**Frequently Asked Questions (FAQ)**

**SILC Resource Plans**

**Introductory Note:** For a State to be eligible to receive financial assistance authorized by the Rehabilitation Act, as amended, Title VII, Chapter I, the State must establish and maintain a Statewide Independent Living Council (SILC). The State Plan for Independent Living (SPIL) provides for establishment of the SILC and a plan for funding the administrative costs of the SILC, referred to as the SILC resource plan. The SILC functions include monitoring, reviewing, and evaluating the implementation of the SPIL. It is critical that SILC autonomy over the SILC resource plan is recognized by the State as necessary to carry out the functions and authorities of the SILC.

ACL recognizes it may be helpful for SILCs, designated state entities (DSE), and other stakeholders to have a common understanding of the SILC resource plan and required SILC autonomy related to the resource plan. The following FAQ is intended to assist in developing a common understanding of the SILC resource plan and SILC autonomy.

**Q1: What is the SILC resource plan?**

**A1:** The SILC resource plan is the plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the SILC. (Sec. 705(e)(1))

**Q2**: **Who is responsible for developing and approving a SILC resource plan**?

**A2**: The SILC in conjunction with the DSE prepares the resource plan. The prepared resource plan becomes part of the SPIL which is jointly developed by the chairperson of the SILC and the directors of the centers for independent living in the State, after receiving public input from individuals with disabilities through the State. The SPIL is signed by the chairperson of the SILC, the director of the DSE, and not less than 51% of the directors of CILs in the State. The SPIL is submitted to the Administrator of ACL to obtain approval. (Sec. 705(e)(1)), (Sec. 704(a)(2)(A)), (Sec. 704(a)(2)(B)), (Sec. 704(a)(1)), (Sec. 706(A)(1)).

**Q3: What resources maybe included in a SILC resource plan?**

**A3:** The SPIL should provide a plan for the provision of such resources, including such staff and personnel, as may be necessary and sufficient to carry out the functions of the SILC, with funds made available under the Rehabilitation Act, as amended, and from other public and private sources. (Sec. 705(e)(1))

Funds available to the SILC resource plan under the Rehabilitation Act, as amended include:

* Up to 30% of funds paid to the State under section 712, commonly known as Subchapter B funds (Sec. 713((a)); and
* A portion of the [Vocational Rehabilitation] State plan funds allotted to the State under Sec. 110, commonly known as innovation and expansion activities or I&E funds. (Sec. 101(a)(18)(A)(ii)(II)), (Sec. 110), (Sec. 705(e)(1))

**Q4: What are considerations if the SILC resource plan is solely funded with Sec. 101 I&E funds?**

**A4:** It is not advised that a SILC resource plan be solely funded with I&E funds. A resource plan supported with diversified funding is strongly recommended (See Q3).

Section 101(a)(18) of the Act requires in part:

(18) Innovation and expansion activities

The [Vocational Rehabilitation] State plan shall—

(A) include an assurance that the State will reserve and use a portion of the funds allotted to the State under section 110—

….

(ii) to support the funding of—

….

(II) **The Statewide Independent Living Council, consistent with the plan prepared under section 705(e) (1);**

(B) Include a description of how the reserved funds will be utilized; and

(C) Provide that the State shall submit to the Commissioner an annual report containing a description of how the reserved funds will be utilized.

The statute makes clear that the [Vocational Rehabilitation] State plan must reserve a portion of innovation and expansion funds to support the funding of the SILC. However, the statute is silent on how the administration and oversight Sec. 101 funds are operationalized. The Sec. 101 funds are appropriated by the Department of Education (DoED) in support of the Vocational Rehabilitation State plan. Generally the Federal agency whose funds are utilized is responsible for fiscal and budgetary oversight. This means the DoED is responsible for the fiscal and budgetary oversight of Sec. 101 funds, including the authority to determine if costs comply with 2 CFR 200 Subpart E and other terms and conditions of the award. However, once committed to the SPIL and the SILC resource plan, it is incumbent on the DSE to ensure that oversight of the Sec. 101 funds does not infringe on the independence and autonomy of the SILC.

ACL intends to discuss this issue further with the DoED in an effort to identify how both agencies can develop appropriate and consistent guidance on this topic.

**Q5**: **What is the role of the DSE over funds specified in the SPIL?**

**A5:** The DSE is the agency that, on behalf of the State, receives, accounts for and disburses funds received under Chapter I based on the SPIL. The DSE is therefore responsible for the administration and oversight of all funds committed in the SPIL.

