



*Advancing independence and inclusion of
older adults and people with disabilities*

**CENTERS FOR INDEPENDENT LIVING
COMPLIANCE REVIEW REPORT**

VOLAR Center for Independent Living
Grant Award Numbers: 2209TXILCL, 2009TXILC3 and 2209TXILPH
El Paso, Texas

REVIEW DATES: October 30 – November 3, 2023
Draft Report: June 10, 2024
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Final Report: September 16,
2024

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I. PURPOSE OF THE ONSITE COMPLIANCE REVIEW

Sections 706(c) and 722 of the *Rehabilitation Act of 1973, as amended* (Rehabilitation Act) mandate that the Administration for Community Living (ACL) conduct reviews of centers for independent living (CILs) funded under Title VII, Part C, § 722. 29 U.S.C. § 796d–1(c); 29 U.S.C. 796f–1(g). The objectives of reviews are to:

- Assess compliance with the requirements of § 725(b) and (c)(3) of the Rehabilitation Act;
- Study program operations, organizational structure and administration of the CIL under § 725(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 § 725(c)(4) of the Rehabilitation Act, conditions of the CIL’s approved application, and consistency with the State Plan for Independent Living (SPIL);
- Identify areas of 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) within the Administration on Disabilities (AoD)/Administration for Community Living (ACL) identified VOLAR Center for Independent Living to participate in a comprehensive virtual onsite review because of potential internal-control deficits identified by the ACL Office of Fiscal Operations (OFO). ACL completed a virtual onsite review of VOLAR CIL on October 30 – November 3, 2023. During the virtual onsite review, ACL reviewed activities and documents from September 30, 2021 through the date of the review (program years [PYs] 22–23¹) (hereafter “the review period”) with a focus on program and fiscal operations related to VOLAR CIL’s administration of Title VII, Part C funds and its supplemental CARES Act award. ACL conducted interviews with six of the center’s management and staff and met with two members of the board of directors, one consumer, and two community partners. In addition to the interviews, ACL reviewed program and financial documents in accordance with the Compliance and Outcome Monitoring Protocol (COMP), including written policies, procedures, and other documents that verified compliance with standards and indicators.

The ACL review team participants were

- Peter Nye, ACL, Office of Independent Living (OILP) program officer, review lead
- Erica McFadden, Director, OILP
- Susan Dooha, OILP Non-federal reviewer; retired CIL Executive Director

¹ Federal fiscal year (FFY) 21–22; grant number 2209TXILCL.

- Vincent Woodard, Grants Management Specialist
- Jessenia Falwell, Grants Management Specialist

- Aaron Taylor, Supervisory Grants Management Specialist

We appreciate VOLAR CIL’s willingness to accommodate the review team, and their openness and flexibility throughout this process. The following data summarizes the review team’s findings and next steps for the CIL to follow to develop a Corrective Action Plan (CAP). To provide support to the CIL, we will refer OILP’s technical assistance provider, ILRU, to assist throughout this process to assure that VOLAR CIL is successful.

III. OVERVIEW – VOLAR CIL

VOLAR CIL’s mission is to advocate for the human and civil rights of people with disabilities. The organization promotes community options and increases opportunities for people with disabilities to live where, with whom, and how they choose. VOLAR CIL serves El Paso County, where most residents speak Spanish as their primary language.

In Program Year 2023, VOLAR CIL had a net operating budget of \$1,041,927. Of this, \$234,231 was Part C funding. At the time of the review, VOLAR CIL had a staff of seventeen people. VOLAR CIL had six board members, three of whom self-identified as having disabilities. In PY 2023, VOLAR CIL served a total of 233 consumers. The largest racial or ethnic category served was Hispanic or Latino, and the largest disability category served was physical disability. The most frequently provided service was information and referral.

IV. FINDINGS AND CORRECTIVE ACTIONS

ACL’S COMP review of VOLAR CIL identified compliance findings, which are discussed in this report.¹ Within 30 days of receipt of the report, VOLAR CIL 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 whether each corrective action has been effective; and
- (3) The timetables for the implementation and evaluation of the corrective actions.

Programmatic Compliance Findings

Finding 1: VOLAR CIL is not adequately recording services in consumer information files (CIFs) and Independent Living Plans (ILPs) to ensure accuracy of the annual program performance report (PPR)

Legal Requirement: 29 U.S.C. § 796f–4(b)(2–3); 29 U.S.C. § 796f–4(c)(8)(B–C); and 45 CFR § 75.303(e)

Discussion: VOLAR CIL gave ACL access to twenty seven consumer information files (CIFs), many of

¹ ACL reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, draw down restrictions, funds withholding, or grant terminations, pursuant to HHS policy and Uniform Guidance. 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).

which did not adequately document intake, goals, and progress. The review team provided feedback to VOLAR CIL staff throughout the review. VOLAR CIL's CIFs contain inadequate documentation to meet state and federal requirements, and unnecessary personal information.

