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February 17, 2017

Via Electronic Mail

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RE: **Freedom of Information Act Request**
 Reference Number 2017-14

This is in response to your Freedom of Information Act ("FOIA") request, received in the Office of Legal Affairs on January 21, 2017, requesting a copy of Legal Services Corporation OCE Manual.

The responsive documents are being released with redactions under Exemption 7(E) of the FOIA, 5 U.S.C. § 552(b)(7)(E). Specifically, LSC is redacting information about the investigation of certain questioned cost investigatory procedures.

Exemption 7(E) of the FOIA protects information that "would disclose techniques and procedures for investigation or prosecutions, or would disclose guidelines for law investigation or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law."

If you are dissatisfied with this response, you may file an appeal within 90 days from the date of this letter. Please address your appeal to:

James J. Sandman, President
Legal Services Corporation
3333 K Street, N.W., 4th Floor
Washington, D.C. 20007

Both your letter and the envelope must be clearly marked "Freedom of Information Act Appeal" and include the assigned FOIA Reference Number 2017-14. By filing an appeal, the agency is given an opportunity to review and reconsider your request and the agency's decision.

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Also, please note that the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's Office, offers mediation services to assist in resolving disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

National Archives and Records Administration
Office of Government Information Services
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
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202-741-5770
877-684-6448

Please contact me at (202) 295-1632 or guytonh@lsc.gov if you have any questions.

Sincerely,

Helen Gerostathos Guyton

Helen Gerostathos Guyton
FOIA Public Liaison and Assistant General Counsel

LEGAL SERVICES CORPORATION
OFFICE OF COMPLIANCE AND ENFORCEMENT
PROCEDURES MANUAL

2009 Edition

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I. INTRODUCTION

The mission of the Office of Compliance and Enforcement (OCE) is to review recipient compliance with the LSC Act, regulations, instructions, guidelines and grant assurances. Further, to respond promptly and effectively to inquiries and complaints pertaining to recipients filed by members of the public. The Director reports to the Vice President for Programs and Compliance.

OCE responsibilities include the following: 1) Investigate complaints referred by Members of Congress to LSC management pertaining to LSC recipients; 2) Review, assess and respond to public complaints; 3) Provide prior approvals to recipients for major expenditures; 4) Review and respond to recipients requests for waivers related to PAI requirements, fund balances and fund deficits; 5) Review and approve recipient subgrant agreements; 6) Review and approve recipient retainer agreements; 7) Provide follow up to the referrals of findings by the OIG through the A-50 referral process; 8) Initiate and follow up questioned cost matters; 9) Investigate recipient's compliance with the regulations recipients agreed to abide by when accepting Federal funding; and 10) Review and assess Equal Opportunity Policy Statements, Sexual Harassment Policies, and Notice of Handicap Accessibility

Purpose of the Manual

This procedures manual, adopted in May 1997 and revised in November 2000 and again in May 2008 and April 2009, provides a uniform approach for activities related to OCE and is intended to assist OCE staff in conducting programmatic functions and ensuring compliance with the LSC Act and other applicable laws. This manual is an internal document, not for public distribution, written specifically for the use of LSC staff. While it is comprehensive in its scope, it may not contain all the policies and procedures applicable to OCE's work. While the guide is intended to provide assistance to OCE staff, it is not intended to limit the staff in matters that require discretion and flexibility. This manual shall be considered a living document and will be updated periodically to reflect the changes in the policies and procedures within OCE, and also within LSC as a whole.

II. COORDINATION WITH OTHER OFFICES

In order to effectively carry out its responsibilities and to assist in the overall mission of LSC, it is necessary for the OCE to interact and exchange information with other Offices within the LSC.

The Office of Compliance and Enforcement (OCE) has the primary responsibility in LSC Management for reviewing grantee compliance with the LSC Act, with congressional restrictions on LSC funds, and with LSC regulations and instructions. It is also responsible for referrals to the OIG as appropriate; investigations of complaints referred to OCE, responses to OIG referrals to OCE; approval of grantee subgrant agreements and expenditures above \$10,000; review and approval of grantee waivers related to PAI requirements and fund balance requirements; and review and assessment of grantee policies with respect to equal opportunity, sexual harassment, and accessibility of services.

In carrying out its responsibilities, OCE prepares and LSC issues the LSC Accounting Guide; conducts case service report and case management system (CSR/CMS) reviews; conducts reviews of compliance with the LSC accounting guide and fiscal-related regulations; recommends special grant conditions and grant assurances with respect to program compliance and reviews grantee compliance with them; provides technical assistance and training; reviews audited financial statements; issues corrective action notices and follows up on corrective action plans; and initiates questioned cost proceedings.

OPP/OCE/OIM Joint Staff Meetings are held quarterly to discuss recent and emerging developments within each office and in LSC generally. The objectives of these meetings are to manage coordination of the work of each office, to increase each office's knowledge of the work of the other offices and to improve efficiency with inter-office communications concerning grantee oversight activities.

A. The Executive Office is responsible for the implementation of Board policy and oversight of the Corporation's operations. One of LSC's Executive Office responsibilities is to respond to public inquiries. From time to time, members of Congress and the White House refer complaints to the Executive Office which their offices have received pertaining to LSC recipients. These complaints are referred to the OCE for follow-up and resolution. In addition, OCE is responsible for providing the Executive Office (via the Vice President for Programs and Compliance) with monthly activity reports, information related to the Corporation's Semi-Annual Report to Congress, summary finding memoranda, as well as draft and final reports resulting from on-site reviews, and information regarding both specific recipient and overall systemic compliance with applicable LSC regulations. In addition, during the annual grant competition cycle, OCE assists the Office of Program Performance in providing the Executive Office with information and recommendations regarding specific recipients.

B. The Office of Program Performance (OPP) has the primary responsibility for implementing the competitive application and awards process for LSC grants and for assisting grantees to achieve a high level of quality in the delivery of legal services. To this end, OPP promotes LSC's Performance Criteria; recommends special grant conditions and grant assurances with respect to program quality and reviews grantee compliance with them; identifies the need for communicating policy through program letters and reviews grantee compliance with such policy; visits grantees for assessment of program quality; maintains and promotes best practices summaries for legal services providers; promotes the innovative uses of technology by grantees; and as part of the application and grants oversight process collects data from programs on their performance.

The exchange of information between the Offices of Program Performance (OPP) and Compliance and Enforcement (OCE) is an integral factor in the efficient and effective functioning of both Offices. Managers and staff from both offices interact on an as needed basis (hourly, daily, weekly, monthly etc.) depending upon the nature of the specific project. Information is exchanged informally, via in-person or telephone conversations, and formally via email, memorandum and/or reports. Written information regarding specific programs

and/or substantive areas can also be shared between offices via shared worksite folders and subfolders.

Although the interaction with programs by OPP and OCE focuses on different areas, the knowledge obtained by one office can be invaluable to the other office. For that reason, as explained in detail throughout this Manual, OPP and OCE has developed and implemented numerous methods by which staff can routinely share information regarding: scheduling, planning, and reporting on program visits, all stages of the grant competition process, including funding recommendations and imposition of special grant conditions, the subgrant approval process, PAI waiver requests, and overall program quality and initiatives.

1. Visit Coordination

a. Scheduling Visits: OPP and OCE must work together to make sure that the scheduling of their visits is coordinated. The visit selection criteria and process used by both offices is outlined in its entirety in Section O of this manual.

b. Consultation Before Visits: When going on a visit, OPP staff are to check with OCE Director or Deputy Director for information that OCE has on the program being visited. When going on a visit, OCE staff are to check with the OPP liaison for the state being visited.

c. Consultation Following a Non-Joint Visit: After each OCE visit, OCE will send the OPP Director and Deputy Director an electronic copy of its preliminary findings, which are prepared shortly after the visit. OPP's Deputy Director will distribute these to appropriate OPP staff. Similarly, after each OPP visit, OPP will distribute a summary of the visit to the OCE Director.

Should the visiting team encounter an issue not within the team's expertise, the team is to consult with the other office on the matter. For example, should an OPP team identify a practice that may or may not be a compliance issue, they are to bring the matter to the attention of OCE.

C. The Office of the Inspector General (OIG) was established as an independent unit within LSC by the 1988 amendments to the Inspector General Act of 1978, and is charged by statute with a number of distinct roles and responsibilities: 1) To provide policy direction for and to conduct and supervise audits and investigations of LSC and its grantees; 2) To promote economy, efficiency, and effectiveness in the programs and operations of LSC and its grantees; 3) To prevent and detect fraud and abuse in the programs and operations of LSC and its grantees; 4) To review and make recommendations regarding legislation and regulations relating to the programs and operations of LSC and its grantees; and 5) To keep the Board and Congress fully informed about problems, abuses, and deficiencies in the

programs and operations of LSC and its grantees, to recommend corrective actions, and to report on the progress thereof.

In carrying out these responsibilities, the OIG determines in its discretion which matters it will investigate or audit. Reports resulting from such investigations and audits are intended to provide independent analysis to assist Congress, the LSC Board of Directors, and LSC Management in fulfilling their oversight and management responsibilities.

In addition, if OCE becomes aware – either through a complaint or information obtained during an on-site review – of potential fraud, waste and abuse, such information is to be referred to OIG for investigation.

1. Grantee Audit Process

Pursuant to legislation governing LSC and its programs, each LSC grantee is required to have an annual audit. Such audits are conducted by independent public accountants (IPAs), in accordance with generally accepted government auditing standards and guidance established by the OIG, and report whether: the grantee's financial statements fairly present its financial position and results of financial operations; its internal control systems provide reasonable assurance that it is managing its funds in compliance with Federal laws and regulations; and whether it has complied with Federal laws and regulations applicable to funds received.

The OIG prepares and issues an audit guide, including a compliance supplement, providing guidance to IPAs and grantees with respect to the required audits.

The OIG reviews each audit to determine if it meets OIG audit requirements. If a grantee fails to have an acceptable audit in accordance with the guidance promulgated by the OIG, the OIG has authority to recommend that specified sanctions be taken by LSC.

The OIG refers significant reportable conditions and findings from the audits to LSC management. The OIG follows up on referrals to LSC management to ensure progress of corrective actions.

The OIG provides oversight of IPAs through both in-house and on-site reviews of their reports and underlying work. The OIG has authority to remove, suspend, or bar an IPA, in accordance with established procedures, from performing audit services required by LSC legislation.

As deemed appropriate by the Inspector General, the OIG also uses its statutory authority to conduct on-site monitoring, audits, inspections of grantees.

2. Protocols for Exchanging Information

a. Request for Information by OIG — Audit Activities: All initial requests and follow-up requests for documents by the OIG will be in writing, such as an email, to the relevant LSC staff person with a copy to the OCE Director. This will ensure a clear record and understanding of which written documents and other materials are being requested and the date on which the request was made. Management will provide the documents in a timely manner. OCE is to keep a log of all requested and supplied documents.

b. Request for Information by OIG — Investigations: LSC staff members are expected to cooperate fully with the OIG in an investigation. If OIG staff request that documents be provided directly to an OIG representative, employees are instructed to do so. Staff members are to advise the OCE director of the documents requested and supplied unless instructed by OIG not to do so.

With respect to interviews that are requested, supervisory approval for such interviews is not required, although absent an OIG request for confidentiality, staff should notify their supervisor of the appointment.

D. The Office of Legal Affairs (OLA) serves as in-house counsel and chief legal advisor to the Corporation and performs the duties of Secretary of the Corporation. The General Counsel carries out traditional "lawyer" functions, including negotiating, drafting and reviewing legal instruments such as contracts, settlement agreements, releases, applications for funding, and grant documents, and representing the Corporation's interests in litigation, directly or through retention and oversight of outside counsel. OLA provides legal advice to the Corporation's Board of Directors and President, as well as to the various offices in the Corporation. Finally, the General Counsel is responsible for interpreting statutory requirements and drafting implementing regulations for consideration by the Board.

In addition, OCE and OLA work together to provide the Office of the President with recommendations regarding the approval/denial of recipient requests for prior approval to purchase real property using LSC funds as well as requests to sell real property which had been purchased with LSC funds.

1. Protocols for Exchanging Information

a. Requests for Information from OCE: In the course of representing LSC, OLA may seek assistance from OCE to comply with a discovery request. OCE should require clear written instructions from OLA regarding the scope of the inquiry and focus of the discovery request in order to narrow the search for documents or other information. The Director should designate

the individual(s) who will coordinate the internal OCE process for identification, cataloging and transmittal of the responses to OLA.

b. FOIA Requests: Requests for information under the Freedom of Information Act (FOIA) are handled by OLA. OCE will be notified by OLA of any requests for files/documents. When information is requested, prior to responding to the request, staff is to inform the Director or Deputy Director of such request.

With each request, a determination should be made whether electronic or photocopies of documents are the appropriate medium for transmittal of documents to be forwarded to OLA. Make sure that the documents that are being sent in response to a FOIA requests are appropriately redacted. OCE must consult with OLA prior to redacting private and personal information. If there is an issue concerning confidentiality, the Director or Deputy Director and the OLA FOIA Officer are to be informed.

E. The Office of Information Management (OIM) is responsible for gathering and disseminating information about LSC grantees and the delivery of legal services. This responsibility includes obtaining information about the delivery of legal services by LSC grantees, the identification and collection of information about the civil legal needs of eligible clients, and the sharing of that information with LSC staff, grantee staff, and other interested parties.

F. The Office of Government Relations and Public Affairs (GRPA) is responsible for managing the Corporation's communications and requests for information from Congress, the Executive Branch, the media, and the general public. OCE responds, as necessary, to requests for GRPA for information regarding specific recipients and/or regulations. Twice each year, OCE provides GRPA with information regarding OCE staff activities during the previous six months, so that the information can be provided to Congress as part of LSC's Semi-Annual Report.

III. SPECIFIC ACTIVITIES

A. Complaints

- 1. Overview:** The OCE is responsible for the review, investigation and disposition of complaints filed by members of the public (applicants, clients, local recipients, staff and Board members, opposing counsels/parties, taxpayers, etc.) and directed at the activities of LSC recipients. Other LSC oversight offices should be consulted as appropriate.

a. Authority: LSC's authority to investigate complaints derives from the following sections of the LSC Act:

The Corporation shall have the authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title (42 U.S.C. § 2996e (b)(1)(A));

The Corporation shall insure the maintenance of the highest quality of service and professional standards, the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients (Section 1007(a)(1));

The Corporation shall insure that grant and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas (Section 1007 (a)(3)); and

The Corporation shall monitor and evaluate and provide for independent evaluations of programs supported in whole or in part under this title to insure that the provisions of this title and bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to this title are carried out (Section 1007 (d)).

b. Guiding Principle: Observation of the letter and spirit of the LSC Act, regulations, PL. 104-134, and fairness toward both complainants and recipients.

c. Procedural steps for a Complaint Investigation

i. Receipt of the Complaint: all complaints must be received in writing. Although OCE staff will speak with potential complainants via telephone, the complainant must also submit a written complaint. In-person complaints are not accepted.

(a) The complaint letter or telephone message will be reviewed by the Director (or designee) to determine initial processing, which includes:

- Determining if the contact is a Complaint or General Correspondence; and
- Assigning a staff member to respond.

(b) The complaint will then be referred to a member of the administrative staff for docketing. Complaints and general correspondence are both docketed into the OCE electronic

database. Hard files are created for both individual complaints and general correspondence materials.

- (c) After docketing, the file is distributed to the attorney assigned to review the complaint or general correspondence.

ii. Initial Contact by OCE

- (a) If the matter is deemed to be General Correspondence, it is usually addressed by a brief letter and closed. Please note, although no formal memorandum of closure is prepared for these, all correspondence must be addressed either with a reply to the correspondent or by a memorandum to the file indicating its disposition.
- (b) If the matter is deemed to be a complaint, an appropriate letter is prepared depending upon who initiated the complaint:
- Client - OCE drafts a letter referring the complainant to the recipient's grievance process;
 - Applicant denied legal assistance – OCE drafts a letter referring the complainant to the recipient's grievance process;
 - Member of Congress - GRPA corresponds directly with the Member and the OCE conducts a review of the complaint and sends an appropriate letter to the original complainant;
 - Adverse party - OCE letter is sent;
 - Third Party/Other - a letter is sent.
- (c) With regard to all complaints, the initial response will address the issues presented and may include the drafting of a closure-type letter if the complaint contains sufficient information and there has been no issue presented which, if true, would be a violation of the LSC Act or regulations.¹
- (d) If the initial complaint letter fails to present adequate information, any follow-up inquiry, either by telephone or letter will seek to obtain missing information.
- (e) If the complainant is a Client or Applicant who has exhausted the local recipient's grievance process and still seeks OCE's

¹Among those complaints that OCE does not review are complaints about rude behavior by an attorney and civil disputes with an attorney. In these instances, complainants are advised to contact their local State Bar Association.

assistance, a letter seeking a waiver of the attorney-client privilege will be sent.²

- (f) If the initial contact by the complainant is via telephone or email, the assigned staff attorney may contact the complainant via telephone or email to ascertain additional facts prior to sending the initial letter. As noted above, the facts of a complaint will not be accepted merely via telephone, a written version of the complaint must be provided.

iii. Receipt of Waiver

- (a) Upon receipt of the waiver, and assuming there is sufficient information to proceed, an initial letter of inquiry will be drafted and sent to the recipient.
- (b) If desired, the staff member drafting the letter may ask another member of the staff to review a draft of this letter.
- (c) Upon finalization, the staff member assigned to complaint will provide the letter and full file to the Director, or his or her designee, for review and signature.
- (d) The administrative staff member will make the appropriate number of copies of the letter and mail it. Copies will be maintained both in the specific complaint file and OCE's general chronological binders.
- (e) The administrative staff member will also make an electronic note of any tickle dates necessary for further actions.

iv. Recipient Response

- (a) Upon receipt of the recipient response, the administrative staff member will refer the incoming letter and file to the staff member assigned to the complaint.
- (b) The staff member will review correspondence and determine the next appropriate course of action.

²A waiver of the attorney-client privilege is requested in all cases where the complainant is a client or an applicant for legal assistance of the recipient. Suggested language in the letter requesting this waiver would be: "To proceed with our review of your complaint, we will need a release to allow us to communicate with xxLS. Moreover, please be advised that we will be reviewing materials that would normally be subject to the attorney-client privilege."

v. Additional (Future) Correspondence/Future Actions

- (a) All future incoming correspondence will be directed to the staff member assigned to the complaint.
- (b) The staff member will review the correspondence and draft responses as appropriate.
- (c) All correspondence will be directed, along with the full file to the Director, or in his absence the Deputy Director, for review and signature.

vi. Telephone calls

- (a) All incoming telephone calls from existing complainants will be referred to the staff member assigned to the complaint.
- (b) If appropriate, a letter confirming the conversation should be prepared.
- (c) In the absence of a confirming letter, a memorandum to the file should be prepared.

vii. File Maintenance

- (a) Complaint files should be kept in the OCE complaint file cabinet, not in individual staff offices.
- (b) Complaint files should be maintained in a manner so that another person could pick up the file and handle the complaint.

viii. Final disposition letter/Complaint closure

- (a) All final disposition letters will be signed by the Director.
 - The letter will be drafted to the complainant with a copy going to the recipient.
 - If the complaint is from a confidential complainant who wishes to remain anonymous, the closure letter should be drafted to the recipient, with a blind copy of the final letter sent to the complainant.
 - If there are additional issues to be followed up on with the recipient, these matters can be addressed in separate correspondence, not copied to the complainant.

ix. Closure memorandum

- (a) When a complaint is ready to be closed (about 60 days following the final disposition letter), a brief closure memo will be drafted by a designated staff member indicating:
 - Resolution of the complaint.
 - Whether there are any additional issues which need to be followed up separately.
 - Whether all original documents were returned to the complainant.
- (b) The memorandum and file will then be forwarded to the Director for approval.
- (c) After the Director approves closure, the file will be returned to the administrative staff member to be recorded in the database and filed with the closed files.

