



*Advancing independence, integration,
and inclusion throughout life*

**CENTERS FOR INDEPENDENT LIVING
COMPLIANCE REVIEW REPORT**

Harlem Independent Living Center
Grant Award Numbers: 2021NYILCIL
New York, New York

REVIEW DATES: July 19–21, 2022
Draft Report: December 16, 2022
CIL Response: January 18, 2023
Final Report: February 17, 2023

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I. PURPOSE OF THE ONSITE COMPLIANCE REVIEW

29 U.S. Code § 796d–1 and 29 U.S. Code § 796f–1 of the *Rehabilitation Act of 1973, as amended* (Rehabilitation Act) mandate that the Administration for Community Living (ACL) conduct reviews of centers for independent living (CILs) funded under Title VII, Part C, Section 722. The objectives of reviews are to:

- Assess compliance with the requirements of 29 U.S. Code § 796f–4(b) and (c)(3) of the Rehabilitation Act;
- study program operations, organizational structure and administration of the CIL under 29 U.S. Code § 796f–4(c)(1), (2), (5) and (6) of the Rehabilitation Act;
- review documentation sufficient to verify the accuracy of the information submitted in the most recent CIL Program Performance Report (PPR);
- verify that the CIL is managed in accordance with federal requirements;
- assess CIL conformance with its work plan, developed in accordance with 29 U.S. Code § 796f–4(c)(4) of the Rehabilitation Act, conditions of the CIL’s approved application, and consistency with the State Plan for Independent Living (SPIL);
- identify areas of 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
- identify technical assistance to enhance CIL operations or to minimize or to eliminate problem areas.

II. METHODOLOGY

The Office of Independent Living Programs (OILP) identified Harlem Independent Living Center (HILC) to participate in a comprehensive onsite review because of failure to submit any reporting over the last two years. By the time of the site visit, one report from 2020 had been received, but OILP still had not received the 2019 report. Furthermore, there were multiple compliance issues identified in HILC’s 2020 program performance report. The review team intended to complete this review in person and planned to switch to a remote review if COVID levels in the county where HILC’s office is located significantly increased. Two weeks before the review, the Centers for Disease Control and Prevention indicated that the COVID level in the county where HILC’s office is located was high, so the review team completed the review remotely.

Participation in this review does not preclude additional oversight activities related to these findings. Future enforcement actions may include the recovery of funds, drawdown restrictions, funds withholding, or grant terminations, pursuant to 45 CFR 1329.7(a).

ACL did a remote review of HILC on July 19–21, 2022. ACL reviewed activities from September 30, 2020 to September 29, 2021 (program year [PY] 21¹) (hereafter “the review period”) with a focus on program and fiscal operations related to HILC’s administration of Title VII, Part C funds. ACL conducted interviews with the center’s management, staff, consumers, and members of the board of directors. In addition to the interview, ACL reviewed program and financial documents in accordance with the Compliance and Outcome Monitoring Protocol (COMP), including written policies and procedures and other documents that verified compliance with standards and indicators. ACL requested access to consumer information files (CIFs) for twenty-four consumers whom HILC had served in the review period, and HILC—long after ACL’s multiple requests—gave ACL access to twenty-four consumer information files (CIFs), many of which do not adequately document independent living plans (ILPs), goals, services and their relationships to the goals, and progress toward the goals.² The review team provided feedback to HILC staff throughout the review. Additionally, the non-federal reviewer, Kimberly Tissot, shared resources via email with the CIL Executive Director immediately following the site visit. Some of the feedback provided included the definition of “disability,” advocacy and lobbying, institutional transition, youth transition, peer support, personal assistance services, plain language, and information to collect in the CIFs. At the end of the review, the ACL team gave a presentation about how to work with Chinese Americans, which is an identified demographic group in need of increased outreach.

The ACL review team participants were

- Peter Nye, ACL program officer, review lead
- Jennifer Martin, ACL program officer
- Sherry Cochran, ACL fiscal specialist
- Bora Mpinja, ACL fiscal specialist
- Vincent Woodard, ACL fiscal specialist
- Kimberly Tissot, non-federal reviewer

This final report includes the grantee’s comments and revisions that the Administration for Community Living made in response.

HILC Response:

In response to the above, HILC had concerns as to the delivery method with regard to the CIFs since the review was done virtually. After a few back-and-forth discussions ACL and HILC agreed on a safe process to deliver the CIFs, and the files were then delivered as per request. HILC does appreciate the feedback given which relates to working with the Chinese American community and will continue reaching out to this community to address cultural barriers.

ACL Response:

ACL requested access to consumer information files (CIFs) for twenty-four consumers whom HILC had served in the review period. HILC gave ACL access to twenty-four CIFs more than a month later after multiple requests.

¹ Federal fiscal year (FFY) 20; grant number 2021NYILCL. The fiscal review also included 2121NYILCL.

² The requirement is to review at least 10% of the consumer information files; 24 was slightly more than 10% of the 233 consumers the grantee served in the review period.

III. BACKGROUND

The Harlem Independent Living Center (HILC) mission is to be a disability-focused organization that advocates for community change and empowers people to be independent. HILC reports serving Bronx, Kings, Nassau, New York, Queens, Richmond, and Suffolk counties. In Program Year 2021, HILC had a net operating budget of \$613,167, of which \$349,478 was Part C funding.