- **Intake and Progress Notes:** The 27 CIFs that the team reviewed did not consistently include adequate intake or progress notes—including services needed—or adequate descriptions of progress toward goals. For example, some of these CIFs describe services provided without any notes describing how VOLAR CIL worked with the consumer or documenting milestones the consumer was, or was not, reaching. VOLAR CIL staff told the review team that they had not been keeping progress notes since 2019. Further, the CIL staff included unnecessary personal information that was not relevant to the delivery of CIL services.
- **Documentation of Core Services:** The CIL is inadequately documenting core services provided. For example, although it reports to have provided transition services to youth who have left secondary education, the CIFs do not reflect that these services were provided. Multiple CIFs that were reviewed showed the transition age of the consumer and goals related to transition to post school life but failed to classify appropriately the Youth/Transition core service.
- **Quality Assurance Procedures:** VOLAR CIL's current quality assurance procedures to periodically review data and ensure PPR accuracy are not addressing the previously listed issues. The review team discussed with VOLAR CIL how proper documentation in CIFs would enable reliable program performance reporting, and the importance of staff training on CIF documentation and data system requirements to ensure that complete and accurate records are kept.

Finding: VOLAR CIL is not in compliance with 29 U.S.C. § 796f-4(c)(8)(B) or 29 U.S.C. § 796f-4(c)(8)(C) of the Rehab Act. All CILs are required to demonstrate they are maintaining records that are adequate to measure performance (45 CFR § 75.342) with respect to the standards set forth in the Act (29 U.S.C. § 796f-4(c)(8)).

VOLAR CIL has not been adequately recording goals or progress toward those goals in CIFs. It has not been accurately classifying services in CIFs for youth who are not attending school for whom VOLAR CIL has been providing transition services.

Corrective Actions:

- 1) Within 30 days of receipt of the final report, VOLAR CIL will delete from the CIFs—and discontinue recording—any sensitive, personal information that is not required to receive CIL services. These changes should be reflected in the organization's documents, policies, and procedures, where applicable.
- 2) Within 90 days of receipt of the final report, VOLAR CIL will develop and implement staff training on how to conduct intake on consumers, set goals, monitor consumers' progress, and document these activities and services provided in the CIFs. The training shall include what activities should be captured in the Youth services category, which is the core service requirement of a CIL.
- 3) Within 90 days of receipt of the final report, VOLAR CIL will develop CIF-management policies and procedures and develop and adopt quality assurance measures to ensure that CIFs are compliant with federal requirements.

- 4) Within 120 days of receipt of the final report, VOLAR CIL's CIFs will reflect appropriate documentation regarding goal setting, services, and progress towards goals, which should comply with VOLAR CIL's policies and procedures and internal controls.

Technical Assistance: VOLAR CIL requests technical assistance.

VOLAR CIL Report Response:

Corrective Action:

1) Volar CIL will delete from the CIFs and discontinue recording any sensitive, personal information that is not required to receive CIL services as soon as the CIL Suite and Quality Control personnel return from the previously requested annual leave vacation.
Corrections will be made within 30 days.

2) Volar CIL request technical assistance from ILRU to develop and implement staff training on how to conduct intake on consumers, set goals, monitor consumers' progress, and document these activities and services provided in the CIFs. The training shall include what activities should be captured in the Youth services category, which is the core service requirement of a CIL.
Training will be taking place within 90 days.

3) Volar CIL will develop in collaboration with board members CIF management policies and procedures and develop and adopt quality assurance measures to ensure that CIFs are compliant with federal requirements.
Volar CIL will comply with federal requirements within 90 days.

4) Volar CIL's CIFs will reflect appropriate documentation regarding goal setting, services, and progress towards goals, which should comply with Volar CIL's policies and procedures and internal controls. Following new updated policies, the Volar CIL staff will document appropriately the goals, services and progress towards the goals the consumer sets.
Volar CIL will comply with the updated policies and procedures within 120 days.

ACL Final Response: ACL accepts the correct action plan submitted from VOLAR CIL.

Finding 2: VOLAR CIL lacks policies and procedures for hiring and promoting people with significant disabilities

Legal Requirement: 29 U.S.C. § 705(21)(B); 29 U.S.C. § 796f-4(c)(2); 29 U.S.C. § 796f-4(c)(5) and § 796f-4(c)(2)

The Rehab Act distinguishes between a person with a disability and a person with a significant disability with regards to CIL staffing and board composition. By statute, "individual with a significant disability" is defined as:

“a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively” (29 U.S.C. § 705(21)(B)).

The board is required to have a majority of members with significant disabilities (29 U.S.C. § 796f-4(c)(2)). CILs are also required to maintain information on the number of individuals with significant disabilities who are employed by the CIL, and the number who are in management and decision-making positions (*Id.*; *Id.* at § 796f-4(c)(8)(E)). The review team interviewed the VOLAR CIL Executive Director and reviewed the board rosters and found that the CIL did not have an objective method for distinguishing between significant disability and disability among their staff and board to ensure they were meeting this requirement. While the board by-laws state a majority are to have “severe” disabilities, there is no definition of what that is to ensure the board is meeting the requirement. And although VOLAR has personnel policies that include a brief policy about hiring and advancing qualified individuals with significant disabilities (*Id.* at § 796f-4(c)(5)), it does not have a process in place for doing so.