2. Types of Complaints

Generally, the majority of complaints filed concern the following issues:

a. Denial of Service: Often filed by applicants who allege they were not accepted as clients, because they lack financial eligibility, the case is outside priorities, the type of case is prohibited, and/or the case lacks merit.

- i. The procedural steps for denial of service complaints are the following:
 - (a) Determine to what extent the complainant has pursued the recipient's grievance procedure for appealing denials of assistance pursuant to 45 CFR § 1621.4. If the complainant has exhausted the procedure or provides evidence showing that such procedure will be futile, then the complaint may be reviewed by LSC.
 - (b) If the denial of assistance is due to the applicant being over-income, OCE will refer the complainant to the recipient's client grievance procedure. Further, the complainant should be advised that he or she can recontact LSC when the grievance procedure is completed to ensure that it was properly followed.
 - (c) If the criteria of (a) and/or (b) are met, the LSC may request the following documents from the recipient:

- a report on the action taken as a result of the grievance; and
 - if the complainant re-contacts the LSC, a copy of the grievance file.
- (d) If the complainant has exhausted the grievance procedure or has demonstrated that exhaustion would be futile (item (a) above), and the denial of assistance is because the case presented is outside the recipient's priorities, the LSC may request from the recipient the following documents:³
- a statement explaining why the recipient denied representation to complainant;
 - a copy of the grievance file;
 - a copy of the recipient's current priorities; and
 - any other documents that are appropriate to the review.
- (e) If the requirements of item (a) are met, and the denial of assistance is because the case presented fall within the category of cases prohibited by law or regulations, the LSC shall write a letter to the complainant explaining that the case is prohibited by law or regulations.
- (f) If the denial of assistance is because the case lacks merit, LSC may refer the complainant to avail itself of the recipient's client grievance procedure. After the referral is accomplished, LSC should notify the recipient that we are referring the complainant to the recipient's grievance procedure. Further, the complainant should be advised that it can re-contact LSC to submit the disposition of the complaint by the recipient to ensure that the grievance procedure was properly followed.
- (g) If the criteria of item (f) are met, the LSC may request from the recipient the following documents:

³If a recipient has established priorities in accordance with 45 CFR Part 1620, and an applicant's case or matter falls outside those priorities, the recipient must decline assistance. If a recipient has determined an applicant's case or matter to be outside its priorities but, upon review of the priorities, the OCE finds it to be within such priorities, the OCE should notify the recipient of its determination. Of course, free legal assistance - even for an applicant whose case falls within a recipient's priorities - is not an entitlement and LSC has no authority to "order" a recipient to accept a case.

- a report on the action taken as a result of the grievance; and
- if complainant re-contacts the LSC, a copy of the grievance file.

b. Client Not Eligible for Services: Often filed by the opposing party or opposing counsel of recipient clients. Typically, complainants allege that recipients are providing free legal assistance to clients whose income and assets exceed the prescribed limitations, or the client belongs to a category of persons where representation by a recipient is proscribed.

i. The procedural steps for denial of service complaints are the following:

- (a) **Representation of Financially Ineligible Client:** If the complaint alleges that the recipient is providing legal assistance to a client whose income and assets exceed the prescribed limitation, LSC shall investigate and request that the recipient submit the documents listed below. However, before contacting the recipient, sufficient information must be obtained from complainant.

Information to obtain from complainant:

- any additional information including documents which support the claim that the client is over-income.

Information to request from recipient:

- an explanation of whether client is being represented with LSC funds. If client is being represented with LSC funds, the recipient should also provide the following information;
- intake sheet and supporting documentation if any;
- if representation of the client was undertaken pursuant to 45 CFR § 1611.5 the recipient should provide contemporaneous documentation of the decision to serve the client; and
- any other documents which are appropriate to the review.

- (b) **Representation of Illegal Aliens:** If the complaint alleges that the recipient is providing legal assistance to a client who belongs to a category of persons for whom the law proscribes the representation by an LSC funded recipient (e.g., illegal aliens), LSC shall investigate and request that the recipient submit documentation.

However, before contacting the recipient, sufficient information must be obtained from complainant.

The information to request from the complainant depends on the allegation.

Documents to request from recipient include:

- a statement explaining recipient's involvement in this case;
- a copy of the verification of citizenship or eligible alien status and copies of any documents or records verified by recipient (45 CFR §§ 1626.6 and 1626.7);
- a statement explaining whether recipient determined that client was qualified for legal assistance because his/her status fell within one of the categories set forth in 45 CFR § 1626.5;
- copies of all final orders entered in this case; and
- any additional information which would be of assistance to the review.

c. Harassment/Frivolous Cause of Action: Often filed by opposing counsel or opposing parties who allege that recipients are involved in frivolous cases to harass client's opponents and that there is no merit to the action for which recipients are providing representation.

LSC shall write the recipient and request the following documents and/or statement(s):

- a statement explaining recipient's involvement in this case;
- an explanation of whether client is being represented with LSC funds;
- copies of all major pleadings filed in the case. If the recipient believes this is an unduly burdensome request, it may provide a copy of the complaint, answer, as well as any counterclaims, and a copy of the court docket instead;
- copies of all final or interim orders entered in the case; and
- any additional information the recipient believes would be of assistance in our review.

d. Inadequate Legal Assistance: Often filed by current or former clients of recipients who allege that they were not adequately represented.

- i. The LSC should ensure that the client has gone through the recipient's grievance procedure or ascertained that going through the grievance procedure will be futile.
- ii. The LSC shall write the recipient requesting the following documents/statement(s):
 - (a) a statement explaining how the case was handled;
 - (b) a copy of grievance file, if any;
 - (c) the recipient's appeals policy; and
 - (d) any other documents which are appropriate to the review.
- iii. OCE will copy the state responsible staff member of OPP on all correspondence regarding complaints concerning the quality of legal services provided. OPP staff will be copied for informational purposes. OPP will not participate in OCE's investigation process.

e. Prohibited Activities: Usually filed by opposing party, opposing counsel or taxpayers who allege that recipients are involved in activities that are prohibited by the LSC Act, LSC regulations, or appropriation riders. Examples of such prohibited activities are: recipient is engaged in political activities; grassroots lobbying; redistricting litigation; case(s) outside priorities; etc.

- i. If the complaint alleges that the recipient is engaged in political activities, the LSC shall investigate and request from the recipient the following document/statement(s):
 - (a) Documents to request depend on allegation but could include: retainer agreement, requests from legislators, governors, commissions, etc.
- ii. If the complaint alleges that the recipient is engaged in grassroots lobbying, the LSC shall investigate, and request from the recipient the following documents/statement(s):
 - (a) Documents to request depends on allegation.
- iii. If the complaint alleges that the recipient is engaged in redistricting activities, the LSC shall investigate and request from the recipient the following documents/statement(s):

(a) Documents to request depends on allegation.

iv. If the complaint alleges that the recipient undertook a case that is outside its priorities, the LSC shall investigate, and request from the recipient the following documents/statement(s):

(a) a copy of current priorities;

(b) a statement explaining why recipient accepted the case; and

(c) any other documents which are appropriate to the review.

f. Management of Recipients: Often filed by current or former staff or current or former board members pertaining to the management of local programs which might affect the effectiveness and efficiency of delivery of services to clients.

i. Depending on what the allegations are, LSC will investigate and request from the complainant and recipient documentation and statements.

3. **Corrective Measures and/or Sanctions that May be Imposed as a Result of a Complaint**

A Corrective Action Plan (CAP) or recommendations for improvements is not considered a formal form of sanction resulting from a complaint investigation. It is, however, appropriate and adequate when the violation is relatively minor and insignificant. On the other hand, if a complaint investigation discovers a serious and systematic violation which may affect the effective and economical delivery of legal assistance, the LSC may consider other enforcement mechanisms and sanctions. Among them are:

a. Special Grant Conditions: When grants are awarded, LSC can make correction of a particular violation a condition of the grant.

b. Month-to-Month or Short Funding: When grants are awarded, LSC can award month-to-month funding or funding for some other limited period while determining whether to award a grant to a recipient.

c. Questioned Costs: During the course of a grant, LSC can question, disallow, and recover the costs of an activity that violated regulations or laws, pursuant to the process set forth in 45 CFR Part 1630.

d. Termination: LSC can end funding during the course of the grant, pursuant to the termination process set forth in 45 CFR Part 1606.

e. Suspension: LSC can suspend funding during the course of the grant until a condition is complied with, pursuant to the suspension process set forth in 45 CFR Part 1623.

f. Ineligibility for future grants: LSC can determine that a significant violation or a pattern of violations renders a recipient ineligible to receive a grant in the next competition cycle.

g. Awarding of grant to another applicant: In a competition, LSC can award the grant to another entity, taking into account past violations, among other considerations.

B. General Correspondence

Upon receipt of the correspondence, each piece is stamped and then entered into the General Correspondence database. When doing this, it is necessary to assign a docket number to each piece of correspondence. The current year/active card files are kept by the OCE administrative assistant and older cards are kept locked in a filing cabinet. Telephone inquiries deemed general correspondence are also entered into the database, but with a "T" after the year in the docket number to designate that it was by telephone. Pertinent information is also entered into the OCE General Correspondence database (*see below*).

The cards should be numbered in sequential order, therefore the next number is the one to use for the next piece of correspondence. When assigning a number, record on the card: 1) the number for the new piece of correspondence, 2) the name of the correspondent, and 3) the date received. Each piece of correspondence or telephone message is assigned, by the Director or his designee, to a staff member for review and assessment. General correspondence should be distributed as equally as possible, given other assigned work.

Prior to forwarding the correspondence to assigned staff members for assessment, each piece should be entered into the "general correspondence database." This database is accessible to all those who work on general correspondence. It is very important to keep the database current at all times. For a tickler date on correspondence, it is best to assign one month as the time when a response is due to be prepared.

After the information is entered into the database, a folder should be prepared for each individual piece. If the letter comes to LSC directly, the file should be given a red label. If it has been forwarded by a member of Congress, then it should be given

a green label. When the folder is completed, it should either be placed in the assigned staff member's designated mail box or brought to their attention.

In most cases, the assigned staff member should write a letter in response to the general correspondence. Upon completion of the letter, the staff member should return the letter and the folder to the administrative assistant who will: 1) make a photocopy of the letter, 2) make a copy for the OCE chron file, 3) make a copy for the subject (main) file, and 4) make a copy for the person who wrote the letter. On some occasions, it may be necessary to make a tickler copy, if LSC is expecting the correspondent to respond to the letter. (This does not happen often with General Correspondence.) For inquiries handled by telephone, a memo to the file may suffice and will be kept on file by the administrative assistant. For chron copies, punch three holes on the left side; for subject copies, punch two holes at the top.

On a rolling basis throughout the year, general correspondence files should be reviewed by administrative staff to determine whether they should be archived, or in certain instances destroyed. Records should be maintained on what has been archived.

C. Prior Approvals

Each year LSC receives a large amount of requests for prior approval from recipients pursuant to 45 CFR Part 1630. The regulation requires prior LSC approval for: 1) pre-award costs and costs incurred after the cessation of funding; 2) purchases and leases of equipment, furniture, and other personal, non-expendable property if the current purchase price of any individual item of property exceeds \$10,000; 3) purchase of real property; and 4) capital expenditures exceeding \$10,000 to improve real property. Without LSC's prior approval, these costs may be questioned by recipient auditors and subsequently disallowed by LSC. OCE is responsible for receiving, reviewing, and processing all requests for prior approval. Other LSC offices should be consulted as appropriate.

1. Guidance and Regulations

The regulations provide general guidance regarding the requirements of prior approval but LSC's Property Acquisition and Management Manual (PAMM) provides specific details regarding the particular information a program must submit prior to receiving prior approval under 45 CFR Part 1630. In addition, 45 CFR § 1630.6 provides a specific, limited timeframe in which LSC must respond to requests for prior approval. Pursuant to this Section, LSC has 60 days to respond after receiving a written request for approval. However, if additional information is necessary to enable LSC to respond to a request for prior approval, LSC may make a written request for additional information within 45 days of receiving the request for approval. If LSC has made a written request for additional information about a cost, and if LSC has not responded within 30 days of receiving in writing all additional

requested information, LSC may not assert the absence of prior approval as a basis for disallowing the cost.

- a. **Personal Property:** Pursuant to 45 CFR § 1630.5(b)(2), expenditures for the purchase or lease of equipment, furniture or other personal, non-expendable property requires prior LSC approval, if the current purchase price of any individual item of property exceeds \$10,000.
- i. **Information Required:** Section 3 of the PAMM describes the information a recipient must submit in conjunction with a request for prior approval to utilize more than \$10,000 in LSC funds to purchase or lease personal property. At minimum, the recipient must provide LSC with competitive quotes from at least three potential sources, or the reason for not obtaining competitive quotes. In addition, the recipient's request must include (*see* PAMM for full details):
 - (a) A statement of need explaining how the acquisition will further the delivery of legal services to eligible clients;
 - (b) A brief description of the property to be acquired, including the make and manufacture of the item, the name of the quantity to be acquired, the total dollar amount of the acquisition; and
 - (c) A brief description of the acquisition process, including the names of the potential sources who submitted quotes, the amounts of the quotes, and a brief explanation of the reasons for selecting a particular source to supply the items.
- ii. **Approval duration and notification:** The LSC's approval or advance understanding shall be valid for one year, or for a greater period of time, which the LSC may specify in its approval or understanding. For each prior approval request for personal property, a response letter is prepared and information about the request is entered into a database which tracks the dates, amounts, and item for prior approval. (*See* Appendix A - Sample Prior Approval Letter - Personal Property). In most instances, approval requests come with sufficient information to enable LSC to grant approval. In a few instances, recipients do not submit sufficient information to justify approval, in which case the OCE staff will contact the recipient to request additional information. If the information is not received, or is insufficient, OCE will not grant approval. (*See* Appendix B - Sample Denial Letter - Personal Property).

iii. **Consultation with and notification to other LSC Offices:** Other LSC offices should be consulted as appropriate. Information regarding pending, approved and denied requests for prior approval is provided to the Director on an ongoing basis. This information is forwarded to the Vice President for Programs and Compliance and the Director of OPP via OCE's Monthly Activity Report (*See Appendix C – Sample OCE Monthly Report*). The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in the OCE subfolder of the LSC-Shared Documents folder on worksite.

b. **Capital Expenditures:** Pursuant to 45 CFR § 1630.5(b)(4), expenditures for certain capital expenditures require LSC's prior approval.

i. **Information required:** Section 4(f) of the PAMM describes the information a recipient must submit in conjunction with a request for prior approval to utilize more than \$10,000 in LSC funds to purchase or lease personal property. At minimum, the recipient must provide LSC with (see PAMM for full details):

- (a) A statement of need explaining how the improvement will further the delivery of legal services to eligible clients;
- (b) A brief description of the improvement, including the nature of the work to be done, the name of the contractor performing the work, and the expected total cost of the improvement; and
- (c) A brief description of the contractor selection process, including the names of the contractors who submitted quotes, the amounts of the quotes, and a brief explanation of the reason(s) for selecting a particular contractor to perform work.

(*See Appendix D – Sample Prior Approval Letter – Capital Expenditures.*)

ii. **Emergency Improvements:** Recipients may seek approval to begin emergency capital improvements (e.g., to repair major structural elements of a building after a natural disaster.) prior to providing the information required by the PAMM. If LSC grants such approval, the program must afterwards provide LSC with the required information in a timely manner.

iii. Consultation with and notification to other LSC offices: Other LSC offices should be consulted as appropriate. Information regarding pending, approved and denied requests for prior approval is provided to the Director on an ongoing basis. This information is forwarded to the Vice President for Programs and Compliance and the Director of OPP via OCE's Monthly Activity Report. (See Appendix C – Sample OCE Monthly Report.) The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in a the OCE subfolder of the LSC-Shared Documents folder on worksite.

c. Real Property: Pursuant to 45 CFR § 1630.5(b)(3), any LSC program planning to expend LSC funds to purchase real property must obtain LSC's prior approval.

i. Information Required: Section 4 (Acquisition Procedures for Real Property) of the PAMM describes the information a recipient must submit in conjunction with a request for prior approval. Under the PAMM, the basic requirements for requesting prior approval are:

- (a) Prior to obtaining approval to use LSC funds for the purchase of real property, the program shall conduct an informal market survey to identify and evaluate at least three potential locations.
- (b) The evaluation of potential acquisitions of real property shall include consideration of:
 - The total cost of the acquisition;
 - The quality of the property to be acquired; and
 - Other factors affecting the appropriateness of the property for the delivery of legal services, such as the location, accessibility to the client population and public transportation, and proximity to courts and/or other government or social services agencies.
- (c) Recipients shall conduct an analysis of the average annual cost of the acquisition, including the costs of a down payment, interest and principal payments on debt acquired to finance the acquisition, closing costs, renovation costs, and the costs of utilities, maintenance, and taxes, where applicable. The cost analysis shall include:

- The estimated total costs of acquiring and occupying the property over the life of the financing of the acquisition; with
 - The estimated total costs of leasing and occupying similar property over the same period of time.
- (d) When requesting prior approval, programs shall provide the following items to LSC, in writing:
- A statement of need explaining how the acquisition will further the delivery of legal services to eligible clients in terms of:
 - the location of the property in terms of accessibility to program clients;
 - trends in funding and program staffing levels in relation to space needs; and
 - whether the property will replace or be in addition to existing program offices.
 - A brief analysis comparing:
 - the estimated average annual cost of the planned acquisition over the life of the financing of the acquisition, including the costs of maintenance, utilities, and taxes; with
 - the estimated average annual cost of leasing or purchasing other, similar property over the same period of time.
 - A current, independent appraisal of a type sufficient to secure a mortgage;
 - Documentation of board approval consisting of either a board resolution or board minutes demonstrating approval of the acquisition;
 - A statement of handicap accessibility sufficient to meet the requirements of 45 CFR § 1624.5(c);
 - A copy of an acquisition agreement, contract, or other document containing a description of the property and terms of the acquisition; and
 - An explanation of the anticipated financing including:
 - the estimated total cost of the acquisition, including renovations, moving and closing costs;
 - the source and amount of funds to be applied toward a down payment;
 - the source of funds to be applied towards a monthly mortgage payment, if any;

- the monthly amount of principal and interest payments on debt secured to finance the acquisition, if any; and
 - the source and estimated amounts of funds needed to cover moving, renovations, and closing costs.
- ii. **Time Limits:** Under 45 CFR § 1630.5(c), if additional information is needed, the Corporation may make a written request for such information within 45 days of receiving the request for prior approval. If additional information is not needed, the Corporation must respond to the request, in writing, within 60 days of receiving the request.
- iii. **Consultation with and notification to other LSC offices:** Other LSC offices should be consulted as appropriate. Information regarding pending, approved and denied requests for prior approval is provided to the Director on an ongoing basis. This information is forwarded to the Vice President for Programs and Compliance and the Director of OPP via OCE's Monthly Activity Report. (See Appendix C – Sample OCE Monthly Report). The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in the OCE subfolder of the LSC-Shared Documents folder on worksite.

d. Advance Understandings

Under certain circumstances, it is difficult to determine the reasonableness and allocability of certain cost items. In order to avoid subsequent disallowance or dispute based on such unreasonableness or non-allocability, 45 CFR § 1630.5(a) provides that recipients may seek a written understanding from the LSC in advance of incurring special or unusual costs. The most common requests for advance understanding are for costs associated with staff and board attendance at conferences or trainings.