In PY2021 (which was the review period), HILC served a total of 233 consumers. The largest racial or ethnic category was Black or African American. The largest disability category was mental or emotional. The service that HILC provided most was IL skills training and life skills training.

IV. FINDINGS AND CORRECTIVE ACTIONS

During its review activities, ACL/OILP identified compliance findings that are discussed in this section. **Within 30 calendar days of receipt of the final report, HILC must submit a corrective action plan (CAP) to ACL/OILP 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.**

ACL/OILP reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, draw down restrictions, funds withholding, or grant terminations, pursuant to HHS policy and Uniform Guidance.

Programmatic Compliance Findings

Finding 1: HILC has not demonstrated that it provided all the required IL core services during the review period.

Legal Requirement: 29 U.S.C. § 705(17); 29 U.S. Code § 796f–4(b)(5)

Discussion: HILC did not provide transition from nursing homes or other institutions and did not facilitate transition of youth who were individuals with significant disabilities who had left secondary education. When the review team asked HILC about nursing homes or other institutions, HILC staff explained that it had not provided transition from nursing homes or other institutions because housing in its service area is prohibitively expensive and because HILC had narrowly interpreted “nursing homes and other institutions” to mean only nursing homes. When the review team asked HILC about transition of youth, HILC staff stated that HILC had not provided that service during the review period. In addition, the HILC Personnel Policy & Procedures Manual, which is the only manual that HILC provided the review team, does not describe how to provide these required core services. The team discussed with HILC how this service may be provided, how institution is defined, and provided different options on how they could begin to provide transition services to individuals leaving high school.

Finding: HILC is not in compliance with 29 U.S. Code § 796f–4(b)(5) (which is part of the Rehab Act). HILC has not been providing the required core services that are transition from nursing homes or other

institutions and did not facilitate transition of youth who were individuals with significant disabilities who had left secondary education.

Corrective Actions/Milestones:

- 1) Within 30 calendar days of receipt of the final report, HILC should start either revising its personnel policy and procedures manual (to specify how to identify and transition individuals with significant disabilities from nursing homes or other institutions and how to facilitate transition of youth who are individuals with significant disabilities who have left secondary education) or drafting a manual for provision of core services (to specify how to achieve the aforementioned core services).
- 2) Within 30 calendar days of receipt of the final report, HILC should plan how they will identify people with disabilities in nursing homes and other institutions (including correctional facilities, hospitals, rehabilitation facilities, intermediate care facilities, psychiatric hospitals, etc.) in its service area who seem to be good candidates for transitioning to independent living and how to engage with people in order to transition them to independent living.
- 3) Within 30 calendar days of receipt of the final report, HILC's recent staff member whose job is to transition youth should be working with youth who have left secondary education to transition them to independent living.
- 4) Within 90 calendar days of receipt of the final report, HILC should have a draft of a manual for provision of core services (which may be part of the personnel policy & procedures manual). This manual should include how to identify people in a wide variety of institutions who may be good candidates for transitioning to independent living, how HILC can support them, and how to look broadly for housing options for transitioning to independent living.
- 5) Within 90 calendar days of receipt of the final report, HILC will document that it has identified people with disabilities in nursing homes and other institutions in its service area who seem to be good candidates for transitioning to independent living and has started working with them and related organizations to identify and explore options for transitioning to independent living. HILC will document that it has explored opportunities to work with the New York nursing-home transition-and-waiver program and opportunities to use resources that the ACL Housing & Services Resource Center (<https://acl.gov/HousingAndServices>) informs people about.

HILC Response:

Accessible Affordable Housing has been a challenge for many years. Transitioning PWD from nursing homes – the question is “where are they going to?” The fact is a for one person to qualify for a studio apartment his/her household income must be between \$25- \$37 thousand annually to afford a residence which cost \$665 a month. The average participant's fixed income is approximately \$900.00 monthly. A request for transitioning from a nursing home is rare for HILC. HILC is a consumer driven, consumer focused organization which must follow the goals the person specifies to achieve.

Additionally, during the pandemic, it has been exceedingly difficult to gain contact with most facilities. Visits to most institutions/ agencies were denied and some are still being denied. During the year review period HILC had a new staff member working with youth transiting. Moving forward this IL core service will be addressed.

HILC was unaware that transitioning people with mental illness and/or substance abuse disorders from institutions was acceptable as an IL core service. It was during the ACL review we were told it is permissible.

Corrective Action:

HILC will make the necessary adjustments to have transitioning from a nursing home or institution reflected as an IL core service.

HILC will create a list of agencies as indicated such as hospitals, rehabilitation facilities, intermediate care facilities, psychiatric hospitals to contact those within Harlem.

HILC currently has a youth transition advocate collaborating with the DOE, ACCES-VR and OPWDD to achieve the required IL core service.

HILC will update its Personnel Policy & Procedures Manual to reflect those required core services.

HILC will also reach out to ILRU for training pertaining to the IL core services for all staff.

Methodology:

HILC has started outreach methods such as phone calls, virtual meetings and mass mailings within the northern Manhattan and the central Harlem area.

HILC will continue to collaborate with the schools within Harlem.

Timetable:

This will be an ongoing process for HILC working with transitioning for both institutions and youth.