VOLAR CIL is not in compliance with 29 U.S.C. § 796f-4(c)(5) and § 796f-4(c)(2) because it lacks procedures for identifying and supporting representation and advancement of staff and board members with significant disabilities within the organization.

Corrective Actions:

- 1) Within 90 days of receipt of the final report, VOLAR CIL will have a clear policy and procedures that supports recruitment and advancement of people with significant disabilities among staff and board.
 - a. This policy should cite the statutory definition of “significant disabilities” and specify that VOLAR CIL will maintain information on the number of individuals with significant disabilities its employs, and the number who are in management and decision-making positions. The board by-laws should also reflect this policy.

Technical Assistance: [VOLAR requests/does not request technical assistance.]

VOLAR CIL Report Response:

Corrective Action:

On the Policy, Procedure & Operations manual emailed on 10/23/2023 is cited:

Staff Qualifications

General Independent Living Services Staff Requirements

Volar CIL organizational and personnel assignment practices, as documented in written board policy, must comply with Section 503 of the Act, including taking affirmative action to employ and promote qualified individuals with significant disabilities.

Volar CIL must also document that the majority of its staff members, including members in decision-making positions, are people with significant disabilities. Please advise if we need to include anything else.

Methodology:

Because of the lack of job applicants with any type of disability when vacancies were available at Volar CIL, in 2007 the Executive Director of Volar CIL applied and was appointed by Major John Cook to the Upper Rio Grande Workforce Development Board/Workforce Solutions. During that same year we co-created the first Disability Subcommittee in the State of Texas as part of the Upper Rio Grande Workforce Development Board/Workforce Solutions Borderplex. The subcommittee consisted of the Managers of TWC/Vocational Rehabilitation and Blind Services, UTEP Director of Center for Students with Disabilities, Director of the ARC of El Paso, EPCC Director of Center for Students with Disabilities, the subcommittee provided direct input to the Workforce Development Board in promoting and supporting innovative programs to educate employers

regarding employees with disabilities. It was a very successful program. In 2021 the Workforce Solution updated their policies to include the term limits in the regular board and the subcommittees and my term expired after serving 14-years. Volar CIL still networks with all these organizations for different purposes including the announcement of vacancies in our programs, but it is very seldom that job seekers with significant disabilities apply.

Volar CIL will seek advice from ILRU and will request our CIL association TEXCIL to include this item on the agenda for the next or following month to discuss best practices in seeking employees with disabilities.

Volar CIL will enforce affirmative action to employ qualified individuals with significant disabilities. During the monitoring period Volar CIL had twelve of fifteen employees with disabilities, five members with significant disabilities and two of five in decision making positions.

Also, during the monitoring period Volar CIL board of directors consisted of six members, three with disabilities and three non-disabled. Two of the six have significant disabilities. In April 2024 a new board member was elected. This time the newest member has a significant disability. Currently, we have three with significant disabilities, one disabled and three non-disabled.

Volar CIL will be aggressively searching for employees and board members with disabilities by talking with student groups in bout EPCC, UTEP, and disability organizations such as El Paso Desert ADAPT and Grupo DIO, Texas Workforce Commission and Workforce Solutions Borderplex.

Volar CIL will not hire employees and recruit board members until complies with statutes.

On 9/6/24 Executive Director will meet with Bobby Alcala, Vocational Rehabilitation Manager from Texas Workforce Solutions to discuss employment and board membership opportunities with Volar CIL.

Timetable:

Volar CIL will provide corrections within 90 days.

ACL Final Response: Please ensure your revised policy includes reference to 29 U.S.C. § 796f-4(c)(5) and § 796f-4(c)(2) and that the CIL has written procedures in place for hiring, promoting, and retaining staff with significant disabilities. Please also ensure that the definition cited for significant disabilities corresponds to 29 U.S.C. § 705(21)(B).

Finding 3: VOLAR CIL does not have clear priorities established through 3-year program and financial planning objectives for the Center

Legal Requirement: 29 U.S.C. § 796f-4(c)(4)

Discussion: VOLAR CIL is not in compliance with the legal requirement 29 U.S.C. § 796f-4(c)(4) because it lacks a plan that includes annual and three-year program and financial planning objectives. Having a three-year plan permits an organization to measure progress towards achieving desired results and identify actions needed to diversify funding., which is another statutory requirement. CILs “shall conduct resource development activities to obtain funding from sources other than this part” (29 U.S.C. § 796f-4(b)(7)). Almost all the funding that VOLAR CIL received during the review period was Rehabilitation Act, Title VII funding. A clear financial plan would help meet this requirement.

Finding: VOLAR CIL is not in compliance with 29 U.S.C. § 796f-4(c)(4) because it lacks annual and three-

year program and financial planning objectives.

Corrective Actions:

- 1) Within 30 days of receipt of the final report, VOLAR CIL will receive training on methods or a strategy on how to develop a program plan and how to diversify their funding. These trainings should help inform the 3-year financial plan.
- 2) Within 90 days of receipt of the final report, VOLAR CIL will develop an annual strategic plan that includes three-year program and financial planning objectives.