D. Interest Agreements for Real Estate Purchases Using LSC Funds

According to the PAMM, at the time of LSC's approval for the recipient to utilize LSC funds to purchase real property, LSC and the recipient must enter into a written property agreement which governs the use and disposal of the property.

1. **Minimum Requirements:** The property agreement shall include, at minimum:

- a. Provisions regarding retention and use of property acquired with LSC funds, in addition to provisions regarding the disposal of such property;
 - b. An agreement by the recipient not to encumber the property without the prior approval of LSC; and
 - c. An agreement by the recipient to record, in accordance with appropriate and applicable state law, LSC's interest in the property.
2. **Process:** OCE is responsible for drafting the property interest agreements, which are specific to each recipient's individual circumstances, yet standardized with respect to LSC's rights and the recipient's responsibilities. Two copies of the agreement, along with a cover memorandum explaining the circumstances of the purchase, are forwarded to OLA and the Vice President for Programs and Compliance. Additionally, the General Counsel and his Administrative Assistant are provided with electronic copies of each document. OLA is then responsible for reviewing the property agreement and either: (1) forwarding it to the Executive Office for the President's signature; or (2) returning it to OCE for additional information. Other LSC offices should be consulted as appropriate.

Once the President has signed the two agreements, both are returned to OCE. One copy is mailed to the recipient with instructions to countersign and file with the appropriate court. The recipient is further directed to provide a certified copy of the filed stamped document to OCE, which is charged with maintaining LSC's property interest agreement records. (*See Appendix E-Sample Property Agreement.*)

3. **Consultation with and Notification to Other LSC Offices:** Information regarding pending, approved and denied requests for prior approval is provided to the Director on an ongoing basis. This information is forwarded to the Vice President for Programs and Compliance and the Director of OPP via OCE's Monthly Activity Report. (*See Appendix C – Sample OCE Monthly Report*). The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in a the OCE subfolder of the LSC-Shared Documents folder on worksite.

E. Disposal of Property Acquired with LSC Funds

1. **Personal Property:** Section 6 of the PAMM governs the disposal of non-expendable personal property purchased with LSC funds. This Section gives recipients considerable flexibility in determining how to dispose of property

with current fair market value of less than \$15,000. The primary limitation on disposal of personal property is that recipients may not sell, donate or transfer any such property to its board members or staff. For property with a value of over \$15,000, Section 6 describes several alternative methods of disposal.

2. **Real Property:** Section 7 of the PAMM governs the disposal of real property acquired with LSC funds. The manner of disposal allowed depends on whether or not the recipient will continue to be an LSC recipient.

In most instances, the property agreement entered into between LSC and the recipient at the time LSC approved the purchase will require the program to seek prior approval, at least 30 days in advance, of any sale of LSC financed real property.

Upon receipt of the request, OCE will consult other LSC offices as appropriate, review the information, and draft a letter of approval or denial for the LSC President's signature. The letter along with a memorandum containing a summary of the facts and OCE's recommendation are then forwarded to OLA for review. One copy is provided to the Vice President for Programs and Compliance, one is placed in OCE's chron file and one is placed in OCE's property files.

If OCE becomes aware that a former LSC recipient is seeking, or intends, to sell or encumber real property in which LSC has an interest, OLA must be immediately contacted. OLA is responsible for ensuring that LSC's interest in real property is protected.

F. LSC Internal Guidelines for Programs which Cease to be a Recipient

These internal guidelines apply in cases where the recipient voluntarily or involuntarily ceases to be a LSC recipient.

1. The LSC President makes the decision not to fund a current recipient after competition or LSC learns that the recipient will voluntarily cease to be a recipient of LSC grant funds.
2. The OPP liaison advises OCE and OIG of the President's decision or the recipient's decision within three working days of the funding decision or the notification by recipient.
3. OIG selects an auditor and, in consultation with OCE, advises OCE and the OPP liaison of the due date for the final audit and the recipient is so advised.

4. OCE may conduct a site visit to review recipient's financial records and to ascertain that records are available for a close-out audit.
5. The liaison, in consultation with OCE, makes a recommendation on a preliminary decision to the Vice President for Programs and Compliance on the amount and scheduling of close-out funding checks. (Section 1634.10 gives LSC discretion to continue funding during a transition period on a weekly, bi-monthly, monthly, or longer period basis.)
6. The OPP liaison asks the Comptroller to reserve the cost of the close-out audit from the recipient's transition funding. LSC will pay the auditor, who is selected by OIG, directly.
7. The OPP liaison notifies recipient, shortly after President's funding decision notice is mailed to the recipient, that:
 - a. it must provide LSC, within 30 days of receiving the President's letter, the following:
 - i. an accounting of all open LSC funded cases. This includes a brief description of the issue involved in each open case, the status of the case, an estimate of how long it will take to close or transfer the case, and an explanation of why the case will not be transferred if that is the situation;
 - ii. an overall plan for disposing of all open LSC funded cases, including PAI cases;
 - iii. an accounting of all property purchased in whole or in part with LSC funds, which has a current book or market value exceeding \$1,000. The accounting or inventory list should include for each item of property:
 - (a) a brief description of the property item;
 - (b) the date of acquisition of the property item;
 - (c) the total amount of funds expended to acquire the property;
 - (d) the amount of LSC funds expended to acquire the property;
 - (e) the current book or estimated market value of the property; and

- (f) if the property is to be transferred, a certification that the program, which is acquiring the property, shall use the property in connection with the delivery of legal assistance to low-income persons.
 - iv. a plan for disposing of all such property;
 - v. a copy of the most recent monthly or quarterly financial statements; and
 - vi. a budget for the total costs associated with close out of operations and funds available, including current fund balance, to meet those costs, and plans for securing payment or reimbursement due under grant or contract from non-LSC sources.
- b. it must submit Grant Activity Reports within sixty (60) days of the cessation of LSC funding, including close out funding.
- 8. The OPP liaison provides OCE with the recipient's transfer plan regarding all property and with all financial records provided by the recipient.
- 9. OCE, after consultation with the recipient, as required by 45 CFR § 1634.10(a), and with the agreement of the OPP liaison, makes a recommendation to the Vice President for Programs and Compliance on:
 - a. a final decision on the total amount of close-out funding to be awarded the recipient and the scheduling of the checks;
 - b. the disposition of property; and
 - c. the recovery of the fund balance.
- 10. The OPP liaison makes a recommendation to the Vice President for Programs and Compliance on the disposition of the fund balance.
- 11. The Vice President for Programs and Compliance approves/modifies/denies OCE and OPP liaison recommendations. A copy of this decision goes to the SRP and all appropriate LSC parties.
- 12. The OPP liaison notifies the recipient of the Vice President for Programs and Compliance's decision.

G. Subgrants

1. **Definition and Requirements:** A subgrant means any payment of LSC funds from a recipient to another entity, under grant, contract or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted directly by the recipient itself, such as representation of eligible clients, or which provide direct representation of eligible clients, or which provide direct support to a recipient's legal assistance activities.

Under 45 CFR § 1627.3, recipients are required to submit subgrants to LSC for approval 45 days before their commencement date. Most subgrants run for a period of a full calendar year, which is the maximum permitted under the regulation. This means, that with a January 1 commencement date, recipients must submit their requests for approval by November 15 to allow for the 45-day review process. When reviewing subgrant regulations, OCE should consult with other offices as appropriate.

2. **Procedures**

- a. **Guidance to Recipients:** Each year, between September 30 and October 15, a memorandum is circulated to LSC recipients and posted on the Recipient Information Network (RIN), providing guidance for submission of the next year's subgrant agreements (*See Appendix F – Sample Subgrant Memorandum*).
- b. **Consultation with OPP:** At or about the same time as the guidance memorandum is sent to the recipients, a memo is sent to all OPP staff containing a list of current subgrants and requesting information as to whether OPP has any concerns or issues regarding the renewal of any subgrant for the coming grant year. (*See Appendix G and H – Sample Email to OPP staff and attachment.*)
- c. **The Intake Process**
 - i. The request for approval is routed to the OCE administrative staff member responsible for processing the agreements.
 - ii. The OCE administrative staff member logs in the time and date of receipt of requests for approval of agreements. (The 45-day limit starts at the log-in date).

- iii. A file is created which includes:
 - (a) a completed Subgrant Review Worksheet (*See Appendix I – Sample Subgrant Review Worksheet*) which is a check-list to ensure that the agreement contains certain basic elements, and that Subrecipient Budget and Subrecipient Profile Forms are attached;
 - (b) a completed Subgrant Log Sheet (*See Appendix J – Sample Subgrant Log Sheet*);
 - (c) the 45-day expiration date for completing the approval; and
 - (d) the prior year file for reference.
- iv. The subgrant information is entered in the database tracking system.
- v. The file is then forwarded to the OCE staff person responsible for conducting review of the subgrant and recommending approval/disapproval.

d. Preliminary Review

The OCE staff person responsible for reviewing the subgrant proceeds as follows:

- i. Reviews the agreement for completeness using the Subgrant Review Sheet;
- ii. Ensures that the dollar amounts stated are accurate;
- iii. Ensures that the agreement contains the correct language in each segment;
- iv. Ensures that the agreement contains appropriate commencement and expiration dates; and
- v. Ensures that the agreement is fully executed by all parties.

e. In-Depth Review

The agreement is reviewed to ensure that:

- i. the types of services to be provided are eligible under LSC rules, regulations and guidelines;
- ii. the subgrant appears to be an economical and efficient use of funds; c.g., (a) notes the number of cases expected to be handled and (b) performs a quick analysis of the average cost per case; and
- iii. in the case of a new subgrant agreement, the Funding Application, PAI Plan, State File and other pertinent documents are used to aid in making an informed judgment as to whether to recommend approval or not.

If there are any concerns, misinformation etc, the staff person conducting the review will contact the requesting ED, either via telephone or email, for clarification.

f. Recommendation Process

- i. Upon completion of the review process, the staff person writes a brief summary of the results of the review and makes a recommendation for approval or disapproval of the subgrant. The summary is attached to the inside file cover for the OCE Director's review.
- ii. Recommendations to approve or disapprove a subgrant are discussed with OPP staff and a consensus reached prior to final recommendation to the OCE Director.
- iii. A draft letter is prepared and submitted with the file. (*See Appendix K – Sample Subgrant Approval Letter.*)

g. Mailing and Tracking of Decision Letters

- i. Once the letter approving the subgrant has been signed, four copies of the letter are made; the original is mailed; one copy is placed in the subgrant file; one copy is given to the staff person responsible for reviewing subgrant agreements; and one copy is retained for the OCE chronological file.

- ii. Updates to the record are prepared which include information regarding the approval of the subgrant and whether the case has been closed or whether the approval was conditioned upon receipt of further documentation. In most instances, further documentation means fully executed copies of the agreement or special condition reporting requirements (*see* #4).
- iii. If no further documentation or information is required, the tickler is attached to the inside cover of the subgrant file folder and filed with all the subgrant files.
- iv. If there are special conditions attached to the approval, the subgrant reviewer monitors and follows up as necessary.

H. Fund Balance/Deficit Waivers

1. **Definition and Requirements:** LSC recipients whose annual audits report fund balances in excess of 10 percent of their total LSC annualized support, are required to request a waiver, pursuant to 45 CFR § 1628.4, in order to carry over the excess balance to the following year. Recipients may request a waiver to retain fund balances in excess of 25% of LSC support only for the extraordinary and compelling circumstances when the recipient receives an insurance reimbursement, the proceeds from sale of real property, or a payment from a lawsuit to which the recipient is a party. (*See* 45 CFR § 1628.3(c)). In the absence of a waiver, LSC is required to recover the excess fund balance pursuant to § 1628.3(e).

The regulations, at 45 CFR § 1628.5, state, in part, **“Sound financial management practices such as those established in LSC’s Fundamental Criteria of an Accounting and Financial Reporting System, should preclude deficit spending.”** In the case of a deficit, recipients are expressly prohibited from using current year LSC funds to liquidate a prior year deficit unless they receive prior written approval from the LSC. Current year LSC funds used to liquidate a prior year deficit without such approval are subject to disallowance by LSC. Recipients are required to submit, for LSC’s approval, a plan to liquidate the deficit and prevent a recurrence. (*See* 45 CFR § 1628.5.) Other LSC offices should be consulted as appropriate.

2. **Procedures for Processing Requests for Waiver of Excess Fund Balances**
 - a. Recipient waiver requests are submitted to the OCE Director and forwarded to the staff person responsible for processing fund balance waiver requests.

- b. The request is entered in a database maintained by OCE staff that includes the following:
 - i. date of the request (per date of letter);
 - ii. recipient name and number;
 - iii. the excess fund balance amount;
 - iv. fiscal year in which excess occurred;
 - v. date of LSC response; and
 - vi. expiration date of the waiver.
- c. The excess fund balance is computed from the audit report.
- d. OCE staff prepares a worksheet of the calculation and makes a recommendation for waiver pursuant to 45 CFR §§ 1628.3 and 1628.4.
- e. The OCE staff member prepares a draft letter of response to the waiver request.
 - i. If a waiver is to be approved, the letter will state the excess amount and show the computation, the relevant part(s) of the regulation under which approval is granted and the reporting requirement for the waiver in the next year's audit. (*See Appendix M – "Sample OCE Letter Approving Excess Fund Balance Waiver".*)
 - ii. If a waiver is not approved and a refund of the excess fund balance is to be requested, the letter will show the amount to be refunded and provide instructions for paying the refund. A copy of the letter will be sent to the LSC Comptroller.
 - iii. If additional information is needed in order to process the waiver request, the recipient is contacted via telephone or mail to obtain the needed information.
- f. A draft response letter with supporting documents is submitted to the OCE Director for review prior to submission of a final letter.
- g. The OCE administrative assistant mails letter and distributes copies as follows: one copy for file; one to the staff member who drafted the letter;

one to the chron file; and one to the Comptroller if a refund is being requested.

- h. The databasc is updated for actions taken;
- i. A monthly status report is prepared, a copy of which goes to the Director. This information is also provided to the Vice President for Programs and Compliance and the Director of the Office of Program Performance via transmission of OCE's Monthly Activity Report. (*See Appendix C – Sample OCE Monthly Report.*) The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in a the OCE subfolder of the LSC-Shared Documents folder on worksite.

3. Circumstances in which a Waiver Might be Approved

A waiver of an excess fund balance might be approved when:

- a. the excess amount is needed to fund an encumbrance system or cash reserve for payments to private attorneys; and
- b. a recipient had windfall receipts, such as attorney fee awards, or proceeds from sale of property, which could not be economically expended during the current year.

The decision to approve a waiver is made on a case by case basis consistent with the guidelines in Section 1628.4(d).

4. Procedures for Processing Requests for Approval of Deficit Liquidation Plans

- a. All requests are forwarded to the responsible staff person in OCE;
- b. The audit report is reviewed to confirm the deficit and determine whether any non-LSC funds are available to offset any portion of the deficit;
- c. The request is reviewed for completeness. If the request is incomplete, contact with the recipient is made for additional information. A completed request should include the following:
 - i. a plan to liquidate the deficit, approved by recipient's board of directors;

- ii. the projected date for liquidating the deficit;
 - iii. the source of funds to be used, including possible use of current year LSC funds; and
 - iv. a budget showing a projected fund balance at the end of the current fiscal year.
- d. The OCE staff member prepares a letter, based on the above analysis, for the Director's review and signature. (If the recipient has available funds from non-LSC sources to liquidate a deficit in the LSC fund, this is the preferred method of curing the deficit. If no such funds are available, LSC will generally approve the use of current year funds to liquidate the deficit.); and
- e. The database is updated for actions taken.

I. PAI Waivers

1. **Overview:** LSC receives PAI waiver requests pursuant to 45 CFR § 1614.6 every year. LSC has 30 days from receipt to approve, disapprove or request more information. If a waiver is not timely processed, it is automatically granted in accordance with 45 CFR § 1614.6(f). If a recipient's request for a PAI waiver is approved, the recipient's required PAI expenditure of 12.5% of its basic field grant is reduced by the amount requested. If a request is not approved and the recipient does not expend the required amount in the fiscal year to which the request pertains, then the shortfall is carried over and added to the PAI requirement for the next fiscal year. OCE is responsible for the receipt and processing of these requests.
2. **Consultation with OPP:** As part of the review process, OCE will provide a PDF copy of each PAI request waiver received to the appropriate state responsible person in OPP. The OPP staff member must raise issues or concerns regarding a specific waiver request in writing within 5 days of OPP's receipt of their copy of the waiver request, due to the regulatory limits required for processing PAI waiver requests
3. **Determination of PAI requirement amount:** In processing each request, LSC staff must calculate the recipient's PAI requirement to check for errors in the recipient's calculations. For recipients which operate on a calendar year basis, the calculation is done by obtaining Basic Field funding information and dividing this funding by 8 (equivalent to multiplying by 12.5%). For recipients with non-calendar fiscal years, the calculation is more complex.⁴

⁴ Most of these odd fiscal years are June 30, and a shortcut works since half the funding is in each calendar

4. **Failure to Submit Timely Request:** Some recipients fail to request a timely PAI waiver (must be requested by the last day of the fiscal year to which it pertains — 45 CFR § 1614.6(e)). Some submit late requests and others are not detected until OIG processes their audit or OCE discovers the shortfall during an onsite review. In these cases, the shortfall must be dealt with pursuant to 45 CFR § 1614.7. That subsection provides for LSC to allow the recipient to carry over the shortfall to the next fiscal year (sometimes in practice it must be the fiscal year after the next time the shortfall is detected) if the failure to request a timely waiver was with “good cause.”

Late requests are processed (though the 30-day deadline does not apply) and usually the shortfall is carried over to the next fiscal year. In a few very exceptional circumstances, usually related to an issue of accounting or regulatory interpretation, LSC has granted a retroactive waiver. The state responsible OPP staff member is consulted, as necessary, before any final decision is made regarding the waiver request.