Over the next 30 to 90 days HILC will start the process of updating the Personnel Policy & Procedures Manual.

ACL Response:

The corrective action plan (CAP) needs to include more details about the youth transition advocate and the person's roles and responsibilities. This CAP should be completed no later than March 2, 2023.

ACL concurs with all the other aspects of this response.

Finding 2: HILC's building is not fully accessible to all people with all disabilities.

Legal Requirement: 29 U.S.C. § 796f-4(b)(1)(D) and 42 U.S.C. § 35.101

Discussion: HILC put together a virtual tour of its office that would be helpful to visitors to access before they come to HILC. The team suggested that the staff post the video on their website and social media channels. Separately, the Harlem staff gave the review team a live tour. During the review, the team identified a few areas where accessibility could be improved, although they were not significant compliance issues. For example, the CIL's waiting room does not have a designated wheelchair area, although HILC staff told the review team that HILC staff rearrange furniture when wheelchair users need the space. During the tour, the review team recommended that HILC designate a wheelchair area in the waiting room to prevent accessibility issues.

There were also a number of accessibility concerns identified at the HILC location.

- The outside of the building that HILC is in does not contain a visible sign that identifies that HILC is in the building, making it difficult to find.

- The door to the building does not automatically open, nor does it have a sign that instructs HILC visitors on what to do if they cannot open the door. HILC staff state that consumers schedule visits, but the set up discourages walk-ups.
- The rooms lack tactile signage.
- The pipes under the bathroom sink are not insulated; that lack of insulation may cause people with sensory impairments to burn themselves by hot water.
- The hand dryer in the HILC bathroom is at a height that most wheelchair users would struggle to reach.

Finding: HILC is not in compliance with **29 U.S. Code § 796f–4(b)(1)(D)** (which is part of the Rehab Act) **or with the Americans with Disabilities Act**, because individuals with some disabilities cannot conveniently access all the parts of the HILC building to fully use HILC’s resources.

Corrective Actions/Milestones:

- 1) Within 90 calendar days of receipt of the final report, HILC should put a visible HILC sign outside its building explicitly stating that HILC staff can assist when entering or leaving the office and providing instructions on how to do so.
- 2) Within 90 calendar days of receipt of the final report, HILC should put tactile signage outside all its rooms that consumers are to use.
- 3) Within 90 calendar days of receipt of the final report, HILC should insulate the pipes under the bathroom sink or establish a physical barrier to protect people with sensory impairments from burning themselves.
- 4) Within 90 calendar days of receipt of the final report, HILC should either provide a hand dryer (in the bathroom) that is accessible to most wheelchair users or place a small table with paper towels in the bathroom (for wheelchair users).

HILC Response:

HILC has been located at its current location for over fifteen years, and during this time we have never had any participants unable to find or access our location. Instructions are always given to social workers, participants and referring agencies about how to gain access into the building. In some instances, staff members will meet consumers at the entrance of the building upon request. The building does not have a designated area for a visible sign to be posted.

The main door to the building does not automatically open due to security and safety concerns, but there is a list at the entrance of all occupant organizations and their corresponding suite numbers to guide persons entering the building.

"Walk-ins are discouraged" is correct – public safety and health is a top priority for HILC, especially since there is no security guard on site unlike other organizations. Therefore, visits are by appointment only and this is especially important that NYC is currently dealing with a "tridemic" after the recent pandemic, so it is best for the health of all consumers to not to have walk-ins.

As per the New York State Commission for the Blind there is a smaller percentage of people who actually use tactile or Braille. Again, out of safety concerns participant are not allowed to walk around arbitrarily and are therefore usually escorted to the main area or location being utilized.

Corrective Action:

HILC will reach out to the property owner again for any updates on allowances for posting signage at the entrance of the building.

HILC will contact Commission for the Blind for advice on best practices on signage for consumers in office space.

HILC will take the necessary measures in covering the pipes under the sink.

HILC will place a small table with paper towels for wheelchair access.

Methodology

HILC will compare prices between hardware stores to find the best suited and most economical pipe covers.

Timetable

HILC will work to correct/update this over the next thirty to ninety days.

ACL Response:

The CAP will need more details. This CAP should be completed no later than March 2, 2023.

ACL concurs with all the other aspects of this response.

Finding 3: HILC is not adequately recording services in consumer information files (CIFs) and Independent Living Plans (ILPs).

Legal Requirement: 29 U.S. Code § 796f-4(b)(2-3) and 29 U.S. Code § 796f-4(c)(8)(B-C)

Discussion: ACL reviewed policies and procedures and twenty-four (24) active CIFs (10% of HILC's 233 active CIFs). They also interviewed multiple staff members about administering CIFs and Independent Living Plans (ILPs). Grantees are required to demonstrate active internal controls necessary to assure that they are managing the awards in compliance with Federal statutes, regulations, and the terms and conditions of the award (45 CFR § 75.303 (a-c)). Part C CILs are also required to prepare annual reports (CIL PPRs) and demonstrate that they are maintaining records that are adequate to measure performance (45 CFR § 75.342) with respect to the standards (29 U.S. Code § 796f-4(c)(8)) set forth in the Act.