VOLAR CIL Report Response:

Corrective Action:

Volar CIL made arrangements with Tracy Yellen, CEO of the Paso del Norte Community Foundation to facilitate a Strategic Planning session between the board of directors and staff of Volar CIL on 5/16/24. The 3-year Strategic Plan was made.

Methodology:

Volar CIL seeking assistance from various organizations found assistance from one of the largest and most successful nonprofits in the region. Tracy Yellen the CEO of the Paso del Norte Community Foundation. One evening session with staff and board members provided us with a 3-year Long Range and Strategic Plan.

Timetable:

Completed 6/16/24. Plan attached.

ACL Final Response: VOLAR CIL submitted a plan that lacks detail and did not meet statutory requirements under 29 U.S.C. § 796f-4(c)(4), which requires that the CIL have a plan that includes annual and three-year program and financial planning objectives. VOLAR is required to revisit the submitted workplan to ensure it meets statutory requirements. ACL will correspond with VOLAR CIL about what's needed to revise the submitted plan.

Finding 4: VOLAR CIL does not provide adequate training for staff to conduct aggressive outreach to unserved and underserved populations.

Legal Requirement: 29 U.S.C. § 796f-4(c)(2) and 29 U.S.C. § 796f-4(c)(10-11)

Discussion: VOLAR CIL failed to submit documentation of training for its staff on the topic of conducting outreach to unserved and underserved populations. When the review team asked whether the CIL provided trainings for staff, VOLAR CIL replied that, since COVID began, there were very limited trainings. There has been occasional collaboration with a local foundation on how to be a board member of a nonprofit organization. The staff also completed annual safety trainings. Staff had not been receiving training on how to serve unserved and underserved populations – a statutory requirement.

In addition, VOLAR CIL lacks an outreach plan and visibility in the community to ensure it is able to conduct effective “aggressive outreach to underserved,” as required by statute (29 U.S.C. § 796f-4(c)(10)). The VOLAR CIL has few staff conducting outreach, as indicated by staff job descriptions and interviews. Interviewees explained that the CIL had been closed during COVID, and that the CIL was now ramping back up. However, everyone interviewed also stated that more could be done to increase VOLAR CIL's visibility. Community partners who were interviewed mentioned only one person that they

knew well from the CIL, and it was the same person dedicated to outreach at the CIL. The most recent PPR reported commercial advertisements related to the COVID -19 vaccine, but few other community activities. External interviewees stated that many knew VOLAR CIL served adults with disabilities but did not know that VOLAR CIL is required to serve youth and young adults with IEPs who have left secondary education. As a result, the CIL struggles to provide youth transition as a required core service. External organizations are not aware the CIL serves youth.

Finding: VOLAR CIL is not in compliance with the assurances that “aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural population” and that “staff at [CILs] . . . receive training on how to serve . . . unserved and underserved populations, including minority groups and urban and rural populations.” 29 U.S.C. § 796f–4(c)(10-11).

Corrective Actions:

- 1) Within 30 days of receipt of the final report, VOLAR CIL will develop a system of tracking staff training for each individual and ensure that staff receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.
- 2) Within 60 days of receipt of the final report, VOLAR CIL’s training records will reflect that staff received the required trainings.
- 3) Within 90 days, the CIL will demonstrate they have created an outreach plan that increases engagement with unserved and underserved populations, including minority groups and urban and rural populations. The plan should include metrics to show a documented increase in completed community activities and number of consumers served as a result.

VOLAR CIL Report Response:

Corrective Action:

- 1) Volar CIL will provide staff training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.
- 2) Volar CIL’s training records will reflect that staff received the required trainings.
- 3) Volar CIL will create an outreach plan that increases engagement with unserved and underserved populations, including minority groups and urban and rural populations. The plan should include metrics to show a documented increase in completed community activities and the number of consumers served as a result.

Methodology:

The Volar CIL Executive Director co-organized Grupo Dignidad, Igualdad y Oportunidad (Grupo DIO) a social, educational and advocacy group for non-English speaking individuals with disabilities in 1988. The group continues operation and currently our board president Dolores Salazar and her brother Marc Salazar are the treasurers of the organization. Recently, Volar CIL has established a relationship with one of the Social Workers from the Ysleta del Sur Pueblo. Volar will seek training from ILRU to improve the skills to reach out to unserved and underserved populations.

Timetable:

Volar CIL will seek training opportunities with ILRU and receive training within 60 days and complete courses

within 90 days. And follow the corrective action plan as required.

ACL Final Response: ACL accepts this response from VOLAR CIL.

Finding 5: VOLAR CIL does not comply with equal access requirements

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

Discussion: VOLAR CIL has maintained they are fragrance free. However, it does not visibly post its fragrance-free policy, and staff shared that the CIL does not have fragrance-free soap in the restrooms, which becomes inaccessible to consumers who are allergic or who have chemical sensitivities.