5. **Potential PAI shortfalls noted by OIG:** When OIG has reviewed the audits, it generates a list of PAI shortfalls. This list must be reviewed, because it includes many recipients that have received waivers. It also must be carefully checked against the actual audit, because an apparent shortfall is often not a real one. Once the list is reduced to those that appear to be actual, it is sorted into three groups by size and percentage of shortfall:
- a. Group 1, de minimis — less than \$1,000 and less than .25% of a recipient’s Basic Field Funding (2% of PAI requirement) - - is administratively closed and the recipient is deemed to have substantially met its PAI requirement. No letter to the program is required.
 - b. Group 2, small — less than \$3,000 and less than 50% of the PAI requirement (4% of PAI requirement) — a closing letter is sent to the recipient informing it that the shortfall amount is automatically carried over to the next fiscal year without need for the recipient to submit an explanation why it failed to submit a timely PAI waiver request.

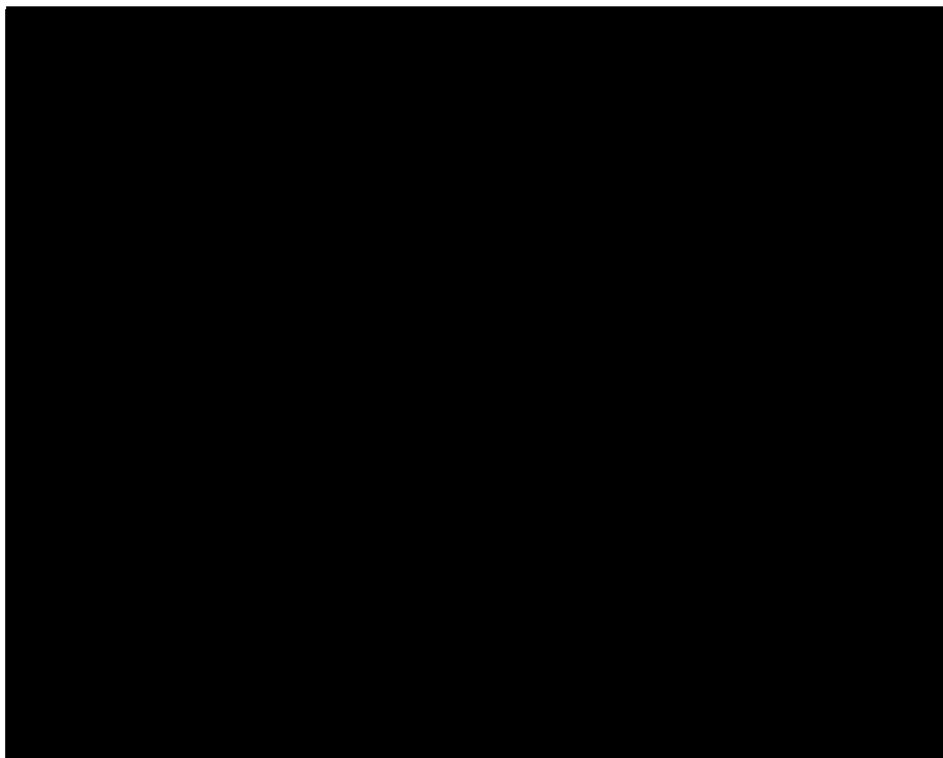
year. To do this calculation for example, for a FY1995-96 grantee, add the funding for the two calendar years and divide by 2 to get PAI for the fiscal year. This amount is divided by 8 to get PAI. The principle behind this calculation is to multiply the funding of the first year in the calendar year by the number of months falling into the fiscal year divided by 12 and do the same for the second calendar year and then divide the resulting sum by 8. Thus if a recipient has an October 1 fiscal year, and received \$1,200,000 in 1995 and \$900,000 in 1996, its Basic Field for its FY1995-96 would be \$975,000 and its PAI requirement would be \$121,875.

- c. Group 3, significant — any shortfall over \$3,000 or over .5% of a recipient's Basic Field funding — requires a letter to the recipient informing it of the shortfall and requesting an explanation why it did not submit a timely waiver request. When the response is received, another letter is sent informing the recipient whether LSC will allow the shortfall to be carried over to a subsequent fiscal year pursuant to 45 CFR § 1614.7(b).
 - i. It should be noted that recipients often assert that they actually met their PAI requirement. These assertions and accompanying explanations frequently have merit, leading to LSC declaring them to have met their PAI requirement.
 - ii. After reviewing the recipients request and any supporting information provided, a letter informing the recipient of OCE's decision is drafted for signature by the OCE Director. (*See Appendix M - "Sample Letter Notifying Recipient of Approval of PAI Waiver".*)
6. **Tracking:** All PAI waiver requests are tracked on an Excel Spreadsheet. The spreadsheet tracks requests by recipient name and number, date of receipt, interim correspondence, date of final letter, amount of PAI requirement, amount of PAI waiver, and the subsection of 45 CFR § 1614.6 under which it was processed (for late requests, the section number 7b is used, standing for 45 CFR § 1614.7(b)). The OCE staff member responsible for coordinating PAI waivers should also maintain hard copy files for each PAI waiver request.
7. **Consultation with and notification to other LSC offices:** A monthly status report is prepared, a copy of which goes to the Director. This information is also provided to the Vice President for Programs and Compliance and the Director of the Office of Program Performance via transmission of OCE's Monthly Activity Report. (*See Appendix C - Sample OCE Monthly Report*). The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in the OCE subfolder of the LSC-Shared Documents folder on worksite.

J. Questioned Costs

- 1. **Overview and consultation with other LSC offices:** The questioned cost process is governed by 45 CFR Part 1630. Other LSC offices should be consulted as appropriate regarding questioned costs.

a.



- b. **Statutory violations or costs totaling over \$1,000:** If the audit shows evidence that the expenditure may be a specific violation for statutory prohibition, then LSC should pursue it regardless of the amount in question, because there is the additional issue of deterring and/or penalizing the statutory violation. This additional purpose justifies the use of resources that are likely, on the average, to exceed the amount recovered.

It should be noted that amounts discussed above are totals. If a recipient has five questioned cost averaging \$220, the matter would be pursued, because the aggregate cost is over \$1,000. Once it is determined that the total questioned cost is enough to pursue, all questioned costs in the audit should be reviewed.

- c. **Possible outcomes:** Once it is determined that a questioned cost is sufficiently significant to be pursued, the issue will be fully reviewed. The result of that review will be one of the following:

⁵ The reviewer should use discretion and judgment when applying this standard. For example, the reviewer should assess whether the questioned cost is part of a pattern, i.e., whether similar findings existed in previous audits and were not corrected; or whether the questioned cost could lead to a more serious problem with internal controls. Finally, and most importantly, the reviewer should assess whether the questioned cost is reasonable and necessary to the delivery of legal services.

- i. There is insufficient reason for LSC to question the cost. This could be because LSC review of the information in the audit leads to the conclusion that the cost was legal and proper, because other information in LSC files support the cost or for other reasons, such as that there is an issue but the questioned cost process is not the appropriate vehicle to pursue it;
- ii. There is sufficient reason for LSC to question the cost and a questioned cost letter should be drafted and sent pursuant to 45 CFR § 1630.7; or
- iii. There may be sufficient reason to question the cost but LSC first wants to contact the recipient more informally to see if they have an explanation which would obviate the necessity of initiating a 45 CFR § 1630.7 proceeding.

K. Grant Assurance Notifications

1. **Overview:** Grant Assurance 14 for 2008 requires recipients to give written notice to LSC within 30 days after any of the following occurrences which involve activities funded by the grant:
 - a. Closure, transfer or any other change of any main or staffed branch office;
 - b. Change of chairperson of the governing body;
 - c. Change of chief executive officer;
 - d. Change of its charter, articles of incorporation, bylaws or governing body structure; or
 - e. Change on its main email address or its website address (URL).
2. **File Maintenance:** OCE is responsible for maintaining a file record of recipient notifications pursuant to the above Grant Assurances, as well as 1996 Assurances. In addition, an OCE staff member will maintain recipient submissions of board policies including priority statement, eligibility guidelines and other policies pertaining to regulatory requirements approved by recipient boards.
3. **Consultation with and notification to other LSC offices:** Other LSC offices should be consulted as appropriate. A monthly status report is prepared, a copy of which goes to the Director. This information is also provided to the Vice President for Programs and Compliance and the Director of the Office of Program Performance via transmission of OCE's Monthly

Activity Report. (See Appendix C – Sample OCE Monthly Report). The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in the OCE subfolder of the LSC-Shared Documents folder on worksite.

L. Audit Reports

1. **Overview:** Audit reports are forwarded to OCE by the Office of Inspector General on a rolling basis. The OCE administrative assistant maintains a copy of all recipient audit reports, and OCE staff members with accounting backgrounds are responsible for reviewing all audit reports. (See Appendix O- OCE Financial Statement Review Memorandum.)
2. **Consultation with and notification to other LSC offices:** Other LSC offices should be consulted as appropriate. A monthly status report is prepared and a copy is provided to the Director. This information is also provided to the Vice President for Programs and Compliance and the Director of the Office of Program Performance via transmission of OCE's Monthly Activity Report. (See Appendix C – Sample OCE Monthly Report.) The Vice President for Programs and Compliance receives both a hard copy and a pdf version of the report. Additionally, a pdf version is emailed to all OPP staff members and a copy placed in the OCE subfolder of the LSC-Shared Documents folder on worksite.

M. Legislative Activity Reports

1. **Overview:** Pursuant to 45 CFR § 1612.10 recipients are required to submit semi-annual reports detailing legislative activities conducted with non-LSC funds (Legislative Reports).
2. **Tracking and consultation with OPP:** The OCE administrative assistant will maintain the "LAREPLOG" database which indicates which recipients have submitted Legislative Reports, and the dates of submission. Reports are then reviewed by the OCE Director or designee. Any identified issues should be brought to the attention of OPP.

N. A-50 Follow-Up Procedures – Grantee Audit Follow-up Process

1. **Purpose:** The Grantee Audit Follow-Up Process establishes a system for LSC to ensure that findings and recommendations relating to grantee operations addressed to grantee management are effectively resolved and that corrective action is completed and reported in a timely manner.

2. **Authority:** LSC Act of 1974, as amended; IG Act of 1978, as amended; LSC's fiscal year 1996 and 1997 Appropriations Acts, 110 Stat. 1321 (1996), 110 Stat. 3009 (1996). Cf. OMB Circular A-50.
3. **Objectives:** The principal objectives of the Grantee Audit Follow-Up Process are:
 - a. to delineate the respective roles of the designated Audit Follow Up official, LSC management, and the Office of Inspector General (OIG) in the Grantee Audit Follow Up Process;
 - b. to provide procedures: (i) for resolution of audit findings and recommendations addressed to grantee management which are contained in reports on grantees or grantee operations prepared by Independent Public Accountants (IPAs), OIG, the General Accounting Office (GAO), or other authorized reviewing entities and (ii) for corrective action on such findings and recommendations; and
 - c. to establish a system of monitoring to assure that final action is taken on agreed upon corrective action plans.
4. **Policy:** Grantee Audit Follow Up of findings and recommendations is an integral part of good management and is a responsibility shared by LSC and grantee management. Corrective actions taken to implement findings and recommendations enable LSC management to improve the effectiveness and efficiency of LSC and grantee operations. An effective grantee audit follow up system not only ensures the prompt and proper resolution of audit findings and recommendations and the implementation of corrective action, it also ensures that a complete record of actions taken on findings and recommendations is maintained. These policies and procedures are intended to incorporate the concepts of Office of Management and Budget (OMB) Circular A-50, *Audit Follow Up*.
5. **Scope:** The Grantee Audit Follow Up Process applies to findings and recommendations addressed to grantee management contained in audits, investigations, and other reviews of grantees or grantee operations conducted by IPAs, LSC OIG and/or contractors performing on behalf of the OIG, GAO, and other authorized reviewing entities of LSC grantee programs, operations, and contractors. Statutory requirements of the GAO or the OIG concerning reporting and follow up of audit findings and recommendations are not superseded by this Process.
6. **Reports:** Grantee audit findings and recommendations are addressed to grantee management and are found in reports issued by grantee IPAs, OIG,

GAO, or other reviewing entities. The reports can be issued in the form of a financial statement audit, financial-related audit, performance audit, investigative report, inspection report, management letter, or other acceptable report format. Audit reports of grantee programs and operations are initially submitted to the OIG to ensure that the audits were conducted in accordance with applicable audit standards and requirements, *e.g.*, GAAS, GAGAS, OMB Guidance, OIG audit policy, and for identification of findings and recommendations for referral to LSC management for follow up.

7. **Definitions:** The following definitions are used in the Grantee Audit Follow-Up Process:

- a. **Audit Follow Up Official (AFO):** The official designated by the LSC President to reconcile disagreements between the OIG and LSC management as to the resolution of grantee audit findings and recommendations.
- b. **Corrective Action Plan (CAP):** A plan submitted by the grantee to implement audit findings and recommendations. The CAP describes the corrective action taken or planned in response to each finding and recommendation and, where appropriate, dates for achieving the action. If the auditor does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.
- c. **Disallowed Cost:** A questioned cost that LSC management, has sustained or agreed should not be charged to LSC funds.
- d. **Final Action:** The completion of all actions that LSC management has concluded are necessary to implement the approved CAP; or an LSC management decision that no corrective action is necessary.
- e. **Finding:** A statement reported by a grantee IPA, OIG auditor and/or investigator, GAO auditor and/or investigator, or other reviewing official about a grantee regarding compliance, efficiency, effectiveness, fraud, waste, and abuse, including a finding by the OIG that funds may be put to better use. A finding is fully supported by available information and documentation evaluated or investigated during the performance of a review. Findings are the basis for recommendations.
- f. **Funds Put to Better Use:** OIG finding that funds could be used more efficiently if grantee management took actions to implement and complete recommendations.

g. Material Weaknesses: A material weakness in the internal control structure is a reportable condition in which the design or operation of one or more of the internal control structure elements does not reduce to a relatively low level the risk that errors or irregularities in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

h. Open/Closed Findings and/or Recommendations:

- i. **Open:** Findings and recommendations are considered “open” for semi-annual reporting purposes when final action has not been accomplished. Thus, a finding or recommendation is considered open until all corrective actions have been fully implemented and LSC management has received from the grantee sufficient documentation supporting the implementation of the corrective action and a certification as to the completion of such implementation.
- ii. **Closed:** Findings and recommendations are considered “closed” for semi-annual reporting purposes when final action has been accomplished. Thus, a finding or recommendation is considered closed when all corrective actions have been fully implemented and LSC management has received from the grantee sufficient documentation supporting the implementation of the corrective action and a certification as to the completion of such implementation. A copy of the certification should be provided to the OIG.
- i. **Questioned Cost:** An incurred cost that is found to: (1) be a possible violation of a provision of a law, regulation, contract, or other agreement or document governing the use of LSC funds; (2) lack adequate supporting documentation; and/or (3) be unnecessary or unreasonable given the intent of the expenditure.
- j. **Recommendation.** An action proposed by a grantee IPA, OIG auditor and/or investigator, GAO auditor and/or investigator, or other reviewing official to correct or improve an activity or condition reported as a finding in a report on a grantee or its operations or to prevent future occurrences of the deficiency identified in the finding. Recommendations may include a recommendation by the OIG that funds be put to better use.

k. Referred/Issued Findings and/or Recommendations:

- i. **Referred.** Significant findings and recommendations issued to grantees by their IPAs, GAO and other reviewing entities are **referred** by the OIG to LSC management for Follow Up action. Other findings reported by grantee IPAs, GAO, or other reviewing entities are provided to LSC management by the OIG for information only.
- ii. **Issued.** Significant findings and recommendations reported by the OIG, including contractors reviewing grantee operations on behalf of the OIG, which relate to grantee operations are **issued** by the OIG to LSC management for Audit Follow Up action. Other findings reported by the OIG are provided to LSC management by the OIG for information purposes only.
- l. **Resolution.** The point at which (1) LSC management agrees with the grantee's proposed corrective action plan or accepts the grantee's disagreement with a reported finding or recommendation, (2) the OIG concurs or, if the OIG does not initially concur, the OIG and LSC management reach an agreement or, (3) if no agreement can be reached, the AFO issues a decision on the matter.
- m. **Sufficient Documentation.** Written evidence substantiating a grantee's assertion that corrective action has been accomplished, including a certification statement.
- n. **Unsupported Costs.** Costs reported as questioned because of a lack of supporting documentation.

8. Criteria for Follow-up Action: Findings and recommendations will be referred or issued to LSC management for Follow Up only after a determination by OIG that the findings or recommendations are significant. Significant findings or recommendations are those deemed by OIG to require management's attention based on quantitative and/or qualitative conditions contained in the finding. In addition, only the following types of findings and recommendations will be referred or issued to LSC management for Follow Up:

- a. Instances of material Non-Compliance with laws and regulations: Materiality will be considered in terms of the seriousness of the violation given the purpose of the pertinent statutory or regulatory restriction or requirement, whether the occurrence of the violation is frequent or part of a pattern of violations rather than an isolated occurrence, the duration of

the violation, or whether the recipient has had prior notice of the violation;

- b. Instances of Questioned Costs or Unsupported Costs;
- c. Instances of Material Weaknesses;
- d. Reportable conditions that, taken in whole or in part, are indicative of a systemic problem; and
- e. Uncorrected findings or recommendations from prior reports.

9. **Process:** The Grantee Audit Follow Up Process is invoked when the OIG formally **refers or issues** findings and recommendations from audit reports related to grantee activities to LSC management for resolution and corrective action.

a. **Reporting Process.** The grantee reporting process as it relates to IPA reports is described in the *Audit Guide*.

b. **Resolution Process.**

- i. The OIG will refer to LSC management findings and recommendations from audit reports on grantees by IPAs, GAO, or other reviewing entities , within 30 days of OIG's receipt of the audit report and CAP,⁶ or will issue to LSC management findings and recommendations prepared by the OIG as soon as the reports are finalized.
- ii. In addition to the findings and recommendations referred or issued for follow up, the OIG will forward the CAP when received.⁷ If the grantee failed to submit a CAP in a timely manner, upon notification by the OIG, LSC management will require that it do so immediately.

⁶ Five-day letters will be sent to LSC management the day of receipt for informational purposes only. Findings in five-day letters will require follow up only when formally referred for follow up by the OIG. Such referral may await receipt and review of the audit report by the OIG.

⁷ Under the Audit Guide, grantees are required to submit CAPs within 30 days of submission of the audit report by to the OIG. As an alternative, grantees may incorporate a CAP into the response to the auditor's findings and recommendations.

- iii. LSC management will review each finding and recommendation referred or issued, along with the CAP proposed by the grantee to determine if it is satisfactory. If the proposed corrective action is deemed unsatisfactory, LSC management will work with the grantee in developing a satisfactory CAP. If LSC management determines that the finding does not require follow up, LSC management will notify the OIG. LSC management and the OIG will then follow steps vi. through xi. of this resolution process as set out below.
- iv. LSC management will ensure that proposed corrective actions are consistent with law, regulations, and LSC policy and, when accepting the grantee's disagreement with a reported finding or recommendation, will ensure that the grantee provides an adequate written justification containing the legal and factual basis for the disagreement.
- v. Within 30 days of receipt of referred or issued findings and recommendations, LSC management will notify the OIG of the corrective action agreed upon by LSC management and the grantee, or of LSC management's acceptance of the grantee's disagreement.
- vi. OIG will notify LSC management within 15 days of its concurrence or non-concurrence with the corrective action agreed upon by LSC management and the grantee, or with LSC management's acceptance of the grantee's disagreement.
- vii. If the OIG concurs, the finding and/or recommendation will be considered resolved.
- viii. If the OIG does not concur, the AFO has 15 days within which to seek resolution by agreement between LSC management and the OIG.
- ix. If no agreement can be reached within the 15 days, the AFO will issue a decision within seven days. The AFO's decision on referred or issued findings will be considered final and the finding and/or recommendation will be considered resolved.