All twenty-four (24) CIFs that ACL reviewed had deficiencies in at least one of the following areas: Eligibility, anticipated service duration, signed release of information, notification of opportunity to express satisfaction or dissatisfaction, notification of opportunity to appeal, notification of ability to utilize or waive creation of an independent living plan or waiver, notification to the consumer of the availability of the Client Assistance Program, and notification about goals met resulting in CIF closure.

For PY2021, Harlem ILC reports having developed 233 ILPs with no additional individuals having waived their right to develop an ILP. Yet, they also report that 487 consumers received IL Skills Training, and 325

received Advocacy/Legal Services, which is significantly more than the number of ILPs they developed. The consumer data reported was not substantiated with a waiver or an ILP.

Of the documentation received, information contained within the files was inconsistent. Every file was missing required information, per the Rehab Act. Many of the CIFs that the team reviewed do not adequately document ILPs, goals, services and their relationships to the goals, evidence of required core services, and progress toward the goals. Specifically,

- Many CIFs do not adequately connect services to goals.
- Some of the CIFs substitute a staff signature for the consumer's signature, which is supposed to indicate that the consumer accepts the ILP or waiver; however, no HILC policy allows that substitution.
- Some CIFs indicate that the consumers requested ILPs but that HILC established goals without establishing ILPs.
- Some CIFs briefly mention activities that they do not adequately document.
- One CIF indicates services but no goals.
- Many of the CIFs did not provide documentation of peer counseling, a required core service. After further discussion with HILC staff, it was clear that peer counseling as a service was defined too narrowly by the team.

In addition, HILC's Consumer Grievance Procedures shared with consumers list the wrong contact information when appealing to ACL.

HILC should require a CIF checklist that is uniformly applied, and the supervisors should routinely review the CIFs for accuracy. There also should be an internal process to assure accuracy of the data reported with the content of the CIFs and the ILPs.

Finding: HILC is not in compliance with 45 CFR § 75.303(a–c), because it does not have sufficient internal controls related to CIFs/ILPs. As a result, HILC cannot assure that information submitted on official Federal reports is an accurate reflection of agency performance (45 CFR § 75.342) and is therefore unable to demonstrate it is meeting standards set forth in the Act (29 U.S. Code § 796f–4(c)(8)).

Corrective Actions/Milestones:

- 1) Within 30 calendar days of receipt of the final report, HILC should revise its Consumer Grievance Procedures to list the Administration for Community Living email address as the federal contact to appeal grievances.
- 2) Within 30 calendar days of receipt of the final report, HILC should begin working with the TA provider to establish standards of practice for required CIF/ILP components including development and maintenance of ILP goals and services.
- 3) Within 90 calendar days of receipt of the final report, HILC should implement these practices through all relevant agency policies and procedures, including staff training, evaluation, and any relevant board activities. These practices should include a quality-assurance component

necessary to assure ongoing implementation and validity of numbers submitted from CIFs/ILPs. This finding will be closed when HILC can document that this step has been completed, and the FY 19 PPR has been submitted.

- 4) Within 90 calendar days of receipt of the final report, all HILC's CIFs and ILPs should properly reflect all services that HILC is providing to all its consumers and all progress that all of them are making. (This factor will be the key compliance indicator.)

HILC Response:

In reviewing the CIFs sent to be reviewed, HILC realized most of the files were created over fifteen years ago and were not updated as participants continue reaching out for services. The database used did not reflect most of the updates the new databases such as NetCil or CilSuite currently provide. With reference to the comment that "CIFs include a staff signature as a proxy for the consumer;" there was no policy which allowed that to occur. HILC would like clarification on this statement.

Corrective Action:

Since the review HILC has reached out to NetCil, who installed a database program as of October 1, 2022; this is currently in use with ongoing training. HILC has updated the Consumer Grievance procedure with the ACL email as the federal contact to appeal grievances. HILC will work with TA providers as suggested. HILC will continue updating its policies and procedures, training for staff and all the necessary activities to be in full compliance.

Methodology

HILC will reach out to ILRU and ACL for guidance in recommending the specific trainings as needed.

Timetable

Ongoing.

ACL Response:

The CAP needs to include this updated Consumer Grievance Procedure. This CAP should be completed no later than March 2, 2023. ACL agrees with all other aspects of this response.

Fiscal Findings

In addition to the programmatic review conducted by OILP, staff from the Office of Fiscal Operations (OFO) conducted the fiscal review of HILC's policies and procedures. The purpose of the fiscal review was to assess the HILC's ability to administer the formula grant programs funded by ACL and to provide technical assistance to the grantee.

Finding 4: HILC Policies and Procedures have insufficiencies.

Legal Requirements: 45 CFR Part 75.303

Discussion: There are several areas of concern identified by ACL through the review of the fiscal policies and procedures submitted by HILC, which are as follows: 1) The payroll policies and procedures

appear to be out of date, as they reference pay dates within calendar year 2021, 2) the travel policies and procedures address travel reimbursement but they do not address prior travel authorization approval or limitations on allowable travel costs (i.e., per diem), 3) the policies and procedures indicate that telework is allowable with prior approval from the Executive Director, however they do not address the specific requirements for telework (i.e., time and attendance record keeping), and 4) the policies and procedures submitted do not address the management of federal grants.