Finding: VOLAR CIL is not in compliance with 29 U.S.C. § 796f-4(b)(1)(D). VOLAR is not currently fragrance free, which creates an access barrier for some people whose disabilities cause fragrance sensitivity.

Corrective Actions:

- 1) Within 30 days of receipt of the final report, VOLAR CIL will visibly post in its building, its newsletter, and on its web site a statement of its fragrance-free policy, and VOLAR CIL should comply with this policy, including by providing fragrance-free soap.

VOLAR CIL Report Response:

Corrective Action:

Volar CIL comply with the requirements and will publicize aggressively that it is a fragrance-free organization and will post signs in various areas of the building, its newsletter, and on its web site a statement of its fragrance-free policy, and Volar CIL should comply with this policy, including by providing fragrance-free soap.

Methodology:

Will order signs, publicize the fragrance-free organization requirements.

Timetable:

30 days

ACL Final Response: ACL accepts this response from VOLAR CIL.

Fiscal Compliance Findings

Finding 6: VOLAR CIL retained and expended CARES award funds beyond the award end date

Legal Requirement: 45 CFR § 75.305(b)(1); 45 CFR § 75.309(a); and 45 CFR § 75.403(a)

Discussion: ACL learned that VOLAR still had a balance remaining for its CARES award when VOLAR CIL sent an email to ACL in March 2023 requesting guidance on using their remaining CARES funds. ACL then reviewed VOLAR CIL's FY 2022 Single Audit report and identified CARES award expenditures in FY 2022,

even though the award ended on September 30, 2021. ACL determined that VOLAR CIL established a separate subaccount in its accounting system to manage the CARES award. When establishing the subaccount, VOLAR CIL failed to implement appropriate controls to ensure that funds were not expended beyond the award end date and that any unused funds were promptly returned to the Payment Management System (PMS).

VOLAR CIL received its CARES award totaling \$224,650 on April 20, 2020. The award had an April 1, 2020 – September 30, 2021 project period. VOLAR CIL drew down the entirety of its award on June 1, 2020. At the time of drawdown, VOLAR CIL had not incurred expenses equal to the award amount, so VOLAR CIL was required to return the funds that did not have assignable expenses. VOLAR CIL did not return the excess funds and held the unused funds in its bank account.

As a result of VOLAR's draw activity, FY 2021 ACL records showed that VOLAR CIL did not have any remaining CARES award funding in PMS. However, ACL's review found that the CARES award general ledger showed a retained grant fund balance of \$72,865.48 in their bank account at the end of the award period (September 30, 2021). The zero dollar award balance in PMS meant that VOLAR CIL was not awarded a no-cost extension (NCE) to September 30, 2022, because ACL only granted NCEs to CIL grantees that had more than \$10 remaining in PMS as of June 2021. At the time of the NCE decision, VOLAR CIL had fully disbursed their CARES award funds from PMS, therefore ACL could not have known that VOLAR needed additional time. Additionally, ACL was unable to identify a draw versus expenditure discrepancy in the Federal Financial Reports (FFRs or SF-425s) because VOLAR failed to complete the required reports. Instead of returning the \$72,865.48 balance at the end of the award period (September 30, 2021), VOLAR CIL retained the funds and continued to incur expenses in FY 2022 and beyond. In FY 2022, VOLAR CIL recorded \$52,771.99 in expenses against the CARES award, leaving a balance of \$20,133.45 on September 30, 2022.

VOLAR CIL communicated to ACL that they thought they received an NCE to continue using the funds in FY 2022, even though an updated Notice of Award was never issued. ACL understands that VOLAR CIL was not considered for an NCE in June 2021. Therefore, ACL will reopen this closed award to implement a retroactive NCE to September 30, 2022. This will make the \$52,771.99 in FY 2022 expenses allowable. VOLAR CIL must complete the required financial reporting in PMS and repay the balance of \$20,133.45 in unexpended CARES award funds as of September 30, 2022. Once the reporting issues and repayment are complete, ACL will re-close the award.

Finding: VOLAR CIL is out of compliance with the requirements and expectations of 45 CFR § 75.305(b)(1); 45 CFR § 75.309(a); and 45 CFR § 75.403(a), because they retained CARES award grant funds beyond the period of performance for continued use beyond the terms and conditions of the Notice of Award.

Corrective Actions:

- 1) By 30 days from report issuance, VOLAR CIL will complete the required CARES award financial reports and make repayment totaling \$20,133.45.

VOLAR CIL Report Response:

Corrective Action:

The Cares Act repayment totaling \$20,133.45 does include \$10,132.18 that was expensed for Cares

Act purposes after the grant closing period is an issue for Volar, but we understand the need for compliance. We were prepared to transfer the funds back on Friday, August 8, 2024, via the PMS system but were told by the helpdesk that we needed to involve the Volar PMS Systems Volar Liaison, Ms. Thuy Tran, who was unavailable. We will try and involve her in the return transaction on Monday August 12th.

