requirements in 34 CFR 364.24 and 34 CFR 364.50(L), and based on staff needs.

Technical Assistance: LIFTT may consider including such topics as CIL board roles and responsibilities, nonprofit governance, IL philosophy and history, program development and evaluation, as well as fundraising and resource development in its training plan. As part of its training and development process, LIFTT may consider utilizing the training and technical assistance resources offered by the Independent Living and Resource Utilization, IL-NET. The CIL should also continue to receive training and technical assistance from APRIL.

LIFTT Response: LIFTT has provided ongoing training for staff and the Board of Directors. A board director has attended NCIL conference in 2010 and also APRIL conference in Kansas City in 2010. LIFTT will formalize a staff and board training plan, as well as a fundraising and resource development strategy. The first phase of this training scheduled was identified by Independent Living Specialists (ILS) at the IL staff meeting June 20-21, 2011. LIFTT will submit to the RSA, program specialist a training schedule for IL Staff and Board of Directors by November 2011 for technical assistance. LIFTT will also implement an electronic training tracking system for each employee, to be completed by October 31, 2011.

Finding 5: Ongoing Drug-free Workplace Program

Legal Requirement:

EDGAR 84.215 - You must establish an ongoing drug-free awareness program to inform employees about--

- (a) The dangers of drug abuse in the workplace;
- (b) Your policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

Facts and Analysis: LIFTT provides one-time information to all staff about the requirements to have a drug-free workplace when the individual is hired. However, the CIL does not have any ongoing drug-free awareness program to promote the requirements. LIFTT did not indicate any problems with staff in this area.

Finding: LIFTT is not in compliance with EDGAR 84.215 because the CIL does not have ongoing drug-free workplace awareness program.

Corrective Action: LIFTT must develop and implement an ongoing drug-free awareness program that addresses the requirements in EDGAR 34 CFR 84.215.

LIFTT Response: LIFTT will revise their Drug Free Awareness Policy to include the requirements in EDGAR 34 CFR 84.215 with an emphasis on education on drug abuse in the workplace and maintaining a drug-free workplace. This policy and procedure will be submitted to the Board of Directors for the October annual Board meeting and to RSA by November 1, 2011 for technical assistance. A final review will be done by the LIFTT attorney to ensure that LIFTT is in compliance with Montana Law prior to implementation. A final copy will be sent to RSA for their files.

Finding 6: 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: The review team was not able to verify that LIFTT has a U.S. Department of Education-approved cost allocation plan (CAP) because the CIL could not locate the CAP. The team could not confirm that the CIL distributes administrative costs among its various funding sources in an equitable manner.

Finding: At the time of this review, the review team could not confirm that LIFTT has a U.S. Department of Education-approved cost allocation plan because the CIL could not locate the

CAP. Therefore the team could not confirm that the CIL has submitted an indirect cost rate proposal or a cost allocation plan in accordance with OMB Circular A-122 (EDGAR 34 CFR 74.27 and 75.560 – 75.564). However, subsequent to the on-site review, LIFTT contacted the U.S. Department of Education representative and verified that it does not have an approved CAP.

Corrective Action: LIFTT must take all necessary steps to ensure that the CIL has an ED-approved CAP. LIFTT must submit either an indirect cost rate proposal or a cost allocation plan in accordance with OMB Circular A-122.

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 act. As technical assistance, a copy of the commissioner memorandum is attached to this draft report.

Also, the review team has provided LIFTT with the contact information for the U.S. Department of Education OCFO/FIPAO/ICG, the office responsible for receiving and approving indirect cost rates and cost allocation plans. LIFTT has contacted U.S. Department of Education OCFO/FIPAO/ICG and has informed RSA that information provided by that office indicates that the last CAP on file for LIFTT was submitted in 2004, and that that CAP was not approved.

LIFTT Response: LIFTT is working with Richard Corvis at U.S. Department of Education OCFO/FIPAO/ICG for approval of indirect cost rates and cost allocation plan.

Finding 7: 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/offeror 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: LIFTT's purchasing policies and procedures do not address competitive bidding. The CIL does not solicit or obtain bids when the CIL needs to procure goods and services through contracts.

Finding: LIFTT is not in compliance with the procurement requirements in EDGAR 74.44(a)--(e) because the center's purchasing policies and procedures do not address competitive bidding.

Corrective Action: LIFTT must revise its purchasing policies and procedures to ensure that the CIL gives adequate consideration to costs and competitive bidding. The policies and procedures must reflect the EDGAR requirement to solicit and obtain bids for purchases and contracts made by and on behalf of the CIL.

LIFTT Response: LIFTT will revise the purchasing policies and procedures to ensure that the CIL gives adequate consideration to costs and competitive bidding. These policies will be developed and presented to the Board of Directors by the October annual Board meeting and to RSA for technical assistance by November 2011. A final copy will be sent to RSA for their files.

Finding 8: 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: LIFTT 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: LIFTT 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: LIFTT must take the necessary steps to ensure that the CIL's property policy addresses 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 in accordance with EDGAR sections 74.31 through 74.37.

LIFTT Response: LIFTT will revise their property policies and procedures to ensure that the CIL gives adequate consideration to management and disposition of property furnished by ED. LIFTT will refer to EDGAR sections 74.32 through 74.37 to ensure all areas are addressed. These policies will be developed and presented to the Board of Directors by the October annual Board meeting and to RSA for technical assistance by November 2011. A final copy will be sent to RSA for their files.

Finding 9: Records Retention

Legal requirement:

EDGAR 74.53(b): Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Secretary. The only exceptions are the following:

- (1) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- (2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.
- (3) When records are transferred to or maintained by the Secretary, the 3-year retention requirement is not applicable to the recipient.
- (4) Indirect cost rate proposals, cost allocations plans, etc. as specified in Sec. 74.53(g).

Facts and Analysis: LIFTT addresses CSR documentation for all consumers receiving IL services from the CIL in the employee handbook. However, LIFTT does not have any written policies to ensure that fiscal and consumer records are maintained and retained in accordance with federal requirements. Staff explained that records are maintained in accordance with the requirements for each contract administered by the CIL.

Finding: LIFTT is not in compliance with the requirements of EDGAR 74.53(b) regarding record retention.

Corrective Action: LIFTT must develop written policies and procedures to ensure that fiscal and consumer records are maintained and retained in accord with federal requirements. The CIL must also provide the corresponding staff and board training.

LIFTT Response: LIFTT will revise their written policies and procedures to ensure that fiscal and consumer records are maintained and retained in accord with federal requirements. These policies will be developed and presented to the Board of Directors by the October annual Board meeting and to RSA for technical assistance by November 2011. A final copy will be sent to RSA for their files. Staff Training on these policies will be completed by September 20, 2011 and Board Training will be completed at the Annual Board Meeting in October 2011.