Finding: HILC is out of compliance with 45 CFR 75.303, as the policies provided do not demonstrate that effective internal controls are in place to provide reasonable assurance that HILC is managing their federal awards in compliance with federal statutes, regulations, and terms and conditions of the awards.

Corrective Actions:

- 1) Within 30 calendar days of the issuance of the final report, HILC should start revising their internal policies and procedures for payroll, travel, and telework, as well as drafting policies and procedures related to the management of federal grants.
- 2) Within 90 calendar days of the issuance of the final report, HILC should submit the revised draft policies and procedures to ACL, for review and feedback.

HILC Response:

Attached are HILC's comprehensive board approved policies that cover in much more detail how fiscal operates. We feel these were not part of the review. If the attached are not updated to ACL requirements HILC will take the necessary steps to do so.

ACL Response:

HILC provided its Fiscal Policy Manual, Fiscal Manual – Cash Receipts (7), and Federal Procurement Policy (6). ACL staff confirmed that the provided Fiscal Policy Manual was reviewed during the monitoring. ACL has reviewed the provided documents and confirms that the stated Finding remains unchanged. To resolve this finding, HILC needs to implement the outlined corrective actions. Further, ACL advises the grantee to review its Fiscal Policy Manual in whole, because it was last updated nearly nine years ago and includes no mention of HHS-ACL funding, the Payment Management System (PMS), or the prevailing regulations, statutes, and requirements for the Federal funds received through the ILCL program.

Finding 5: SF-425s have not been submitted in the Payment Management System (PMS).

Legal Requirements: Term and condition on award for 2021NYILC3

Discussion: As part of the review, HILC submitted a consolidated SF-425 via email, however, per the terms and conditions of the award, the SF-425s for 2021NYILC3 must be submitted in PMS.

Finding: HILC is out of compliance with the term and conditions on 2021NYILC3, as the SF-425 has not been submitted in PMS.

Corrective Action:

- 1) Within 30 calendar days of the issuance of the final report, HILC must submit the SF-425 for 2021NYILC3 in PMS for review and approval.

HILC Response:

All PMS reports have been certified in PMS

ACL Response:

ACL has approved the annual FFR for 2021NYILC3, but the final FFR has not yet been approved. ACL is working with HILC on a Notice of Award (NoA) amendment and a final award reconciliation which is delaying review of the final FFR.

Finding 6: Questionable Costs were identified on 2021NYILCL.

Legal Requirements: 45 CFR 75.432 and 45 CFR 75.437

Discussion: OFO reviewed the general ledger HILC provided for 2121NYILCL in coordination with the supporting documentation submitted for the costs associated with meals and determined these costs are unallowable, as they do not seem to meet any of the required exemptions contained within 45 CFR 75.432 and 45 CFR 75.437.

Finding: HILC is out of compliance with 45 CFR 75.432 and 45 CFR 75.437 as the meals charged to the award occurred at HILC and are not associated with a conference or consistent with documented internal employee health and welfare costs policies and procedures.

Corrective Action:

- 1) Within 60 calendar days of the issuance of the final report, HILC must return the funds associated with the questioned meals to 2121NYILCL.

HILC Response:

All meal charges are correct and relate to meeting\conference trainings at HILC. They are all or grant and agency purposes.

ACL Response:

HILC provided the statement that "all meal charges are correct and relate to meeting/conference trainings at HILC". This statement does not adequately address the finding and ACL maintains its position that the identified costs are unallowable. ACL will only be able to reevaluate this determination if HILC provides supporting documentation for the specific costs showing what was purchased and how HILC determined these costs to be allowable under the prevailing award rules and requirements.

Finding 7: The reasonableness and allocability of costs on 2121NYILCL were unable to be determined.

Legal Requirements: 45 CFR 75.404 and 45 CFR 75.405

Discussion: OFO reviewed the general ledger HILC provided for 2121NYILCL in coordination with the supporting documentation submitted for a sampling of costs associated with each cost category under this award. Through this review OFO was able to determine the allowability of the sampled costs but unable to determine if the costs were reasonable and allocable to 2121NYILCL. The supporting documentation submitted did not provide sufficient information for these determinations to be made.

For example: a copy of a worker's compensation statement in the amount of \$1,687.68 was provided for supporting documentation of this cost charged to 2121NYILCL. Fringe benefits are allowable; however, it is unclear how HILC determined the portion of costs attributable to 2121NYILCL. This example is consistent with all the supporting documentation submitted in response to the sampling of costs.

Finding: HILC is out of compliance with 45 CFR 75.404 and 45 CFR 75.405 as OFO was unable to determine whether the sampled costs charged to 2121NYILCL are reasonable and allocable to the grant.

Corrective Action:

- 1) Within 30 calendar days of the issuance of the final report, HILC must submit documentation for the sampled costs for 2121NYILCL from the OFO email dated September 26, 2022, that demonstrates the receipt of payment from the vendor as well as an explanation of how HILC determined the associated costs charged to the grant.

HILC Response:

HILC at year end 9/30/21 allocated total fringe by employee staff hours and time allocated across grant lines. The federal approved FTE and gross payroll allocation follows total fringe cost to each grant so in the end if HILC's total agency fringe is 27.24% all grants payroll allocation will be adjusted to 27.24% of allocated payroll per grant.