Methodology:

On Monday August 12th, I, Danny Monroe, will contact Ms. Thuy Tran via email or telephone, our PMS systems liaison and verify her receipt of the email I sent her on Friday providing the Volar Cares Act account number and Cares Act grant number needed to process the return of the Cares Act Funding. I will inform her of the ACL monitoring and findings referencing our financial records. I will request assistance with verification and execution of the steps needed to return the Cares Act funds to the appropriate accounts.

Timetable:

30/60/90/120 days

ACL Final Response: *ACL accepts that VOLAR CIL will make the requested repayment. ACL is available to provide support with PMS functions as needed. ACL will work with VOLAR CIL to ensure that the federal financial reports are properly updated.*

Finding 7: VOLAR CIL retained and expended Part C award funds beyond the award end date

Legal Requirement: 45 CFR § 75.305(b)(1); 45 CFR § 75.309(a); 45 CFR § 75.381(d); and 45 CFR § 75.403(a)

Discussion: Through a review of VOLAR CIL’s FY 2020 – FY 2023 Part C general ledgers, ACL identified a line item called “unrestricted net assets.” After reconciling the award funds drawn for each year versus the expenses incurred, ACL determined that the “unrestricted net assets” was a repository of retained Part C award funds that did not have an assignable expense during the applicable award period. From the start of FY 2020 (October 1, 2019) to end of FY 2022 (September 30, 2022) the amount recorded in the “unrestricted net assets” line item grew from \$7,278.46 to \$84,119.74 (increase of \$76,841.28).

Over the three-year period, VOLAR CIL retained \$76,841.28 in Part C award funds without assignable expenditures. VOLAR CIL is not allowed to retain these funds; at the end of each project period, federal law requires VOLAR CIL to repay the balance of unused funds to PMS. Therefore, VOLAR CIL must repay a balance of \$76,841.28 to ACL. Based on the general ledgers, the repayment amounts by award are detailed below:

- FY 2019 Part C Award –\$22,574.97
- FY 2020 Part C Award –\$35,705.99
- FY 2021 Part C Award –\$18,560.32

ACL will request PMS reopen the identified awards to permit VOLAR CIL to make repayment. After making repayment, VOLAR CIL must update the financial reports in PMS to reflect the accurate reconciliation of drawdowns and expenses. ACL will then re-close the awards.

Finding: VOLAR CIL is out of compliance with the requirements of 45 CFR § 75.305(b)(1); 45 CFR §

75.309(a); 45 CFR § 75.381(d); and 45 CFR § 75.403(a), because they retained Part C award grant funds for continued use beyond the terms and conditions of the Notice of Award.

Corrective Actions:

- 1) By 30 days from report issuance, make repayment totaling \$76,841.28 and VOLAR CIL will complete the required Part C award financial reporting revisions.

Technical Assistance: Aaron Taylor provided PMS System documentation outlining the information and steps needed to reopen , correct and return unexpended funds.

VOLAR CIL Report Response:

The Part C funding repayment totaling \$76,841.28 for fiscal periods 2019 \$22,574.97, 2020 \$35,705.99 and 2021 \$18,560.32 are funds that were drawn but unexpended. We understand the need for compliance. We were prepared to transfer the funds back on Friday, August 8, 2024, via the PMS system but were told by the helpdesk that we needed to involve the Volar PMS Systems Liaison, Ms. Thuy Tran, who was unavailable. We will try and involve her in the return transaction on Monday August 12th.

We were prepared to transfer the funds back on Friday, August 8, 2024, via the PMS system but were told by the helpdesk that we needed to involve the Volar PMS Systems Liaison, Ms. Thuy Tran, who was unavailable. We will try and involve her in the return transaction on Monday August 12th.

The updated Volar Financial Policies. The below are two policy items from the Volar Financial Policies.

Volar Financial Reports

Volar will complete financial reports for Independent Living Services, to include the original annual budget, quarterly financial report, quarterly program income report, all budget revision requests, and financials monthly, quarterly, and annual close out reports for each funding source. Volar will submit a Quarterly and Annual close out Financial Report to each funding agency or place on file for monitoring and auditing review. This report will be available for review within 30 days after the end of the quarter. The report will be available for review 45 days after the end of the year.

The financial reports are linked in the Budget Workbook to facilitate completion of the reports and to support ongoing budget oversight, including a comparison of actual-to-budgeted funds. When a financial report is completed, it will be saved separately, named appropriately, and submitted for review.

UNEXPENDED FUNDS

If the annual close out report provides data outlining that there are unexpended funds on hand those funds will be returned to the funder.

CASH MANAGEMENT POLICY

Volar will request grant funds from the Texas Health and Human Services (HHSC) for no more than a 30-day operating period and from the Administration for Community

Living (ACL) for no more than a 3-day operating period. Volar will request grant funds from other sources per their guidelines.

If requested grant funds are not encumbered or spent within the above timeline granting agencies will be notified as soon as possible and Volar will adhere to the instructions given by the granting agency as to the disposal of such funds.

Any excess, unexpended funds will be reported and adjusted on the organization's next request for advance or reimbursement to HHSC and/or ACL.

At the end of the year, any excess, unexpended grant funds will be returned to the funder at the close of the fiscal year.