10. Corrective Action Process

- a. Grantees will provide a written CAP for each finding and/or recommendation in accordance with the *Audit Guide*. In lieu of or in addition to a CAP, if the grantee disagrees with the finding or

recommendation or believes corrective action is not required, the grantee shall provide an explanation and specific reason(s) (e.g., legal and/or factual basis) that corrective action is not required.

- b. LSC management will ensure that all corrective actions have been taken by the grantee within six months of the date on which a finding or recommendation is referred or issued for follow up.⁸
- c. LSC management will require the grantee to provide sufficient documentation to ensure that the corrective action has been fully implemented, and will require the grantee to certify in writing that all corrective actions have been implemented.
- d. LSC management will notify the OIG of all completed corrective actions and provide the OIG with copies of the grantee certifications.
- e. Upon receipt of the notification of completion, the OIG will close the respective findings and recommendations, and will include in the Semi-Annual Report to the Congress (SAR) the number of closed recommendations. The OIG will report in the SAR the status of open findings and recommendations.

11. Responsibilities

- a. LSC Management is responsible for:
 - i. following up in an appropriate and timely manner;
 - ii. ensuring that this Grantee Audit Follow Up Process and implementing procedures are in place;
 - iii. ensuring that corrective action is taken in a timely manner;
 - iv. ensuring that all LSC management actions relating to the Grantee Audit Follow Up process are fully documented;

⁸ Although, in most instances, corrective action will be implemented within six months of referral or issuance by OIG, OIG and management recognize that in the rare case implementation of corrective action within the six month period may not be achieved. This likely will be due to the nature of the corrective action to be implemented or because disallowed costs have been appealed under 45 CFR Part 1630. In such cases, management will provide notice to the OIG and implementation of corrective action will occur no later than six months from resolution. (In the case of questioned costs under Part 1630, this means that any appeal and recovery of the amount disallowed must occur within six months of resolution.)

- v. working with the OIG and the AFO in reconciling disagreements between LSC management and the OIG;
 - vi. reviewing responses to audit reports and proposed resolutions and corrective actions to reach resolution.
- b. LSC Office of Inspector General is responsible for:
- i. ensuring that IPA reports are submitted in a timely manner, complete and presented in accordance with applicable audit standards;
 - ii. overseeing the work of non-Federal auditors in performing audit work in connection with grantees;
 - iii. referring findings and recommendations reported by grantee IPAs, GAO, or other reviewing entity, or issuing findings and recommendations reported by the OIG;
 - iv. reviewing responses to audit reports and proposed resolutions and corrective actions;
 - v. working with LSC management and the AFO in reconciling disagreements between LSC management and the OIG.

TIMETABLE FOR GRANTEE AUDIT FOLLOW UP PROCESS

OIG REFERRED OR ISSUED FINDINGS/RECOMMENDATIONS	
ACTION	TIME LINE
OIG refers or issues findings and recommendations to LSC management	Within 30 days of receipt of an audit report and CAP or as soon a practical after completion of OIG audit report
LSC management notifies the OIG of agreed upon Corrective Action Plan, or acceptance of grantee's disagreement with findings and recommendations	30 days from receipt
OIG provides concurrence or nonconcurrence	15 days
Resolution of disagreement sought	15 days
AFO decision	7 days
CAP is fully implemented by grantee and notification of completion is provided to the OIG	6 months from OIG referral or issuance of finding/recommendation

O. Recipient Onsite Review Procedures

The following sets forth proposed criteria that will be used to select programs for different types of OCE and/or OPP on-site visits so that OCE and OPP can most effectively and efficiently fulfill their oversight responsibilities. These criteria will be used as part of an annual process to identify the specific programs that will be visited by OCE and/or OPP in a particular year.

1. Criteria to Select Programs for Visits

The selection of programs that should be visited must ultimately be based on the professional judgment of staff people who have the requisite experience and knowledge of individual programs to effectively assess the importance of pertinent factors.

a. Case Service Reports/Case Management System (CSR/CMS) Visits, Program Quality (PQ) Visits, and Program Engagement (PE) Visits

The following criteria will be used to select programs where CSR/CMS visits will be conducted by OCE and/or where PQ or PE visits will be conducted by OPP:

- i. Date of last visit by OCE or OPP. Whether programs have been visited by OCE or OPP in the previous three years will be a threshold consideration in determining whether a program should be scheduled for a visit. This criterion is not definitive, however. The assessment of the other criteria may indicate that a visit to a particular program may be warranted even if it has been visited within the preceding three years by OCE or OPP. The selection of programs that should be visited must ultimately be based on the professional judgment of staff people who have the experience and knowledge of individual programs required to effectively assess the importance of pertinent risk factors.
- ii. Significant Program or Compliance Issues.
- iii. Complaints filed or pending against the program.
- iv. Results of financial statements reviews.
- v. Issues identified by OIG, including A-50 referral information provided to OCE or other information from the OIG that is referred to management for follow up.
- vi. Issues identified by OCE/OPP as part of the competitive grant evaluation process (this could emerge from sources such as annual CSR reports, the CSR self-assessment/self-certification, or information contained in the proposal narrative or appendices).
- vii. Issues identified by OCE/OPP as part of the recipient's required reporting to LSC.
- viii. Issues identified through grantees' contacts with LSC personnel.
- ix. Issues have been identified by other funders.
- x. OCE/OPP identification of particular areas of interest to be considered in prioritizing visits, such as PAI or intake.

- xi. Indications of significant issues related to program size, either in geographic scope or the budget. Such issues can arise if the program is quite large or quite small.
- xii. Issues identified by GAO.
- xiii. Issues identified by Congress.
- xiv. Transition in program leadership (e.g., new ED or CFO).
- xv. Any other information indicating that a visit to the recipient is either necessary or appropriate for LSC oversight.

b. OCE Complaint Visits

OCE determination based on assessment of factors such as the nature of complaint and the documentation and other information provided by the complainants and the program.

c. OCE Follow-up Reviews (FURs)

FURS are conducted by OCE when necessary to assess the extent to which recipients have implemented corrective action measures or program improvement recommendations.

d. OCE or OPP Technical Assistance (TA) Visits

The following criteria will be used to select programs where TA visits will be conducted by OCE and/or OPP:

- i. Grantee requests for assistance or
- ii. LSC personnel may conclude a visit is warranted based on factors such as the following:
 - (a) Issues identified by OCE/OPP as part of the competitive grant evaluation process.
 - (b) Issues identified by OCE/OPP as part of the recipient's required reporting to LSC.
 - (c) Issues identified by other funders.

- (d) Issues identified through grantees' contacts with LSC personnel.
- (e) Transition in program leadership (e.g. new ED or CFO).
- (f) Indications of significant issues related to program size, either in geographic scope or the budget. Such issues can arise if the program is quite large or quite small.
- (g) Any other information indicating that a visit to the recipient is either necessary or appropriate for LSC oversight.
- (h) Issues identified by GAO.
- (i) Issues identified by Congress

e. OPP Capability Assessment Visits

These are visits that are conducted pursuant to an application for LSC grant funds. These visits are authorized by 45 CFR Part 1634.

f. OCE Program Integrity Reviews (1610)

These are visits conducted, pursuant to 45 CFR Part 1610, in order to ensure that recipients maintain objective integrity and independence from organizations that engage in restricted activities.

B. OCE Pre-Visit Preparation

1. **Initial Notification.** Once a recipient has been identified for a visit, an advance call is placed to the executive director to explain the purpose and scope of the visit and to answer any initial questions from recipient management. Advance calls are normally made beginning in September of the prior year in order to allow for proper notice to the program, as well as team leaders and team members. Once the schedule is solidified, OCE staff, the Vice President for Programs and Compliance, and the Director of OPP are provided with an electronic copy of OCE's schedule. At, or about that time, initial selections are made by the OCE Director as to team leaders and team members for each visit. (*See Appendix L – Visit/Report Timing*). OCE staff are advised of their proposed trips and provided a set time period in which to confirm or deny their availability to participate on each trip.
2. **Document Request.** Approximately 60 days in advance of the visit, a formal notification letter is sent to each program confirming type of visit to be

conducted and the dates the team will be on-site. This notification also which usually includes a request for relevant and necessary documents which will be needed in advance of the visit or while on-site. It should be noted that although the scope and purpose of the visit is set in advance, that all recipients are notified that if any questions or issues arise on site which raise any other or new compliance issues, that the scope of the review can be changed at any time and at the discretion of LSC (*See Appendix P - Sample On-Site Review/Document Request Letter*).

3. **Visit Preparation.** During preparation for the onsite review, the OCE team leader should contact the recipient's OPP state responsible person (SRP) to obtain any information which OPP may have that would be helpful to OCE's review. Such information may be formal, such as OPP reports from recent visits, or informal such as anecdotal information the SRP may be able to provide. In addition, the team leader is responsible for obtaining recipient related information from OIM maintained sources – i.e., GREPS information, self-inspection data.

The documents which are requested in advance and on-site most often fall within standard categories and types of materials. However, the materials requested may vary substantially depending on the issues which are being reviewed. For typical CSR/CMS reviews, the documents requested include lists of the cases reported in recipient CSR data for the past two to three years, and lists of cases closed in the current year and those remaining open. To facilitate OCE review of these lists, recipients are required to provide the lists electronically, by office and also by PAI and staff.

- a. **Case Selection.** The team leader is responsible for determining and selecting the number of cases to be reviewed at each office. Although the majority of case selection lists are provided in advance of the visit, to facilitate recipient ability to locate files, not all case lists should be provided in advance.
- b. **Access Agreement.** The team leader is also responsible for negotiating and memorializing an access to information agreement with the Executive Director or their designee in conformity with LSC's *Access to Records* Protocol (January 5, 2004). (*See Appendix Q - Sample Access Agreement Letter*).

C. OCE Onsite Process

1. **Entrance Conference.** Onsite, visits are commenced with an entrance conference in which recipient management is encouraged to provide an overview and other information relevant to the scope of the review. At the

entrance conference, the team leader also provides additional logistical information regarding the trip, as well as provides the recipient an explanation of what type of formal document is to be expected from LSC as a result of the visit.

2. **Activities onsite.** The on-site review is conducted in accordance with the approved work plan (*See Appendix R - Sample OCE CSR/CMS WorkPlan and Appendix R-1 – LSC/OCE Policies and Procedures for Onsite Fiscal Reviews*). All CSR/CMS reviews include staff interviews, case file review, and fiscal records review. During the fiscal review, utilizes an “Internal Control Worksheet” to review and assess the effectiveness of the program’s segregation of financial duties. (*See Appendix R-2 LSC Internal Control Worksheet.*) OCE During case file review, OCE utilizes its standard “Data Collection Instrument” or DCI, which is currently titled “Case File Review Form A-1”. (*See Appendix S – Sample Data Collection Instrument.*) This standard form serves two purposes: first it allows for standard data collection for CSR and case management review work; second, it also serves as a training tool for recipient staff, as the form is shared freely with recipients and staff, and is explained and used in training, as necessary. This allows for recipients to understand the basics regarding those items which are standard for case management reviewing. OCE staff should ensure that the current DCI is used as this document is updated, sometimes frequently, as necessary. In addition, team members assigned to interview intake and/or PAI staffs are required to complete OCE’s Intake, PAI and Case Management Review Form (*See Appendix T*). The information on this form will serve as the primary supporting evidence regarding a program’s compliance with LSC regulations and guidance regarding intake and PAI.
3. **Communication between and from team.** Team members are responsible for contacting the team leader on a daily, or as needed basis, to keep the team leader apprised of any compliance issues or concerns. In turn, the team leader will keep the Executive Director, or their designee, informed of issues of concern throughout the week.
 - a. **Issues concerning OPP.** If OCE staff identify a potential quality related issue during the course of the onsite review, staff should urge the program to contact OPP for guidance on the issue and advise the program that OPP staff will be informed of the issue upon OCE’s return to the office.
4. **Exit Conference.** All trips are concluded with an exit conference, unless extreme circumstances make such a meeting either unwise or inconclusive. Recipient management invites the staff which management decides should attend. When special circumstances arise, OCE may request that a representative of the board of directors be present at the meeting. A majority

or all of the LSC review team will typically attend. The exit is conducted by the team leader, or their designee, and will provide the recipient with detailed findings and recommendations regarding the findings of the review. However, as indicated above, it is standard practice to provide ongoing feedback to recipient staff as findings and issues arise during the review week, so that often the exit conference is mainly a review of findings which the recipient is already aware. In rare instances, exit conferences may be conducted by telephone after the review week, when dictated by logistics or other considerations.

D. Post Onsite – Report Process (*See Appendix U - Time Line for OCE Report Writing*)

OCE's goal is to release a Final Report (or Letter) within 120 days of each trip's completion. However, a delay in the release date may occur due to any number of reasons including, but not limited to, one or more of the following reasons: 1) the complexity of issues contained in the report may require additional time for review and editing; 2) the program may request an extension of time within which to provide written comments; 3) the program's comments can raise additional issues for review and consideration; 4) every report stemming from a 1610 review is required to be reviewed by the Office of Legal Affairs (OLA) both before release of the Draft Report and before release of the Final Report; and 5) issues contained in the Draft Report or the program's written comments may raise issues which require OLA review and input.

1. **Preliminary Findings Memorandum:** Upon return to LSC, team leaders are responsible for drafting a short memorandum detailing the major compliance findings. This memorandum is provided to the OCE Director who, in turn, provides copies to the Vice President for Programs and Compliance and to the Director of OPP. This memorandum should be prepared and delivered to the Vice President within 5 working days of the team leader's return. (*See Appendix W - Sample Visit Finding Memo*). The Vice President for Programs and Compliance receives a hard copy of the report and the Director of OPP's copy is transferred electronically via pdf file to the OPP Administrative Assistant.
2. **Program Integrity Memorandum:** Additionally, a separate memo to the OCE Director regarding the team leader's summary assessment of the program's compliance with the program integrity requirements of 45 CFR Part 1610 must also be submitted. Although OCE does not undertake a complete assessment of program integrity during the course of an onsite CSR/CMS review, if the team leader feels that any information ascertained during the course of the such review indicates that the program may be in noncompliance with the program integrity requirements of 45 CFR Part

1610, the OCE Director must be informed of such issues. In turn, the OCE Director will inform the Vice President for Programs and Compliance, the Director of OPP and the Office of Legal Affairs.

3. **Issues Concerning OPP:** Finally, the team leader should either verbally or via email advise the OPP state responsible person of any potential quality related issues that were observed during the course of the review.
4. **Individual Reports:** For most on-site reviews, each team member will be responsible for drafting and submitting an individual report discussing their findings. Individual reports must be submitted within 10 working days of the team member's return to the office. Individual reports must be in the standard format and be provided to both the team leader and Director in electronic and hard copy form. (See Appendix X - Sample Individual Report). Findings should be phrased in declarative statements with a discussion following each finding including sufficient evidence which supports the conclusion reached. (See Appendix V – OCE Guidelines for Team and Individual Reports.) Team leaders who do not receive individual reports within the specified time frame should inform the Director.
 - a. **Back up materials:** The team leader should also be provided with all back-up materials and exhibits. All exhibits should be numbered using provided exhibit stickers. The report and all exhibits should be affixed in a file folder provided and the folder should be clearly identified with the following information: name of recipient; dates of visit, and name of report writer. In addition, charts and other written work product may be required by the team leader as part of the individual report.
 - b. **Other Formats:** As some visits (see “Other Situations” below) may conclude in the issuance of memoranda or letters – and do not require a formal report, different formats for individual reports may be allowed with the OCE Director's prior approval.
5. **Draft Team Reports – Format and Submission Time Frames.** In addition to an individual report, the team leader is responsible for assembling the information contained in the team members' individual reports into a cohesive draft team report. Team reports must be submitted in the standard format, and be provided to both the Director and Deputy Director in electronic and hard copy form. The electronic draft report should be saved in the OCE worksite folder — OCE Reports/Team Drafts/As submitted for review -- with the name – “Program Acronym Draft Report.as submitted date”. (See Appendix Y - Sample Draft/Final Report). Absent prior approval from the OCE Director, Draft Reports for one (1) week trips must be submitted within 60 calendar days of the team leader's return to the office

and Draft Reports for two (2) week trips must be submitted within 90 calendar days.

a. Release to Program and Comment Period. After review by the Director, and the Deputy Director as necessary, the Draft Report will be released to the recipient with a cover letter allowing a minimum of 30 calendar days for comment. (See Appendix Z- Sample Cover Letter – Draft Report) Once reviewed and approved, an electronic copy of the Draft Report is placed in the OCE worksite folder: OCE Reports/Team-Drafts/As Sent to Program -- with the name “Program Acronym Draft Report.as sent date”.

b. Copies. Concurrently with being released to the recipient, a pdf copy of the Draft Report is provided to the Vice President for Programs and Compliance and the Director of OPP. Hard copies are also provided to the OCE Director, Deputy Director (for maintenance in OCE visit folders), and the team leader.

- 6. Final Team Reports – Comment Incorporation Time Frame -** Once the recipient’s comments to the Draft Report are received, they are forwarded to the team leader for incorporation into the Final Report. Copies are provided to the OCE Director and to the Deputy Director (for maintenance in OCE trip folders). The team leader will have 14 calendar days from the receipt of the comments to complete comment incorporation. The Final Report should be submitted electronically, and in hard copy, to the Director and Deputy Director. (See Appendix Y- Sample Draft/Final Report.) The electronic version should be saved in the OCE worksite folder - OCE Reports/Team Finals/As Submitted for Review - with the name – “Program Acronym Final Report.as submitted date”. Once reviewed and approved, the Final Report, along with a copy of the recipient’s comments, is released and an electronic copy placed in the OCE worksite folder: OCE Reports/Team Finals/As Sent to Program - with the name – “Program Acronym Final Report.as sent date”.

Concurrently with being released to the recipient, a copy of the Final Report is provided to the Vice President of Programs and Compliance and the Director of OPP. The Vice President for Programs and Compliance receives a hard copy of the report and the Director of OPP’s copy is transferred electronically via pdf file to the OPP Administrative Assistant. Hard copies are also provided to the OCE Director, Deputy Director (for maintenance in OCE visit folders), and the team leader. Finally, a pdf version of each Final Report is forwarded to OIT staff for placement on the OCE intranet page.

- 6. Other situations.** For some visits, a report is not issued. In those instance, OCE usually sends a letter to the recipient. Such reviews have included

certain follow-up reviews and technical assistance reviews. Visits which involve pure training do not have any written report.