ACL Response:

ACL reviewed HILC's response and understands that HILC charges fringe costs as a percentage of the salary costs. HILC did not provide policies and procedures or a cost allocation plan to support this methodology nor did ACL find policy in the Fiscal Policy Manual to support this methodology. ACL observed that HILC made a single payment for worker's compensation costs, which does not align with that stated percentage methodology. The finding and corrective action remain unchanged, ACL needs to see supporting documentation for the questioned costs including the fringe costs policies and procedures, applicable cost allocation plan, and explanation of how the identified worker's compensation expenditure aligns with the policy for charging fringe.

Finding 8: HILC has significant deviations from their internal policies and procedures for time and attendance.

Legal Requirements: 45 CFR Part 75.404 (e) and HILC's internal policy and procedure for time and attendance

Discussion: OFO reviewed the sampling of timecards submitted for 2121NYILCL. OFO noticed that one of the timecards submitted included telework hours and was not signed by the employee's supervisor. Additionally, HILC did not submit copies of the pages from the internal daily sign-in log that correspond to the dates of the timesheets submitted. HILC's policy and procedure states that this log is kept at the front desk and employees must sign in and out daily. Therefore, OFO has determined non-compliance with HILC's internal policy and procedure for time and attendance from this review.

Finding: HILC is out of compliance with 45 CFR Part 75.404 (e) as HILC's internal policies and procedures relating to time and attendance were not consistently followed.

Corrective Action:

- 1) Within 60 calendar days of the issuance of the final report, HILC must re-submit copies of the timecards requested, all signed by the employee's supervisor along with the portion of the sign-in log that corresponds to each timecard submitted.

HILC Response:

*Attached are copies of HILC timecard & sign-in log
HILC was unaware of this not included in the initial request.*

ACL Response:

HILC provided its Fiscal Policy Manual which includes timekeeping policy, and they provided a timesheet attachment which included one sign in sheet, and four timesheets (two date periods). ACL reviewed an additional timekeeping policy document during the monitoring that included the physical sign in sheet requirement. ACL's finding is unchanged. HILC's timesheet attachment included one sign page from 2021 that did not match the 2022 time period of the provided timesheets, therefore ACL was unable to determine if employees completed the sign-in requirement as outlined in HILC's policy. In addition, the timesheet samples provided did not clarify when an individual was teleworking and what timekeeping policy was being used to manage teleworking staff. Because of the identified inconsistencies, ACL is requesting the grantee to provide supporting documentation for the sampled time periods and the applicable HILC timekeeping policy for teleworking. Further, the timesheet sample provided identifies an employee's time spent on ACL projects but does not distinguish the award served. In its corrective action plan, ACL is requesting that HILC additionally provide clarification on how timesheets are utilized to determine appropriate award charging.

V. OBSERVATIONS AND RECOMMENDATIONS

In addition to the compliance findings outlined above, the review team identified a number of concerns with HILC's operations and has made recommendations for addressing these concerns.

Observation 1: HILC does not apply a clear definition of "significant disability" when classifying staff.

Observation: At the time of the review, HILC had a staff of eight people and demonstrated confusion about how to classify whether the staff had disabilities. HILC had five board members, three of whom self-identified as having disabilities. 29 U.S. Code § 796f-4(c)(6) requires CILs to have a majority staff and those of decision-making positions to be people with disabilities. It also requires the CIL to record the number with significant disabilities employed by the CIL, including in management and decision-making positions (29 U.S.C. § 796f-4(c)(8)(E)). HILC lists some staff as having "disabilities" and some as having "chronic illness." When the review team asked HILC staff how HILC distinguishes "disability" from "chronic illness", the answer suggested they are not aware of the "disability" and "significant disability" definition in the Rehab Act under 29 U.S. Code § 705(21)(B).

Recommendation: ACL recommends that HILC receive training from ILRU on understanding, and applying, the definition of “significant disability” in the Rehabilitation Act to ensure they meet the requirement that a majority of staff, decision-making positions, and board members be persons with a disability, including those with significant disabilities. The training needs to include how to attract and retain staff with significant disabilities.

HILC Response:

We do not clearly understand what ACL meant by “demonstrated confusion about how to classify whether the staff had disabilities.”

According to the ADA, “If you are applying for a job, an employer cannot ask you if you are disabled or ask about the nature or severity of your disability. An employer can ask if you can perform the duties of the job with or without reasonable accommodation. An employer can also ask you to describe or to demonstrate how, with or without reasonable accommodation, you will perform the duties of the job.”

Corrective Action:

HILC will contact ILRU to receive the training necessary

HILC Board and staff will attend these trainings

Timetable

Within the next 30 to 90 days

ACL Response:

ACL concurs with this response. ACL encourages HILC to pay attention to this report’s revised statement about asking about disability status when recruiting and hiring to ensure that it is meeting the statutory requirement that a majority of staff positions, a majority of decision-making positions, and a majority of board positions are held by people with disabilities.

Observation 2: HILC does not have adequate job descriptions.

Observation: HILC’s job descriptions are vague; they do not clearly indicate:

- The staff members’ roles, responsibilities, and daily duties to ensure adequate staffing for core service delivery.
- The lines of communication between supervisory and front-line staff to ensure accountability.