Grant funds are spent in accordance with federal and/or state laws or regulations and as budgeted and in compliance with applicable cost categories, limitations, and/or contract, if expenditures are more than budgeted amounts; then the expenditure are reduced accordingly, or the excess amount is allocated to unrestricted funds or program income if allowed. Volar will use grants funds to achieve the expected outcomes in the grant work plan. Financial reports are reviewed monthly by the Executive Director and variances are researched by the Chief Financial Officer who submits a report to the Executive Director. Projections are used for making budget adjustments.

ACL Final Response: *ACL accepts that VOLAR CIL will make the requested repayment. ACL is available to provide support with PMS functions as needed. ACL will work with VOLAR CIL to ensure that the federal financial reports are properly updated.*

Finding 8: Inadequate financial management policies and procedures

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

Discussion: ACL received a policy and procedure manual called “VOLAR CIL Policy Procedure Manual Revised 6-23-21” (Policy Manual). VOLAR CIL shared that the Policy Manual was updated in June 2021 and approved by the Board. The Policy Manual did not have an execution date or leadership signature(s). VOLAR CIL shared that no signature(s) were obtained because of the remote work environment during the COVID-19 pandemic and the death of the Board president. VOLAR CIL provided a certification page on October 25, 2023, formally executing the Policy Manual with signature by the Executive Director and Board President.

ACL reviewed the Policy Manual in detail and determined that, even though it was updated in 2021, it had outdated statutory and regulatory citations such as references to OMB Circular A-122 and continued reference to the Department of Education even though Independent Living programs are now administered by ACL (and have been since 2015). In addition, some of the Policy Manual’s narrative sections contradict one another. Overall, the Policy Manual fails to clearly communicate VOLAR CIL’s policies and procedures and internal controls.

From a financial management and grants administration standpoint, ACL has the following concerns with the Policy Manual (this list is not comprehensive):

- The same key processes are discussed multiple times, but the policy standard is not always consistent section to section (ex. Payment approval and check issuance process).
- Except for a brief CARES Act mention, the document does not mention ACL or establish that ACL is a core funder. There are old references to Department of Education administration of Part C awards. Failure to include ACL and HHS information in the Policy Manual sets an inadequate baseline for award management.
- Award setup and award reconciliation processes are not sufficiently described.
- Job descriptions need to be updated, and VOLAR CIL needs to assess whether having one individual doing two jobs (bookkeeper and record manager) is reasonable long term. VOLAR CIL remarked about the difficulties experienced while this individual was out on extended leave.
- The Board's role in financial management needs to be more clearly articulated. VOLAR CIL communicated that the Board approves the CIL budget, and the CIL provides regular financial updates to the Board members, but it was unclear, beyond the budget, what financial oversight roles the Board maintains.
- VOLAR CIL did not follow its own policies and procedures about only drawing funds to meet its immediate needs, so the drawdown preparation and approval process needs to be revised, and it must include a commitment to return funds when amounts drawn are not expended.

Finding: VOLAR CIL is out of compliance with the requirements of 45 CFR § 75.302 and 45 CFR § 75.303. The CIL has inadequate policies and procedures and internal controls in place to manage federal awards in compliance with applicable federal statutes, regulations, and the award terms and conditions.

Corrective Actions/Milestones:

- 1) Within 30 calendar days of the issuance of the final report, VOLAR CIL should contact ILRU for technical assistance.
- 2) Within 120 calendar days of the issuance of the final report, VOLAR CIL should submit revised policies and procedures to ACL, for review and feedback.

VOLAR CIL Report Response:

Corrective Action:

See attached Volar Financial Policies (There is additional update work being done)

Methodology:

We're updating the policy and procedure manual getting board approval as we go.

Timetable:

Volar Policy and Procedure manual Completion in 90 days.

ACL Final Response: *In their initial response to this Finding, VOLAR CIL provided an updated financial management policy document and the policy excerpts outlined above. ACL has reviewed the updated policy document and appreciates the actions already taken by VOLAR CIL to improve their processes, however ACL has determined that further revisions are necessary. ACL will contact VOLAR CIL to explain the revisions so that a final policy can be developed that is responsive to all identified issues.*

Appendix: Legal Requirements

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

29 U.S.C. § 705 Definitions –

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

(E) services that[[

(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 postsecondary life.

(18) INDEPENDENT LIVING SERVICES.—The term “independent living services” includes—

(B)(ix) education and training necessary for living in a community and participating in community activities

(21) Individual with a significant disability

(B)Independent living services and centers for independent living

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

29 U.S.C. § 796d–1(c) Responsibilities of the Administrator

(c) ONSITE COMPLIANCE REVIEWS.—

(1) REVIEWS.—The Administrator shall annually conduct onsite compliance reviews of at least 15 percent of the centers for independent living that receive funds under section 722 and shall periodically conduct such a review of each such center. The Administrator shall annually conduct onsite compliance reviews of at least one-third of the designated State units that receive funding under section 723, and, to the extent necessary to determine the compliance of such a State unit with subsections (f) and (g) of section 723, centers that receive funding under section 723 in such State.

(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.