7. **Corrective Action Plans.** When necessary, a Corrective Action Plan (CAP) is adopted, usually with substantial input from recipient management. A CAP is designed to ensure that any necessary changes are made within a reasonable time, so as to bring areas of non-compliance into compliance or to adopt better or recommended practices. A CAP will usually include only items which are required. There may be other useful or noted recommendations which are left to the discretion of recipient management as to whether to adopt or not. Often the final report serves as the written CAP document. However, in some instances, a separate formal written CAP may be issued.

- E. **Types of OCE Visits.** A main type of visit conducted by OCE involves an assessment of the accuracy of the CSR reporting and the compliance of the recipient's case management system. Under these reviews, and according to the Congressional direction set forth by 509(h), recipients are required to show the following actual or original documents: the signed retainer; the completed intake sheet linked to the client name; the signed citizenship attestation or other eligibility review information under Part 1626, linked to client name. In addition, and so as to verify the proper closing of a legal case, a recipient has a burden to demonstrate that legal advice has been documented and that the work done accurately reflects the LSC closing code utilized. If any recipient refuses to provide any of the above information during an on-site review, a team member should communicate directly and immediately with the team leader, the team leader should communicate directly and immediately with the OCE Director, or designee.

OCE is currently conducting several types of on-site reviews. The primary types of visits are:

1. **Complaint Investigations.** These visits vary according to topic and involve fact-finding and conclusions of law regarding allegations of wrong doing or non-compliance with the LSC Act, regulations or other instructions.
2. **Case Service Report/Case Management System Reviews.** These reviews assess and determine compliance by the recipients with LSC regulations, guidelines, as well as the case management and CSR reporting compliance of the recipient.
3. **Technical Assistance Reviews.** These visits involve interactive reviewing of the subject issues with recipient staff to accomplish the dual mission of determining the strength of recipient systems and to train staff.

4. **Program Integrity (1610) Reviews.** These visits assess and determine recipient compliance regarding maintenance of objective integrity and independence from organizations that engage in restricted activities.
5. **Follow-up Reviews.** These visits assess and determine recipient progress towards implementing required corrective actions and/or program improvement recommendations stemming from either Case Service Report/Case Management System Reviews or Program Integrity (1610) Reviews.

In addition, OCE may also visit a recipient to conduct on-site training on a variety of issues.

APPENDIX A



BY FACSIMILE AND US MAIL

March 20, 2008

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

John Q. Director
Executive Director
Acme Bay Corporation
123 Main Street
Any town, XX 12345

Re: Prior Approval to Lease a Xerox WC 5030 Digital Laser Copier
Recipient No. 456789

Dear Mr. Director:

We are in receipt of your letter of March 12, 2008, requesting LSC's approval of Acme Bay Corporation's (ABC) expenditure of approximately \$12,607.20 to enter into 60-month lease for a new digital laser copier for the program's Any town office. As confirmed during a telephone conversation on March 19, 2008, only a portion of the lease costs will be allocated to LSC funds.

Your request indicated that the equipment is needed to replace the existing copier whose lease expires on March 31, 2008. The new copier will be networked to all computers in the Any town office and will also operate as a scanner. These capabilities will eliminate the need to maintain individual printers and will also eliminate the need to purchase a scanner for the office.

According to the information provided with your request, CLS seeks approval to lease one (1) Xerox WC 5030 digital laser copier through Document Services, Inc. The proposed lease would cost \$210.12 per month for the 60-month term of the lease, with no additional charge for the maintenance agreement. The lease includes 4,000 pages per month with an excess meter charge of .0142 per copy over that amount.

After reviewing the information provided by ABC, including the criteria utilized by ABC to select both the copier and the vendor, we have determined to approve this expenditure pursuant to 45 CFR § 1630.5(b)(2). Our approval is valid for five years from the date on which the new lease agreement is executed.

John Q. Director
Executive Director
Acme Bay Corporation
March 20, 2008
Page 2 of 2

If you need further assistance with regard to this matter, please feel free to contact Program Counsel name at (202) 295-15XX.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

APPENDIX B



BY FACSIMILE AND US MAIL

November 30, 2007

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Stoughton, MA

Michael D. McKay
Seattle, WA

Thomas R. Meltes
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Paul R. Litigator
Executive Director
Legal Aid of Oz
224 South Main Street
City, OZ 99999

**Re: Request to purchase vehicle
Recipient No. 456789**

Dear Mr. Litigator:

We are in receipt of your program's letter dated September 30, 2007 requesting approval of Legal Aid of Oz's expenditure of LSC funds to purchase a 2007 Ford Fusion. This request was received by our office on October 13, 2006. On that same day, a request for additional information was sent via email to Annie Lawyer, LAO's Assistant Executive Director - Finance and Administration. Ms Lawyer responded to the initial email, but has not submitted the additional information requested, which is required under LSC's Property Acquisition and Management Manual. A copy of the email exchange is enclosed for your information.

Based upon the LAO's failure to provide the additional information required for LSC's adequate consideration of your request, we reject LAO's request to undertake this expenditure with LSC funds. LAO may re-submit its request, along with the required information, at any time.

If you have any questions or need further assistance with regard to this matter, please call OCE Staff at (202) 295-15XX.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

Enclosure

APPENDIX C

OFFICE OF COMPLIANCE & ENFORCEMENT

MEMORANDUM

TO: Karen J. Sarjeant, Vice President for Programs and Compliance

FROM: Danilo A. Cardona, Director, Office of Compliance and Enforcement

DATE: April 11, 2008

SUBJECT: Status of the Office of Compliance and Enforcement Activities

The following is a summary of activities undertaken by the Office of Compliance and Enforcement (OCE) during the period March 1, 2008 to March 31, 2008.

1. **On-Site Reviews**

The Case Service Report/Case Management System (CSR/CMS) review's major objectives are to assess the following policies and procedures adopted by a recipient:

- (1) 45 CFR Part 1611 (Financial Eligibility);
- (2) 45 CFR § 1611.9 (Retainer Agreements);
- (3) 45 CFR § 1620.2(a) (Assistance Provided);
- (4) 45 CFR § 1620.4(c) (Priorities);
- (5) 45 CFR Part 1626 (Citizens/Eligible Aliens);
- (6) 45 CFR Part 1635 (Timekeeping);
- (7) 45 CFR § 1636.5 (Client Identity and Statement of Facts);
- (8) 45 CFR Part 1614 (Private Attorney Involvement (PAI));
- (9) 45 CFR Part 1610 (Use of Non-LSC funds);
- (10) 45 CFR Part 1608 (Prohibited Political Activity);
- (11) 45 CFR Part 1609 (Fee-Generating Cases);
- (12) 45 CFR Part 1615 (Criminal Proceedings);
- (13) 45 CFR Part 1617 (Class Actions);
- (14) 45 CFR Part 1627 (Subgrants and Membership Fees or Dues);
- (15) 45 CFR Part 1632 (Redistricting);
- (16) 45 CFR Part 1633 (Restriction on Certain Activities);
- (17) 45 CFR Part 1637 (Prisoners);
- (18) 45 CFR Part 1642 (Attorneys' Fees);
- (19) 45 CFR Part 1643 (Assisted Suicide); and
- (20) Other Statutory Prohibitions.

OCE did not perform any on-site reviews during the reporting period.

Status of Reports

The following Draft Reports, Final Reports, or Letters were issued during the noted reporting period:

- Volunteer Lawyers Project of the Boston Bar Association (Recipient No. 122007), a Draft Report from an on-site Case Service Report/Case Management System (CSR/CMS) Review was issued on March 3, 2008.
- Laurel Legal Services, Inc. (Recipient No. 339026), a Draft Report from an on-site Joint OPP/OCE Quality and Compliance Review was issued on March 3, 2008.
- Legal Services of South Central Michigan (Recipient No. 423010), a Draft Report from an on-site Joint OPP/OCE Quality and Compliance Review was issued on March 3, 2008.
- Northwest Justice Project (Recipient No. 948010), a Draft Report from an on-site Case Service Report/Case Management System (CSR/CMS) Review was issued on March 12, 2008.

2. A-50 Follow-Up

The Office of Inspector General (OIG) has the responsibility for the audit function. The OIG conducts a review of all the audits of LSC recipients and refers to management for follow-up any findings made by the auditors that the OIG deems appropriate. The process of referral and follow-up is patterned after the Office of Management and Budget (OMB) circular A-50.

During the noted period, zero (0) new findings were referred to OCE for management review. During the noted period, OCE forwarded information to OIG regarding 22 pending audit referrals (involving seven (7) recipients); it was recommended that 20 finding be closed and two findings (2) be left open pending further information.

OCE continues to investigate and assess many of the 68 findings referred by OIG during 2007 and 2008 from 2006 audits.¹ Twenty-three (23) of those findings remain open in some stage of review by either OCE or OIG, however several of findings were only open pending final documentation from the recipient.

¹ Previous monthly reports indicated that OIG had referred 69 findings. However, closer review of a recently referred finding revealed that it had been inadvertently tagged for OCE review but was intended for OIG review.

3. **Complaint Investigations and General Correspondence**

The OCE has the function of investigating complaints against LSC recipients for violations of the LSC Act, regulations, guidelines, etc. The complaints come from the public, clients, and the United States Congress. The authority of LSC to investigate complaints is derived from the LSC Act at Section 1006(b)(1)(A).

During the noted period, OCE opened two (4) complaints and closed six (6).

Complaints Received

Date Open	Reason for Complaint	Recipient Number	Recipient Name
3/5/2008	Miscellaneous	517001	Kansas Legal Services, Inc.
3/13/2008	Discrimination	321016	Legal Aid Bureau Inc.

At the end of March 2008, OCE had 67 open complaints in various stages of review or investigation.²

In addition, during the noted period, OCE responded to three (3) items of general correspondence.

4. **Subgrants Under 45 CFR Part 1627**

The OCE has the responsibility for the review and approval of subgrant agreements. A subgrant is any transfer of LSC funds from a recipient which qualifies the organization receiving such funds as a subrecipient. The purpose of a subgrant is generally to conduct certain specified activities supported by the recipient related to the recipient's programmatic activities.

During the noted period, OCE received and approved one (1) request for subgrant agreement approval.

5. **Fund Balances Under 45 CFR Part 1628**

The OCE has the responsibility to review and approve fund balances between 11%-25% of a recipient's annualized LSC support. In order for a waiver to be granted, recipients must meet the requirements contained in 45 CFR § 1628.4.

² The Monthly Activity Report for February 2008 indicated that 70 complaints were open at the end of that reporting period. One additional complaint received during that period had not been entered into the database, the true number of complaints pending as of February 29, 2008 was 71.

During the noted period, OCE approved zero (0) requests for a fund balance waiver. Three requests remained pending at the close of the reporting period.

First, OCE received submission of Philadelphia Legal Assistance Center's (Recipient No. 339000) board-approved liquidation plan. An OCE acknowledgement letter still needed to be drafted at the conclusion of the reporting period.

Second, OCE sent a letter of inquiry to Idaho Legal Services (Recipient No. 913000) regarding the program's deficit LSC net assets in January 2008. The program responded during the immediately prior reporting period (February 2008); however the request still remains open pending OCE review.

Finally, OCE review of Neighborhood Legal Services Association's (Recipient No. 339060) financial statements for the fiscal years 1995 through 2007 revealed that the recipient had improperly reported its net assets in its audited financial statements, resulting in an excess LSC net asset balance of \$238,529. The recipient has requested a waiver to retain the funds and use them for program services and office improvements. By letter dated March 18, 2008, OCE agreed to grant the waiver – provided the recipient acknowledges the excess balance computed by OCE. The recipient has until April 18, 2008 to respond.

6. **Prior Approvals Under 45 CFR Part 1630**

At 45 CFR Part 1630, LSC regulations set out the standards governing allowability of costs under LSC grants or contracts. Expenditures by a recipient are allowable only if the recipient can demonstrate that certain criteria were met. The OCE has the responsibility to review and approve recipient expenditures that meet a certain threshold.

During the noted period, OCE received and approved one (1) request for prior approval under 45 CFR § 1630.5(b)(2), purchases and leases of equipment, furniture, or other personal, non-expendable property, if the current purchase price of any individual item of property exceeds \$10,000, and received zero (0) requests to approve capital expenditures exceeding \$10,000 to improve real property under 45 CFR § 1630.5(b)(4). OCE continued to work with one (1) program seeking prior approval under 45 CFR § 1630.5(b)(3), purchases of real property.

By letter dated March 20, 2008, OCE approved Colorado Legal Services' (Recipient No. 706060) request for prior approval to lease a new digital copier for the program's Grand Junction office. The cost of the lease, which will be in effect for 60 months, will be allocated between LSC and non-LSC funds.

By letter dated March 19, 2008, OCE forwarded an "Agreement Governing Purchase of Real Property," along with directions for filing and returning copies to LSC, to Puerto Rico Legal Services, Inc. (Recipient No. 253010).

Finally, as indicated in OCE's May 2007 Monthly Report, by letter dated April 30, 2007, Legal Aid of NorthWest Texas (LANWT) (Recipient No. 744050) requested prior approval to expend a portion of its excess fund balance for the installation of a Voice Over IP (VOIP) system. OCE had previously approved the usage of LSC funds for the purchase and installation of the VOIP, so the usage of the excess fund balance was also approved via letter dated May 21, 2007. However, LANWT's April 30, 2007 letter also indicated that a portion (\$65,000) of the program's excess fund balance would be expended on "computer, software, cabling." As LSC had not previously approved this expenditure, pursuant to the criteria set forth at 45 CFR Part 1630 and the Property Acquisition and Management Manual, OCE requested that, if the purchase and installation of those items exceeds the threshold criteria set forth in 45 CFR Part 1630, the program submit evidence regarding the bid and selection process immediately or be subject to question cost proceedings. OCE has not yet received additional information from the program regarding these expenditures.

7. **Audit Reports**

The OCE has the responsibility to review recipient audited financial statements to ensure compliance with the LSC Accounting Guide.

During the noted period, one (1) audited financial statements was reviewed³.

8. **Private Attorney Involvement Under 45 CFR Part 1614**

The OCE has the responsibility to review and approve requests for waivers of the expenditure by recipients for Private Attorney Involvement (PAI). Under 45 CFR Part 1614, recipients are required to devote an amount equal to at least 12.5% of their annualized basic field award to the involvement of private attorneys in the delivery of legal services. The policy for allowing waiver of these expenditures is set forth at 45 CFR § 1614.6.

During the reporting period, one PAI waiver was requested and denied. Nevada Legal Services, Inc. (Recipient No. 829050) requested a partial PAI waiver, however that request was denied due to the on-going LSC/OCE investigation.

9. **Disaster Relief**

The Legal Services Corporation, on occasion, obtains special funding to meet the emergency needs of programs in a disaster area. In accordance with the Federal Register/ Vol. 69, No. 61, March 30, 2004 Notice and instructions effective April 29, 2004, LSC grant recipients who have experienced needs due to a disaster in a federally-declared disaster area may apply for disaster relief funding, when such funds are available. Recipients shall submit such request in writing to the President, LSC; however, if an

³ The financial statement for MidPenn Legal Services, Inc. (Recipient No. 339040); no corrective action letter was necessary.

emergency precludes a written application, the recipient may make a verbal application for initial processing by telephoning the OCE.

During the noted period, no applications for disaster relief grants were received.

10. **Required Notifications**

Recipients are responsible for submitting, to OCE, notification of the adoption of new Equal Employment Opportunity or Sexual Harassment Policies or any changes to existing policies prior to implementation (*See* Grant Assurance No. 8). Recipients must also submit certification of accessibility prior to entering into a lease or purchase contract. OCE is responsible for receiving and acknowledging these notifications. *See* 45 CFR § 1624.5(c).

During the reporting period, seven (7) notifications were acknowledged.

Recipient Number	Recipient Name	Notification Received	Date of Submission	Date of Acknowledgement
449041	Legal Aid of West Virginia, Inc.	Certification of Accessibility	12/27/2007	3/12/2008
625040	North Mississippi Rural Legal Services, Inc.	Certification of Accessibility	12/12/2007	3/12/2008
737066	Legal Aid Services of Oklahoma, Inc.	Certification of Accessibility	11/7/2007	3/12/2008
805230	Inland Counties Legal Services, Inc.	Certification of Accessibility	9/14/2007	3/12/2008
550010	Legal Action of Wisconsin Inc.	EEO Policy	12/31/2007	3/12/2008
550010	Legal Action of Wisconsin Inc.	Sexual Harassment Policy	12/31/2007	3/12/2008
550010	Legal Action of Wisconsin Inc.	Annual Report on the EEO/AA statement	12/31/2007	3/12/2008

11. **Other Activities**

On March 24, 2008, OCE staff participated in an all-day training session with members of the OPP, OIM and OLA staff. This training session concentrated on co-operation, communication and coordination within and among LSC departments. On March 29, 2008, OCE staff participated in a half-day training session with staff from OIM and OPP regarding the

implementation of the 2008 CSR Handbook. Finally, on March 25, 2008, OCE held an internal staff meeting with the Vice President of Programs and Performance to discuss proposed policies and procedures regarding the report writing process.

APPENDIX D



BY FAX AND US MAIL

April 14, 2008

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meltes
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

John Q. Director
Executive Director
Acme Bay Corporation
123 Main Street
Any town, XX 12345

Re: Request for Prior Approval under 45 CFR Part 1630
Recipient No. 456789

Dear Mr. Director:

LSC is in receipt of Acme Bay Corporation's (ABC) email dated April 11, 2008 by which ABC seeks prior approval, under 45 CFR Part 1630, to expend LSC funds – in an amount not to exceed \$22,500 plus taxes - to make tenant improvements to ABC's Small office. According to the information provided with this request, ABC's Small staff has grown in response to the extensive growth of the service area necessitating a change to the office's configuration. The remodeled space will offer more safety to front desk staff well as additional offices and intern space.

ABC's request included two bid proposals and indicated that ABC wished to utilize Fischer-Craft, LLC to do the necessary work. ABC based its decision to select Fischer-Craft, LLC on the recommendation of the building's owners who had positive experiences working with this contractor. Fischer-Craft, LLC's current bid to conduct the work is for between \$28,500 and \$31,500, not including sales taxes or the costs for any new light fixtures or electrical work that might be necessary. Additionally, the bid does not include modifications to the office's HVAC system which will be necessary as a result of the remodeling. ABC anticipates that the HVAC modification will cost, at most \$6,000 bringing the total remodeling cost to between \$34,500 and \$37,500.

Finally, ABC provided evidence that the building owners, as part of ABC's lease negotiations, agreed to contribute an amount equal to one-half or \$15,000, whichever is less, toward the tenant improvements. Therefore, ABC has requested permission to expend LSC funds not to exceed \$22,500, not including taxes, change orders and unknowns in furtherance of the necessary capital improvements.

John Q. Director
Executive Director
Acme Bay Corporation
April 14, 2008
Page 2 of 2

Based upon the information provided by ABC, LSC approves this expenditure pursuant to 45 CFR Part 1630.5(b)(4). This approval is valid for one year from the date of this letter. If you have any questions or need further assistance with regard to this matter, please contact OCE staff at (202) 295-15XX or name@lsc.gov.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

Cc: Counsel Name
Program Counsel
Office of Program Performance

APPENDIX E

Agreement Governing Interest in Real Property

The Legal Services Corporation, according to the provisions of this Agreement, acknowledges and approves Acme Bay Corporation's use of LSC funds to purchase real property located at 1370 Main Street, Any town, State.