29 U.S. Code § 796f–4(c)(5) requires the organization to use sound organizational and personnel assignment practices, however, that is not supported with the CILs current job descriptions. For example, the associate director’s job description states that they report to the board president. When the review team asked about this reporting, HILC staff replied that this issue was an error and that HILC would send the review team a revised job description, yet that has not occurred.

Recommendation: It is recommended that HILC contact ILRU for assistance with defining job descriptions that adequately capture CIL operations and core functions.

HILC Response:

HILC would greatly appreciate a sample of an adequate job description so we can thoroughly review and compare what is currently lacking. HILC will then revise/update to ensure we are reflecting all the necessary component relating to service delivery.

Corrective Action:

*HILC will contact other CIL to compare and review areas lacking information
HILC will also contact ILRU for assistance and make the necessary updates / correction to current job descriptions.*

Timetable

Over the 30 to 90 days

ACL Response:

ACL concurs with this response. ACL encourages HILC to ask ILRU for sample job descriptions and other information that would enable HILC to strengthen its job descriptions.

Observation 3: HILC does not show evidence of aggressive outreach to unserved and underserved communities.

Observation: 29 U.S. Code § 796f–4(c)(10) requires CIL to engage in aggressive outreach to individuals with significant disabilities that are unserved or underserved. There were a number of issues identified when staff were reviewing the CIL’s outreach materials.

- HILC’s social media had not been updated in more than a year and had a minimal number of followers (e.g., approximately 10 or less).
- HILC’s outreach materials do not explicitly mention the IL core services.
- HILC relies primarily on word of mouth for outreach.

When the review team asked HILC about its outreach, HILC staff could not provide evidence that they were currently engaging in aggressive outreach to unserved or underserved communities; however, they did identify who the underserved communities were – Chinese Americans. In response, the review team offered HILC information on how to reach out to Chinese Americans and LGBTQIA+ populations.

Recommendation: ACL has a significant number of recommendations to improve aggressive outreach to unserved and underserved communities. HILC should:

- Understand that word of mouth, although it can be useful, is not aggressive outreach.
- Increase social media usage (including Facebook, YouTube, Instagram, and Twitter) at least monthly and when there is significant news.
- Update their social media platforms to include language on the services the CIL provides (including the IL core services) and how people with disabilities can benefit from these services.

- Seek service or input from social media experts. Part of this input needs to pertain to what geographic and demographic groups social media can reach well; this aspect of the input does not lessen the recommendation about HILC using social media.
- Connect with the State to correct the contact information and website the State has for the CIL.
- Develop outreach materials with assistance from an expert, that explicitly state the IL core services.
- Reflect that HILC is consumer driven around the core services in all outreach materials and platforms.
- Use ILRU's materials on aggressive outreach to develop additional and more effective outreach strategies to underserved communities.
- Implement ACL's input about how to reach out to Chinese American consumers. Include them in HILC's outreach plan. ACL's most important recommendations for HILC to implement are:
 - Seek staff, board members, and volunteers who are Chinese American and/or proficient in Mandarin, Cantonese, etc.
 - Partner with civic organizations that consist mostly of Chinese Americans and to the branch of New York Public Library that specializes in Chinese materials.
 - Reach out to schools that teach Chinese languages to ask for advice, referrals, and help.
 - Seek and offer trainings.
- Consider exploring opportunities to form, and/or work with lesbian, gay, bisexual, transgender, queer, intersex, asexual, etc. (LGBTQIA+) peer support groups (especially on issues that pertain to intersectionality of sexual orientation, gender identity, gender expression, disability, and other demographic characteristics) to expand work with youth leaving high school and to address the unserved populations in their area who have intersectional identities.

HILC Response:

Due to some ongoing technical difficulties HILC's website was under construction, upon resolving those issues HILC was able to launch an updated website. There is continuous work being done to increase outreach coverage. The community that HILC currently serve does not look at social media to the same extent as our peers who are more focused on technology. It is a proven fact the those above 96th street (in the urban areas) does not have access to technology in the same way and therefore do not rely on it in the same manner. HILC still relies on the methodology that has been proven to work within the community it serves which is Word of mouth which means the religious institutions, community board, CBO etc.

HILC flyer has a list of all the services provided which was design to reflect the community we serve and to ignite a conversation.

Thank you for your assistance in reaching out to HILC on the Chinese American community but historically people of color and the Asian community do not get along even ACL agree to that. When it comes to reaching out to the Chinese American this will be an ongoing plan of action. HILC has been working with the LGTBQIA for years now and will continue to do so

Corrective Action:

HILC will continue to update and be more active in the social media arena.

HILC will assign a social media person.

HILC will reach out to ILRU for material and trainings to cover this area of concern.

Reaching out the Chinese American will be an ongoing effort for HILC.

Timetable

Ongoing efforts to achieve our outreach potential

ACL Response:

If the corrective action plan includes—and/or relies on—document the statement that “those above 96th street (in the urban areas) does not have access to technology in the same way and therefore do not rely on it in the same manner,” then the CAP needs to document this statement. This CAP should be completed no later than March 17, 2023.

ACL requires the CAP to include improved social-media presence and to follow best practices for social media.

ACL requires the CAP to include aggressive outreach that is more aggressive than “word of mouth,” e.g., “HILC will give presentations to” and “HILC will attend [events].” Word of mouth is too passive to be adequate aggressive outreach.