(d) REPORTS.—

(1) IN GENERAL.—The Director described in section 701A shall provide to the Administrator of the Administration for Community Living and the Administrator shall include, in an annual report, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Director may identify individual centers for independent living in the analysis contained in that information. The Director shall include in the report the results of onsite compliance reviews, identifying individual centers for independent living and other recipients of assistance under part C.

(2) PUBLIC AVAILABILITY.—The Director shall ensure that the report described in this subsection is made publicly available in a timely manner, including through electronic means, in order to inform the public about the administration and performance of programs under this Act.

29 U.S.C. § 796f–1(g) Grants to Centers for Independent Living in States in which Federal Funding Exceeds State Funding

(g) REVIEW.—

(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 725. 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 725, the Administrator shall immediately notify such center that it is out of compliance.

(2) ENFORCEMENT.—The Administrator shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan to achieve compliance within 90 days of such notification and such plan is approved by the Administrator.

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

(a) In general

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

(b) Standards

(1) Philosophy

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

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

(B) self-help and self-advocacy;

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

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

(2) Provision of services

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

(3) Independent living goals

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

(4) Community options

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

(5) Independent living core services

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

(6) Activities to increase community capacity

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

(7) Resource development activities

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

(c) Assurances

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

(1) the applicant is an eligible agency;

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

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

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

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

- (6) the applicant will ensure that the majority of the staff, and individuals in decision-making positions, of the applicant are individuals with disabilities;
- (7) the applicant will practice sound fiscal management;
- (8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—
 - (A) the extent to which the center is in compliance with the standards;
 - (B) the number and types of individuals with significant disabilities receiving services through the center;
 - (C) the types of services provided through the center and the number of individuals with significant disabilities receiving each type of service;
 - (D) the sources and amounts of funding for the operation of the center;
 - (E) the number of individuals with significant disabilities who are employed by, and the number who are in management and decision-making positions in, the center; and
 - (F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;
- (9) individuals with significant disabilities who are seeking or receiving services at the center will be notified by the center of the existence of, the availability of, and how to contact, the client assistance program;
- (10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with significant disabilities that are unserved or underserved by programs under this subchapter, especially minority groups and urban and rural populations;
- (11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;
- (12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);
- (13) the center will prepare and submit a report to the designated State unit or the Administrator, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and
- (14) an independent living plan described in section 796c(e) of this title will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

45 CFR § 75.300 - Statutory and national policy requirements

(b) The non-Federal entity is responsible for complying with all requirements of the Federal award. For all Federal awards, this includes the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the non-Federal entity at 2 CFR part 25 and 2 CFR part 170. See also statutory requirements for whistleblower protections at 10 U.S.C. 2324 and 2409, and 41 U.S.C. 4304, 4310, and 4712.

45 CFR § 73.303 - Internal controls

The non-Federal entity must:

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

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

45 CFR § 75.342 - Monitoring and reporting program performance

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also § 75.352.

(b) Non-construction performance reports. The HHS awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the HHS awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the HHS awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the HHS awarding agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved government-wide standard information collections when providing performance information. As appropriate in accordance with the above-mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the HHS awarding agency program, the HHS awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by HHS awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The HHS awarding agency may require additional performance reports only when considered necessary.

(d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the HHS awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(e) The HHS awarding agency may make site visits as warranted by program needs.

(f) The HHS awarding agency may waive any performance report required by this part if not needed.

45 CFR § 1329.7 - Enforcement and appeals procedures.

(a) Process for Centers for Independent Living.

(1) If the Director of the Independent Living Administration (Director) determines that, as the result of the Onsite Compliance Review process defined in section 706(c)(2), or other review activities, any Center receiving funds under this part, other than a Center that is provided Part C funding by the State under section 723 of the Act, is not in compliance with the standards and assurances in section 725 (b) and (c) of the Act and of this part, the Director must provide notice to the Center pursuant to guidance determined by the Administrator.

(2) The Director may offer technical assistance to the Center to develop a corrective action plan or to take such other steps as are necessary to come into compliance with the standards and assurances.

(3) The Center may request a preliminary appeal to the Director in a form and manner determined by the Administrator. The Director shall review the appeal request and provide written notice of the determination within a timely manner.

(4) Where there is a determination that falls within 45 CFR part 16, appendix A, C.a.(1)–(4), the Center may appeal an unfavorable decision by the Director to the Administrator within a time and manner established by the Administrator. The Administrator shall review the appeal request and provide written notice of the determination within a timely manner.

(5) The Administrator may take steps to enforce a corrective action plan or to terminate funding if the Administrator determines that the Center remains out of compliance.

(6) Written notice of the determination by the Administrator shall constitute a final determination for purposes of 45 CFR part 16. A Center that receives such notice of a determination that falls within 45 CFR part 16, appendix A, C.a.(1)–(4), may appeal to the Departmental Appeals Board pursuant to the provisions of 45 CFR part 16.

(7) A Center that is administered by the State under Section 723 of the Act must first exhaust any State process before going through the process described in paragraphs (a)(1) through (6) of this section.