1. The Parties to this Agreement are the Legal Services Corporation ("LSC"), a Congressionally-created and federally-funded nonprofit corporation organized under the laws of the District of Columbia, and Acme Bay Corporation ("ABC"), a nonprofit corporation organized under the laws of the State of State.
2. The subject of this Agreement is real property consisting of land and all the improvements thereon, including an office building, located at 1370 Main Street, Any town, State ("the Property"). *See* Exhibit "A" - Legal Description of the Property.
3. The purpose of this Agreement is to establish a contractual interest in the Property on the part of LSC, in consideration for ABC's use of federal funds distributed by LSC to purchase the Property. LSC and ABC agree that LSC's interest in the Property established by this Agreement will be subordinate to any and all interests of the Property's mortgagor during the duration of the mortgage agreement.
4. ABC has entered into an agreement to purchase the Property for the purchase price of \$395,000. ABC will provide seller with \$5,000 in earnest money in anticipation of the purchase. The down payment will total \$59,250 and ABC and the seller will split the closing costs equally. The seller will finance the balance of \$335,750 at a rate of 6.9% for 15 years. ABC will use up to 100% of LSC funds for the down payment and for its monthly mortgage payments of \$2,999 per month.
5. LSC agrees that title to the Property shall vest in ABC and that ABC may use the Property for the delivery of legal services to eligible clients in accordance with the requirements of the LSC Act and regulations.

6. ABC agrees that upon investment of LSC funds in the Property, LSC will acquire an interest in the property equivalent to the percentage of the Property's fair market value that is equal to the proportional amount of LSC funds used to support the purchase, including down-payment and mortgage payments and renovations made by ABC (hereinafter referred to as "LSC's Interest in the Property").
7. In the event that ABC ceases to be an LSC grantee, ABC agrees to dispose of the Property by one of the following methods selected by LSC, as permitted by California law:
 - a. ABC may retain title to the Property without further obligation to LSC after ABC compensates LSC for its Interest in the Property as stated in Paragraph 6 above.
 - b. ABC may sell the Property and compensate LSC for that percentage of the sales price which is attributable to LSC's Interest in the Property, after the deduction of actual and reasonable selling and fix-up expenses, if any. The Property must be sold in accordance with market standards, at a figure that represents at least the fair market value of the Property.
 - c. With LSC's consent, ABC may transfer title to the Property to LSC or to another LSC grantee, with compensation to ABC for that percentage of the current fair market value of the Property which is attributable to ABC's contribution to the acquisition or renovation of the Property, other than that which was made with LSC funds.
8. ABC agrees to provide LSC with at least thirty (30) days prior written notice and to seek LSC's written approval of any sale, transfer, encumbrance, or other disposal of the Property. Such approval will not be unreasonably withheld by LSC.
9. ABC agrees that it is not an agent of LSC and LSC has no legal liability with respect to the Property. ABC agrees to indemnify LSC and hold it harmless from any legal claim arising out of the holding and/or use of this property.

10. ABC agrees to place appropriate language in the Deed to the Property reflecting LSC's Interest in the Property, as stated herein, or to record this Agreement with the Deed, and to take other appropriate steps to ensure that the provisions of this Agreement are carried out.
11. Either Party may enforce the provisions of this Agreement in a court of competent jurisdiction in the District of Columbia or State, with the selection of jurisdiction to be made by the moving party.
12. ABC agrees that it will maintain a full accounting and will report to LSC, no later than April 1 of each year, the amount of LSC funds, including derivative income, paid in principal, interest and any other costs directly relating to the purchase or maintenance of the Property, including, but not limited to, insurance, taxes, and improvements to the Property. This information may be reported in ABC's annual audit. In the event that ABC fails to timely furnish such an accounting, or provides an incomplete accounting, ABC agrees that it shall be conclusively presumed that all principal, interest and other costs were paid with LSC funds.
13. Except where otherwise provided by applicable law, this Agreement is the complete and exclusive agreement between LSC and ABC regarding LSC's authorization of ABC's use of LSC funds to maintain and/or make mortgage payments on the Property.

In witness whereof, the parties hereto have duly executed this agreement.

By: LEGAL SERVICES CORPORATION

Helaine Barnett, President

Subscribed and sworn to/before me
on this ____ day of _____, 200__

Notary Public in and for the District
of Columbia. My commission
expires on _____.

By: Legal Services of Northern California, Inc.

Subscribed and sworn to/before me
on this ____ day of _____, 200_

John Q. Director, Executive Director

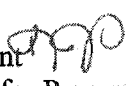
Notary Public in and for the State
of State. My commission
expires on _____.

APPENDIX F



MEMORANDUM

TO: All LSC Program Directors

FROM: Karen J. Sarjeant 
Vice President for Programs and Compliance

DATE: October 12, 2007

RE: Subgrant Agreements for 2008: Requests for Approval

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AK

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

This memorandum provides guidance regarding submission of subgrant agreements for LSC approval for grant year 2008.

The subgrant approval process established in 45 CFR § 1627.3 allows 45 days for LSC's review of proposed subgrant agreements. (See 45 CFR § 1627.3(a)(2)). This time line requires that subgrants with a January 1, 2008 commencement date be submitted to LSC for approval *no later than* November 15, 2007.

LSC will continue the same procedures for approval of 2008 agreements as were used for the 2007 agreements and will use the same Subgrant Agreement Form. Included in this package are: a Subgrant Agreement Form, a 2008 Budget Form, and a Subrecipient Profile Form. To facilitate and expedite approval of 2008 subgrants, recipients are encouraged to use the Subgrant Agreement Form enclosed. If the Subgrant Agreement Form is not used, the proposed agreement should include, at a minimum, the substance of the provisions of that Form and must include the Budget Form and Subrecipient Profile Form.

To obtain approval, recipients must submit two fully executed copies of all three documents to Danilo Cardona, Director, Office of Compliance and Enforcement, as soon as possible but, no later than November 15, 2007. In addition, recipients should ensure that an audit for each of their 2006 subrecipients has been submitted to the Office of Inspector General in accordance with the terms of their 2006 subgrant agreements.

PAI Subgrants

In addition to 45 CFR Part 1627, subgrants are also affected by 45 CFR Part 1610. This regulation implements statutory restrictions on the use of non-LSC funds by LSC recipients. Section 1610.7(c) is particularly relevant and provides:

For transfer of LSC funds to bar associations, *pro bono* programs, private attorneys or law firms, or other entities for the sole purpose of funding private attorney involvement (PAI) activities pursuant to 45 CFR Part 1614, the prohibitions or requirements of this part shall apply only to the funds transferred.

CSR Reporting

The accuracy of CSR reporting is critical and recipients must ensure that each subrecipient has a copy of both the CSR Handbook (2001 Edition) and the newly revised CSR Handbook (effective January 1, 2008). Recipients must ensure that subrecipients fully comply with CSR reporting guidelines.

Mergers/Consolidations

Programs contemplating mergers or consolidations should consider whether a subgrant will be necessary as an interim measure until the merger or consolidation has been completed. All of the requirements of 45 CFR Part 1627 apply to such subgrants as well. Thus, a request for LSC's approval should be submitted 45 days prior to the proposed beginning date of such a subgrant.

Please contact Lora M. Rath, Deputy Director of the Office of Compliance and Enforcement, at (202) 295-1524 or rathl@lsc.gov, if you have any questions regarding this memorandum, or if you need further guidance regarding your submission of a subgrant agreement for approval.

Enclosures: Subgrant Agreement Form
Subrecipient Budget Form
Subrecipient Profile Form

SUBGRANT AGREEMENT FORM

Recipient Name:

Recipient Number:

Subrecipient Name:

Subrecipient Telephone Number:

Term of Agreement:

Total Monetary Amount to be Subgranted:

Purpose of Agreement (Please state briefly the general purpose of the Subrecipient agreement):

Services to be Provided (Please circle the appropriate number(s)):

1. Library/resource material -- development
2. Library/resource material -- maintenance
3. Resource material--distribution
4. Facilitate cooperation among legal services organizations
5. Public relations
6. Technical assistance
7. General administrative support -- space, staff, telephone service
8. Attorney training/training development
9. Public or client training/training development
10. Client intake/screening/referral
11. Attorney recruitment
12. Litigation support
13. Attorney representation -- compensated
14. Attorney representation -- pro bono
15. Attorney representation --judicare
16. Other (Please describe)

The Recipient and Subrecipient (collectively referred to as the "Parties") hereby agree as follows:

I. TERMS AND CONDITIONS

- A. Duties of the Parties (Describe in detail the duties that each party to the agreement will perform)

Include the following information:

1. information on the organizational structure of the Subrecipient;
2. state whether the Subrecipient will directly perform the services or will pass all or substantially all the funds to another entity which will perform the services;
3. the geographic area in which the Subrecipient will operate;
4. the priority areas in which legal services will be provided (if applicable); and
5. any additional information necessary to fully describe the duties of the parties to this agreement.

(Attach Additional Sheets if Needed)

B. Type of Contract (Mark with an X")

___ flat fee ___ fee for service (cost-reimbursable)

___ retainer ___ other (Please state)

C. Amount of Funds to be Transferred (45 CFR § 1627.3(a)(1) requires that the agreement specify the exact amount of funds to be transferred. The amount need not be stated as a lump sum, so long as the exact amount is determinable. If payment is to be made on an installment basis, the agreement should specify the number of payments, the amount of each payment and the date of each payment).

D. Term of Contract (45 CFR § 1627.3(b)(1) requires the agreement to clearly reflect a term not in excess of one year. The agreement should specify both an effective date and a termination date).

E. Additional Provisions

(Attach Additional Sheets if Needed)

II. ADDITIONAL PROVISIONS

PLEASE SELECT ONE APPLICABLE PARAGRAPH FROM EACH SECTION OR EXPLAIN IN THE TRANSMITTAL LETTER WHY NONE IS APPLICABLE. PROVISIONS WHICH DO NOT APPLY MUST BE CROSSED OFF AND INITIALED BY A REPRESENTATIVE OF BOTH THE RECIPIENT AND THE SUBRECIPIENT.

A. Fidelity Bond Coverage

The Parties agree that the Recipient's fidelity bond coverage shall be extended to provide identical coverage to the Subrecipient and the Subrecipient's directors, officers, employees, and agents to the same extent as it would the Recipient.

Or

The Subrecipient shall provide its own fidelity bond coverage for the Subrecipient's directors, officers, employees and agents to the same extent Recipient's fidelity bond covers Recipient's directors, officers, employees and agents (45 CFR § 1629).

B. Financial Statement Audit Requirements

The Parties agree that funds transferred to the Subrecipient under this agreement shall be separately disclosed and accounted for, and reported by natural line item in the Recipient's audited financial statement.

Or

The Parties agree that funds transferred to the Subrecipient under this agreement shall be included by natural line item in a separate audit report of the Subrecipient.

Or

The Parties agree to an alternative method for satisfying LSC's annual audit requirement. Prior written approval for the alternative arrangement has been obtained from LSC's Compliance and Enforcement Division and is attached to this agreement (45 CFR § 1627.3(c) and 45 CFR § 1614.6(d)).

C. Malpractice Insurance

The Parties agree that Recipient's Lawyer's Professional Liability Insurance shall be extended in the amount of to cover the Subrecipient and all attorneys recruited by or providing services on behalf of the Subrecipient under this subgrant agreement.

Or

All attorneys recruited by the Subrecipient shall provide their own Lawyer's Professional Liability Insurance (LSC Policy).

III. STANDARD PROVISIONS (APPLY TO ALL SUBGRANT AGREEMENTS)

A. LSC Statutes, Regulations etc.

The Parties agree that LSC funds provided under this agreement are governed by the LSC Act, Congressional restrictions having the force of law, Corporation regulations, instructions, guidelines and assurances (45 CFR § 1627.3(e)).

B. Oversight Rights

The Parties agree that LSC has the same oversight rights with respect to the subrecipient as apply to the Recipient (45 CFR § 1627.3(e)).

C. Priorities

The Parties agree that services provided by the Subrecipient will be provided consistent with the Recipient's Priorities (42 USC 2996f).

D. Audit and Accounting Guide

The Parties agree that funds transferred under this agreement are subject to the audit and financial requirements of LSC's 1996 Audit Guide, including the Compliance Supplement thereto, and of LSC's 1997 Accounting Guide for Recipients and Auditors.

E. Recipient Responsibilities

The Recipient agrees that it is responsible for ensuring the proper expenditure, accounting for, and audit of delegated funds in accordance with 45 CFR § 1627.3(c); this responsibility includes ensuring that the Subrecipient actually submits a timely audit report to LSC, if the Subgrant agreement provides for separate reporting by the Subrecipient.

F. Orderly Termination

The Parties agree to an orderly termination of this agreement in the event the Recipient's funding is terminated or the Recipient is not refunded by LSC and for suspension of activities if the Recipient's funding is suspended by LSC (45 CFR § 1627.3(b)(2)).

G. Training and Community/Client Education

Should the Subrecipient provide training or community/client education, it is agreed that the Subrecipient will give LSC reasonable notice of these events. Furthermore, the Subrecipient will provide LSC with a set of materials pertaining to these events.

H. Migrant/Immigration Cases

Should the Subrecipient provide legal services in migrant and/or immigration cases, the Parties agree to comply with 45 CFR § 1626 and other applicable law.

I. Treatment of Unexpended Funds

It is understood that all unexpended subgrant funds remaining at the end of the subgrant period must be included in the Recipient's fund balance. Such funds must be returned to the Recipient, unless the subgrant is renewed and these funds are used as a part of the subgrant amount in the next subgrant period. If such unexpended subgrant funds are not returned to the Recipient and are used as part of the next subgrant period's amount, LSC must be notified of the amount of funds so used, and if the amount of funds is more than 10% of either subgrant, LSC approval must be obtained under the procedures of 45 CFR § 1627.3(b)(3). See 45 CFR §§ 1627.3b(1) and (3).

On behalf of the Recipient and Subrecipient, I hereby certify that, to the best of my knowledge, the information in this Agreement is true and correct and agree to bind the Parties to the provisions of this Agreement.

Name of Program Director (Recipient)

Name of Chairperson (Recipient)

Signature

Signature

Date

Date

Name of Program Director (Subrecipient)

Name of Chairperson (Subrecipient)

Signature

Signature

Date

Date

SUBRECIPIENT PROFILE

Recipient Number: _____

Recipient Name: _____

1. Please submit this form for each subgrant agreement.

Subrecipient Name: _____

Mailing

Address: _____

(Street or PO Box)

(City)

(ST)

(Zip)

Subrecipient Program Director: _____ Phone: _____

2. List all counties (or other geographical units as applicable) served by this subrecipient:

3.	Amount of Subgrant	Term (Mo/Yr)	Purpose	Type of LSC Grant
	_____	_____ to _____	_____	_____

4. Has this subrecipient's 2006 LSC fund balance been included in the Recipient's 2006 fund balance? ☐ Yes ☐ No ☐ Not LSC-funded

If the answer is no, indicate the amount of LSC fund balance omitted: \$ _____

5. Total number of cases closed by this subrecipient for the most recent four quarters available (*specify dates*): _____ to _____

LSC Funded: _____ Non-LSC Funded: _____

6. If this is a renewal of a subgrant currently in existence, indicate the total number of cases closed during the four quarters preceding those listed above:

LSC Funded: _____ Non-LSC Funded: _____

7. Check the items which best describe the procedures(s) used by the recipient to monitor and evaluate the work and activities of this subrecipient:

<input type="checkbox"/> On-Site Visit	<input type="checkbox"/> Financial Report Reviewed	<input type="checkbox"/> Monthly	<input type="checkbox"/> Quarterly
<input type="checkbox"/> Review of Legal Work	<input type="checkbox"/> Monthly or Quarterly Progress Report		
<input type="checkbox"/> Monitor Case Statistics	<input type="checkbox"/> Other (Specify): _____		

IF ADDITIONAL SPACE IS NEEDED PLEASE PHOTOCOPY THIS FORM

**ANNUAL SUBRECIPIENT BUDGET
PROJECTED EXPENDITURE OF 2008 LSC FUNDS**

LSC GRANT TYPE: _____
(Basic Field, Native American, Migrant, etc.)

Recipient Number: _____
 Recipient Name: _____
 Subrecipient Name: _____
 Term of Subgrant: _____
 Subgrant Funding Amount: _____

EXPENSE CATEGORY		BUDGET
PERSONNEL		
Lawyers	1	
Paralegals	2	
Other Staff	3	
Employee Benefits	4	
TOTAL PERSONNEL	5	\$
NON-PERSONNEL		
Space - Rent/Lease	6	
- Mortgage Payments	7	
- Other Expenses	8	
Equipment Rental	9	
Office Supplies & Expenses	10	
Telephone	11	
Travel - Board Members	12	
- Staff & Other	13	
Training - Board Members	14	
- Staff & Other	15	
Library	16	
Insurance	17	
Dues and Fees	18	
Audit	19	
Litigation	20	
Property Acquisition (1)	21	
Purchase Payments (2)	22	
Contract Services to Client (3)	23	
Contract Services to Applicant (3)	24	
Other (3)	25	
TOTAL NON-PERSONNEL	26	\$
TOTAL SUBGRANT FUNDS	27	\$

NOTES:

Note 1: YES _____ NO _____

Is any one purchase as defined in 45 CFR §§ 1630.5(b)(1) & (2) for \$10,000 or more? If yes, please provide a supporting schedule listing the type of property, purchase price, and anticipated date of purchase.

Note 2: YES _____ NO _____

Do these payments relate to a purchase in excess of \$10,000 as defined in 45 CFR §§ 1630.5(b)(1) & (2)? If yes, please complete schedule as requested in Note 1.

Note 3: YES _____ NO _____

Is any service/expense in excess of \$5,000? If yes, please provide a supporting schedule listing the type of service fees charged and the anticipated date(s) of services.

APPENDIX G

LORA RATH

From: LORA RATH
Sent: Thursday, May 01, 2008 12:55 PM
To: LORA RATH
Subject: FW: 2008 Subgrant Cycle
Attachments: Subgrants Approved for 2007.pdf

From: LORA RATH
Sent: Tuesday, October 16, 2007 1:37 PM
To: #LSC Program Performance
Cc: DANILO CARDONA
Subject: 2008 Subgrant Cycle

Pursuant to 45 CFR Section 1627.3(a), programs are required to submit their requests for approval of subgrant agreements with a January 1, 2008 start date to LSC on or before November 15, 2007.

Attached please find a list of LSC recipients and their respective subgrant agreements which were approved for 2007. It is probable that programs will seek renewal of the majority of subgrants contained on the attached list.

If you have any comments or concerns about the renewal of any of the subgrants contained on the list, please let me know as soon as possible so that your concerns can be addressed as part of OCE's consideration of any future subgrant approval requests.

Thank you in advance!