ACL requires the CAP to share (details of) a plan (and a strategy) for how to deal with tensions between “people of color and the Asian community.”

Appendix: Legal Requirements

This Appendix contains the full text of each legal requirement cited in this report.

29 U.S.C. § 705(17)

INDEPENDENT LIVING CORE SERVICES.—The term “independent living core services” means—

- (A) information and referral services;
- (B) independent living skills training;
- (C) peer counseling (including cross-disability peer counseling);
- (D) individual and systems advocacy; and
- (E) services that—
 - (i) facilitate the transition of individuals with significant disabilities from nursing homes and other institutions to home and community-based residences, with the requisite supports and services;
 - (ii) provide assistance to individuals with significant disabilities who are at risk or entering institutions so that the individuals may remain in the community; and
 - (iii) facilitate the transition of youth who are individuals with significant disabilities, who were eligible for individualized education programs under section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)), and who have completed their secondary education or otherwise left school, to post-secondary life.

29 U.S.C. § 796d–1(c)

ONSITE COMPLIANCE REVIEWS.—

- (1) The Administrator shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 796f–1 and shall periodically conduct such a review of each such center
- (2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Administrator shall—
 - (A) to the maximum extent practicable, carry out a review described in paragraph (1) by using employees of the Department of Health and Human Services who are knowledgeable about the provision of independent living services;
 - (B) ensure that the employee of the Department of Health and Human Services with responsibility for supervising such a review shall have such knowledge; and
 - (C) ensure that at least one member of a team conducting such a review shall be an individual who—
 - (i) is not a government employee; and
 - (ii) has experience in the operation of centers for independent living.

29 U.S.C. § 796f–1(g)(1)

IN GENERAL.—The Administrator shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 796f–4 of this title. If the Administrator determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 796f–4 of this title, the Administrator shall immediately notify such center that it is out of compliance.

29 U.S.C. § 796f–4

(b)(1)(D) equal access for individuals with significant disabilities, within their communities, to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

(b)(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of significant disabilities. The center shall provide services on a cross-disability basis (for individuals with different types of significant disabilities, including individuals with significant disabilities who are members of populations that are unserved or underserved by programs under this title). Eligibility for services at any center for independent living shall be determined by the center, and shall not be based on the presence of any one or more specific significant disabilities.

(b)(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with significant disabilities who seek such assistance by the center.

29 U.S. Code § 796f–4

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

- (1) the applicant is an eligible agency
- (2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities;
- (3) the applicant will comply with the standards set forth in subsection (b)
- (4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;
- (5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with significant disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;
- (6) the applicant will ensure that the majority of the staff, and individuals in decision making positions, of the applicant are individuals with disabilities

29 U.S. Code § 796f–4(c)(8)

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

- (A) the extent to which the center is in compliance with the standards;
- (B) the number and types of individuals with significant disabilities receiving services through the center;
- (C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;

- (D) the sources and amounts of funding for the operation of the center;
- (E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and
- (F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year

29 U.S.C § 796f–4(c)

- (10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;
- (11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations

2 CFR § 200.303

The non-Federal entity must:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the non-Federal entity’s compliance with statutes, regulations and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the HHS awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

SF-425 Term and Condition for 2021NYILC3

Updated SF-425 Financial Reporting: All grantees must submit Federal Financial Report (SF-425) matching the dates listed in the PPR Reporting above, except a final 425 report is due within 120 calendar days after the project period end date of September 30, 2022 or by January 31, 2023. Beginning with this FFY2020 grant, the SF-425 shall be submitted using the HHS Payment Management System (PMS). PMS website is located at: <https://pms.psc.gov>.

2 CFR § 200.432

A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary

and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The HHS awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly.

45 CFR 75.437

(a) Costs incurred in accordance with the non-Federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable.

(b) Such costs will be equitably apportioned to all activities of the non-Federal entity. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations.

(c) Losses resulting from operating food services are allowable only if the non-Federal entity's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only:

- (1) Where the non-Federal entity can demonstrate unusual circumstances; and
- (2) With the approval of the cognizant agency for indirect costs."

45 CFR 75.404

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally funded. In determining reasonableness of a given cost, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.

(b) The restraints or requirements imposed by such factors as: Sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.

(c) Market prices for comparable goods or services for the geographic area.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government.

(e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

45 CFR 75.405

- (a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:
- (1) Is incurred specifically for the Federal award;
 - (2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and
 - (3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.
- (b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.
- (c) Any cost allocable to a particular Federal award under the principles provided for in this part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.
- (d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding [paragraph \(c\)](#) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 200.310 through 200.316 and 200.439.
- (e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this part.

HILC Personnel Policies and Procedures Manual

Timesheets: Maintaining an accurate record of time worked is an employee requirement in order to process time- sheets and salary payments promptly. Time- sheets must be used to record all hours worked: straight, overtime, personal and sick time and submitted in the original form to the Associate Director with employee signature. In addition, employees must use the Daily Book- located at the front desk-to input morning arrivals, lunch breaks, and sign- outs on a daily basis. It is important all entries are filled out in the Daily Book as employee's run the risk of getting docked by the number of empty entries in the book.