Regulations require the DSE to adopt fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for federal funds provided to SILCs, CILs, and/or other service providers. The DSE must comply with all applicable federal and State laws and regulations. Regulations provide that a State must have procedures for performing administrative responsibilities the State has determined are necessary to ensure compliance with applicable statutes and regulations. (45 CFR 1329.12(c))

ACL will afford due deference to a DSE in how it carries out its fiscal control and fund accounting procedures. Those procedures, however, must recognize and facilitate the SILC’s independence of the DSE and all other State agencies and must not include any conditions or requirements relating to the SILC’s resource plan that may compromise the independence of the SILC or that would interfere with the autonomy or day to day functioning of the SILC.

The DSE should also have a mechanism in place for assessing the SILC’s compliance with the fiscal requirements of section 705 and the SPIL.

**Q6:** **How must the DSE support SILC autonomy related to the SILC resource plan?**

**A6:** The regulations require the SILC be independent of and autonomous from the DSE and all other State agencies. (45 CFR 1329.14(b). This means in all possible manners the DSE must recognize the recognize SILC independence and autonomy and must facilitate the SILC preserving its independence and exercising its autonomy. The policies and procedures the DSE develops and implements with regard to the SILC Title VII responsibilities must facilitate independence and autonomy to the maximum extent allowable under state law and regulations.

**Q7:** **What is the funding mechanism through which the DSE provides resource plan funds to the SILC?**

**A7:** The funding mechanism through which the DSE disburses funds to the SILC will vary from State to State.

**Q8: What oversight does the DSE have over the SILC resource plan?**

**A8:** Related to Federal funds, the DSE must ensure the SILC complies with the fiscal requirements at 45 CFR Part 75 of the HHS regulations. The following fiscal requirements may help the SILC and DSE determine what costs are allowable, allocable and reasonable before those costs can be charged to the resource plan:

* 45 CFR 75.403 – Factors affecting allowability of costs;
* 45 CFR 75.404 - Reasonable costs; and
* 45 CFR 75.405 - Allocable costs.

The SILC is responsible for the proper expenditure of funds and use of resources that it receives under the resource plan. (45 CFR 1329.15(5). However, as part of its oversight activities, the DSE may question costs that are in excess of approved budgeted amounts or that do not appear reasonable under prevailing circumstances. (45 CFR 75.404). DSE fiscal procedures should include a clear process for when pre-approval for expenditures is required, timelines for pre-approvals, and how questionable costs will be addressed. In addition, the SILC should develop and implement a working budget and internal policies and procedures consistent with DSE fiscal controls and accounting procedures to prevent barriers to the SILC exercising independence and autonomy

**Q9: What happens when extenuating circumstances require changes to the SILC resource plan?**

**A9:** The SILC resource plan must, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the SPIL. (705(e)(1))) Unless related to established fiscal controls and accounting procedures, the DSE may not include any conditions or requirements on the continued receipt of funds that may compromise the independence of the SILC. (45 CFR 1329.15(c) (4)). The inability to achieve all its goals is not cause for the DSE to withhold funds from the SILC. In the event extenuating circumstances change the resources available in a SPIL, the State must contact ACL to identify whether a SPIL amendment is necessary.

The DSE may not unilaterally make changes to the funding sources committed in the SPIL or the SILC resource plan. The DSE may not limit access to such funds in whole or in part in a manner that is inconsistent with the SPIL or functions of the SILC. If any changes to SPIL funding or the SILC resource plan is anticipated, the Project Officer (PO) should be informed as soon as practicable. Depending on the nature of the proposed changes a SPIL amendment may be necessary and include public hearings. The DSE and the SILC may enter into negotiations and come to an agreement on proposed SPIL changes. No changes may be made to the SPIL or the SILC resource plan without PO approval.

**Q10: How does the SILC maintain independence and autonomy over the SILC resource plan?**

**A10:** The resource plan is intended to ensure that the SILC can carry out the SILC statutory duties and responsibilities, and conduct the activities related to the SILC that are identified in the SPIL. The SILC is recognized as the entity responsible for the proper expenditure of its funds and the use of the resources that it receives under the resource plan. (45 CFR 1329.15(c) (5)).

The SILC should include an opportunity for the DSE to review the SILC’s proposed working budget for compliance with 2 CFR 200 Subpart E to avoid disagreements during the budget periods.

**Q11: May the SILC carry over resource plan funds from one fiscal year to another?**

**A11:** The Federal funding received by the SILC in its resource plan must be used to support the duties, functions and authorities of the Council outlined in section 705 of the Act. Since Federal funds may be carried over into the next fiscal year (45 CFR 75.309), the SILC is able to carry over resource plan funds to perform those activities related to its statutory duties and functions the Council was unable to complete in the year in which those funds were made available to it. In such a situation, the DSE also must have contributed the 10 percent non-Federal share (otherwise known as match) on the Federal funds to be carried over in the year in which those funds were awarded. (45 CFR 75.306).