Lora

Lora M. Rath
Deputy Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW
Washington, DC 20007
202-295-1524

APPENDIX H

Grantee #	#	GRANTEE NAME	SUBGRANTEE NAME
120000	01	Pine Tree Legal Assist, Inc	STATEWIDE LEGAL SERVICES
120000	02	Pine Tree Legal Assist, Inc	Massachusetts Justice Project, Inc.
120000	03	Pine Tree Legal Assist, Inc	Legal Services Law Line of VT
122007	02	Vol Lawyers Proj Boston Bar	LGL ADVOCACY & RESOURCE
122007	04	Vol Lawyers Proj Boston Bar	South Middlesex Legal Services, Inc.
130010	01	Legal Advice & Referral Center	NH PRO BONO REGERRAL SYST
233047	01	Neighborhood Lgl Services, Inc	ERIE COUNTY BAR ASSOC.VOL
233130	01	Legal Assistance of Western New York	VOLUNTEER LS PROJECT
253010	01	Puerto Rico Lgl Services Inc	PRO BONO, INC.
321016	01	Legal Aid Bureau, Inc	MARYLAND VOL. LAWYERS
331060	01	Essex-Newark Lgl Svcs Proj, Inc	ESSEX COUNTY LAA
331110	01	Central Jersey Legal Services, Inc.	MERCER COUNTY BAR ASSN
339026	01	Laurel Legal Services Inc	WESTMORELAND BAR FNDT
339080	01	Southwestern Pennsylvania LS	WASHINGTON CNTY BAR ASSOC
339080	02	Southwestern Pennsylvania LS	GREENE CNTY BAR ASSOC
339080	03	Southwestern Pennsylvania LS	FAYETTE COUNTY BAR ASSOC
339080	04	Southwestern Pennsylvania LS	Somerset County Bar Association
423130	01	Lgl Svcs of Northern Michigan	THIRD LVL. CRISIS INTERV.
436183	01	Legal Aid of Western Ohio	GREATER DAYTON VOL.LAW PR
436183	02	Legal Aid of Western Ohio	TOLEDO BAR ASSOCIATION
447105	01	Potomac Legal Aid Society	Rappahannock Legal Services, Inc.
447105	03	Potomac Legal Aid Society	Legal Services of Northern Virginia, Inc.
514076	05	Prairie State Lgl Services, Inc	WILL COUNTY LAP
515030	06	Indiana Legal Services, Inc.	Indiana Legal Services, Inc.
516006	01	Iowa Legal Aid	HELP EDUCATION & LAW PROG
517001	02	Kansas Legal Services, Inc	KANSAS BAR FOUNDATION
524020	01	Central Minnesota Lgl Svcs, Inc	VOLUNTEER LAWYERS NETWORK
524020	03	Central Minnesota Lgl Svcs, Inc	MINNESOTA STATE BAR ASSN
524020	04	Central Minnesota Lgl Svcs, Inc	MINNESOTA LS COALITION
601037	01	Legal Services Alabama, Inc.	Birmingham Vol. Lawyers Program
601037	02	Legal Services Alabama, Inc.	Alabama State Bar Volunteer Lawyers Program
601037	03	Legal Services Alabama, Inc.	Mobile Bar Association Volunteer Lawyers Program
601037	07	Legal Services Alabama, Inc.	Lawyer Referral and Information Services of Madison County
604020	01	Legal Aid of Arkansas, Inc.	ARKANSAS VOLUNTEER LAWYER FOR ELDERLY
604020	02	Legal Aid of Arkansas, Inc.	RESOURCE COORDINATION
604061	01	Center for Arkansas LS	ARKANSAS VOLUNTEER LAWYER FOR ELDERLY
604061	05	Center for Arkansas LS	Lone Star Legal Aid
610050	02	Bay Area Legal Services, Inc.	COMMUNITY LAW PROGRAM
610050	03	Bay Area Legal Services, Inc.	Gulfcoast Legal Services, Inc.
610050	04	Bay Area Legal Services, Inc.	Legal Aid of Manasota, Inc.
610061	01	Three Rivers Legal Services, Inc.	Jacksonville Area Legal Aid, Inc.
610090	01	Coast to Coast Legal Aid of South FL	Legal Aid Service of Broward County
619010	01	Capital Area Lgl Svcs Corp	BATON ROUGE BAR
619051	01	Acadiana Lgl Service Corp	LAFAYETTE PARISH BAR ASSN
619051	02	Acadiana Lgl Service Corp	CENTRAL LOUISIANA PRO BONO PROGRAM

619081	01	S.E. Louisiana Lgl Svcs Corp	NEW ORLEANS PRO BONO PROJ
625040	02	North MS Rural Lgl Svcs, Inc	MISSISSIPPI VOLUNTEER LAWYERS PROJECTS
625071	01	Mississippi Center for Legal Services	MISSISSIPPI VOLUNTEER LAWYERS PROJECTS
742018	01	Dakota Plains Lgl Svcs, Inc	Access to Justice, Inc.
744060	02	Lone Star Legal Aid	VICTIMS DOMESTIC ABUSE
744060	03	Lone Star Legal Aid	HOUSTON VOL. LAWYER
805230	01	Inland Counties Lgl Svcs, Inc	SAN BERNARDINO LAS
805230	02	Inland Counties Lgl Svcs, Inc	LATINO LAWYERS ASSN
805230	03	Inland Counties Lgl Svcs, Inc	PUBLIC SERVICE LAW
913000	01	Idaho Legal Aid Services, Inc	IDAHO LAW FOUNDATION
948010	32	Northwest Justice Project	Henderson, Jones & Short PS

APPENDIX I

SUBGRANT REVIEW SHEET

Recipient Number and Name: 120000 Pine Tree Legal Assist, Inc
 Subrecipient Number: 01 -107000 Subrecipient Name: STATEWIDE LEGAL SERVICES
 Year: 2009 Period-Start Date: End Date:

Specifics of Agreement (Required)Location

1	Terms & Conditions	Page:		§	
2	Amount of funds to be transferred	Page:		§	
3	Term of Agreement (maximum 1 year)	Page:		§	
4	Fidelity Bond Coverage by recipient or subrecipient	Page:		§	
5	Financial Statement & Audit requirements by recipient or subrecipient	Page:		§	
6	Malpractice Insurance by recipient or subrecipient	Page:		§	
7	Governed by LSC statutes, regulations, instructions, guidelines and assurances	Page:		§	
8	LSC oversight right over subrecipient	Page:		§	
9	Compliance with Audit & Accounting Guide	Page:		§	
10	Orderly termination of subgrant agreement <u>(Additional)</u>	Page:		§	
11	Agreement priorities conflict with recipient priorities	Page:		§	
12	Recipient responsibilities (proper expenditure, timely submission of Audit, etc.)	Page:		§	
13	Agreement allows attorneys to retain all fees, in violation of LSC policy	Page:		§	
14	Agreement provides funds for formal training events without LSC-required assurances	Page:		§	
15	Agreement provides funds for client or community education without LSC-required assurances	Page:		§	
16	Services to migrant/immigration cases	Page:		§	
17	Legislative & administrative advocacy	Page:		§	
18	Treatment of unexpended fund balance	Page:		§	

SAVE | EXIT TO MENU

APPENDIX J

LEGAL SERVICES CORPORATION

SUBGRANT LOG SHEET

Year: 2009

Recipient Number and Name: 120000 Pine Tree Legal Assist, Inc

Subrecipient Number: 01-107000 Subrecipient Name: STATEWIDE LEGAL SERVICES

Address: 425 Main St. Middletown, CT 06457

Subgrant Amount \$0 OPP Receipt Date:
 Term of Subgrant - Start Date (mm/dd/yy): End Date (mm/dd/yy):

21-DAY LIMIT:

35-DAY LIMIT:

45-DAY LIMIT:

Please check 'Yes' or 'No' for each item below

	Yes	No		Yes	No
PAI Related?	<input type="radio"/>	<input type="radio"/>	State Support Activities?	<input type="radio"/>	<input type="radio"/>

TYPES OF SERVICES

(Please check each item that applied below)

- | | |
|--|--|
| <input type="checkbox"/> 1 Library/resource material -- development | <input type="checkbox"/> 2 Library/resource material -- maintenance |
| <input type="checkbox"/> 3 Resource material -- distribution | <input type="checkbox"/> 4 Facilitate cooperation among legal services organizations |
| <input type="checkbox"/> 5 Public relations | <input type="checkbox"/> 6 Technical assistance |
| <input type="checkbox"/> 7 General administrative support -- space, staff, telephone service | <input type="checkbox"/> 8 Attorney training/training development |
| <input type="checkbox"/> 9 Public or client training/training development | <input type="checkbox"/> 10 Client intake/screening/referral |
| <input type="checkbox"/> 11 Attorney recruitment | <input type="checkbox"/> 12 Litigation support |
| <input type="checkbox"/> 13 Attorney representation -- compensated | <input type="checkbox"/> 14 Attorney representation -- pro bono |
| <input type="checkbox"/> 15 Attorney representation -- judicare | <input type="checkbox"/> 16 Other |

TARGET GROUP

(Please check for each item that applied below)

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> A General Public | <input type="checkbox"/> B Migrants | <input type="checkbox"/> C Farmworkers | <input type="checkbox"/> D Tenants |
| <input type="checkbox"/> E Children | <input type="checkbox"/> F Aged | <input type="checkbox"/> G Handicapped | <input type="checkbox"/> H Battered Women |
| <input type="checkbox"/> I Native Americans | <input type="checkbox"/> J African Americans | <input type="checkbox"/> K Hispanics | <input type="checkbox"/> L Orientals |
| <input type="checkbox"/> M Recipient's Priorities | <input type="checkbox"/> N Other | | |

Please check 'Yes' or 'No' for each item below

	Yes	No		Yes	No
Is agreement new?	<input type="radio"/>	<input type="radio"/>	Is subrecipient also LSC grantee ?	<input type="radio"/>	<input type="radio"/>
Agreement transfers recipient's entire lsc grant to subrecipient	<input type="radio"/>	<input type="radio"/>	E-1(D) Subrecipient profile submitted	<input type="radio"/>	<input type="radio"/>

Current YTD expenses submitted

☐☐

Executed copies received

☐☐

Budget form submitted

☐☐Audited by Recipient ☐ or by Subrecipient ☐ACTION TAKEN BY OPP

Final monitoring report date:

Reviewed by

Date approval letter sent:

FY

Audit report reviewed:

Executed copy sent to audit

Yes ☐No ☐COMMENTS

SAVE

CANCEL

APPENDIX K



November 27, 2007

President

Helaine M. Barnett

Board of Directors

Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

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Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meltes
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

John Q. Director
Executive Director
Acme Bay Corporation
123 Main Street
Any town, XX 12345

Recipient No: 456789
Re: Subgrant Agreement with Direct
Legal Services Corporation
Term: January 1, 2008 – December 31, 2008
Contract Amount: \$61,000

Dear Mr. Director:

This is to inform you that we have approved the above subgrant agreement, pursuant to your program's request which was received on November 14, 2007.

Please note that although expenditures under this type of agreement are generally allowed as Private Attorney Involvement (PAI) expenses, this approval does not ensure that such expenditures will be allowed as PAI expenses.

Thank you for your cooperation. If you have any questions or need further assistance with regard to this matter, please call OCE staff at (202) 295-15XX or name@lsc.gov.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

APPENDIX L

VISIT/REPORT TIMING

1. Programs notified 6 months to 1 year in advance to schedule.
2. Written document request mailed 60 calendar days in advance, at minimum.
3. Documents scheduled to arrive 21 to 28 calendar days in advance of visits.
4. Visit preparation – document review, travel scheduling etc - 20 work days.
Ticketing needs to be done approximately three weeks in advance so extra time allotted.
5. Onsite – between 5 days (average) to 10 days (statewide program).
6. Individual Reports – due within 10 work days (9 work days for CWS participants during CWS day off week – work hours should be equal to non-CWS participants). TL must advise Director if IRs are not received when due.
7. Team Draft Report – due to OCE Director within 60 calendar days for non-statewide programs. Additional time (up to 90 calendar days total) may be allowed for statewide programs depending on the number of offices and complexity of issues.
8. Comment incorporation – Team Final Report should be submitted to OCE Director within 14 calendar days of OCE's receipt of the program's written comments.

Based on the above time lines, whenever possible, OCE will strive to not schedule a TL to participate as a team member for any trip within 20 work days prior to serving as a team leader. In addition, as feasible, they should not be scheduled to participate on another visit for 20 work days post team leading a visit. This means a minimum of 45 work days or 9 calendar weeks devoted to each team lead visit.

Team Members (TM) will be required to submit IRs within 9 or 10 work days of trip completion (depending on individual staff member's participation in CWS program). Therefore, no back-to-back TM trips will be allowable, except for consultants when necessary.

APPENDIX M



May 19, 2008

Paul R. Litigator
Executive Director
Legal Aid of Oz
224 South Main Street
City, OZ 99999

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
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Vice Chair

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Re: 2007 Excess Fund Balance -- Recipient No. 456789

Dear Mr. Litigator:

The Legal Services Corporation Office of Compliance and Enforcement received and reviewed your April 30, 2008 letter requesting a waiver of the 10% fund balance ceiling subject to repayment pursuant to 45 CFR §1628.4. Based upon financial statement disclosure of LSC grant activity reported in Legal Aid of Oz's audited financial statements for the year ended December 31, 2007 and the information provided in your letter, LSC's net assets subject to 45 CFR Part 1628 amounted \$282,686 of which \$141,971 is in excess of 10% of LSC grant support of \$1,407,151, or \$140,715. See attached Table 1 for LSC/OCE's computation.

Your letter states that the excess resulted from the sale of its headquarters and the gain on the sale attributable to LSC grant funds, how the funds will be used in 2008 and the amount of LSC fund balance at the end of grant year 2008.

Based on the information provided in your correspondence and the provisions of 45 CFR §1628.4, LSC grants your request to carryover the excess LSC funds of \$141,971 and expects this amount to be spent during fiscal year 2008 and reported separately in your program's 2007 audited financial statements as required by 45 CFR §1628.4(e).

Thank you for your compliance with this requirement and your attention to this matter. A copy of this letter and your letter has been provided to your state responsible contact in the LSC Office of Program Performance. If you have any questions regarding this letter, please contact Program Analyst on 202.295.15XX or by e-mail at @lsc.gov.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

Attachment

cc: OPP Liaison Name, OPP

Table 1 -LSC/OCE's Computation of LOZ's LSC fund balance

LSC 2007 Grant Award	\$1,223,911
LSC Derivative Income	<u>183,240</u>
LSC Grant Support	\$1,407,151
LSC Year-end Fund Balance	\$ 282,686
Percentage of LSC Grant Support	10.58%
10% of LSC Grant Support	\$ 140,715
Amount subject to Repayment	\$ 141,971

APPENDIX N



January 7, 2008

John Q. Director, Executive Director
Acme Bay Corporation
123 Main Street
Any town, XX 12345

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chair

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Re: 2007 Private Attorney Involvement (PAI) – Recipient No. 456789

Dear Mr. Director:

LSC Office of Compliance and Enforcement received and reviewed your December 18, 2007 letter that requests a \$268,964 partial waiver of Acme Bay Corporation's (ABC) PAI expenditure requirement of \$774,270.¹

Your letter states that ABC presently uses a fee-for-service program and its present encumbrances well exceed the shortfall which will meet the PAI requirement for 2007.

Based upon this information provided in your letter and the provisions of 45 CFR §1614.6(c)(4), LSC grants ABC a \$268,964 partial waiver reducing its PAI requirement for 2007 to \$505,306. However, please be advised if actual PAI expenses are less than this amount, the shortfall will be added to ABC's 2008 PAI requirement pursuant to 45 CFR §1614.7(b).

If you have any questions regarding this letter, please contact Program Analyst at 202.295.15XX or by e-mail at @lsc.gov. Also, a copy of this letter has been provided to your state responsible contact in LSC Office of Program Performance (OPP). Thank you for your attention to this matter.

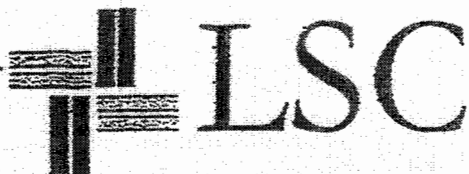
Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

Cc: OPP Liaison Name, OPP

¹ 12½% of 2007 LSC Basic Field Award of \$6,194,159

APPENDIX O



OFFICE OF COMPLIANCE & ENFORCEMENT
FINANCIAL STATEMENT REVIEW MEMORANDUM

Recipient No. _____

Recipient Name _____

Fiscal Year End _____

1. Any Financial Reporting/Accounting Concerns? YES NO

If Yes, See Note(s) # _____ Page 4 - Comments

2. Any Other Concerns? YES NO

If Yes, See Note(s) # _____ Page 4 - Comments

3. Any Finding(s) or Issues that need Follow-up? YES NO

If Yes, See Note(s) # _____ Page 4 - Comments

4. Any Communication with Recipient? YES NO

Letter Sent or Phone Call (Circle One)

Response Required? YES NO

Date Initiated: _____ Date Due: _____

Date Received: _____ Resolved? YES NO

Review Complete (Initial): _____

Date: _____

Logged in to FSRM Database _____

OFFICE OF COMPLIANCE & ENFORCEMENT
FINANCIAL STATEMENT REVIEW MEMORANDUM
Page 2

PART I FINANCIAL INFORMATION

LSC SUPPORT

Basic Field \$ _____

Native American _____

Migrant _____

Other: _____

Total LSC Grant Support _____

DERIVATIVE INCOME

Interest Income _____

Court Awards _____

Sales Proceeds _____

Rental Income _____

Other: _____

Total Derivative Income _____

Total LSC Support \$ _____

Net Assets Balance (Excluding Property)

LSC \$ _____

Non-LSC \$ _____

Private Attorney Involvement Expenditures \$ _____

Does LSC Grant Support Agree with LSC Records?

YES NO

If No, See Note(s) # _____ Page 4 - Comments

OFFICE OF COMPLIANCE & ENFORCEMENT
FINANCIAL STATEMENT REVIEW MEMORANDUM
Page 3

PART II	FINANCIAL STATEMENTS	YES	NO	N/A	Note #
1.	Are Comparative Financial Statements Presented?	_____	_____	_____	_____
2.	Is LSC Grant Activity Reported Separately?	_____	_____	_____	_____
3.	Is PAI Revenue and Expenses Reported Separately?	_____	_____	_____	_____
3a.	Is 12½% Met?	_____	_____	_____	_____
4.	Are LSC Expenses Reported by Natural Line Items?	_____	_____	_____	_____
5.	Are Client Trust Accounts in Agreement?	_____	_____	_____	_____
6.	Are Property Items Properly Reported and Accounted for?	_____	_____	_____	_____
7.	Are Subgrant(s) Properly Reported or Footnoted?	_____	_____	_____	_____
8.	Are Donated Items Properly Reported?	_____	_____	_____	_____
9.	Any Significant or Unusual Items? (If yes, identify below)				
a.	Transactions?	_____	_____	_____	_____
b.	Unexplained Interfund Transfers?	_____	_____	_____	_____
c.	Financial Statement Disclosures:				
i.	Large Cash Balances/Overdrawn Position?	_____	_____	_____	_____
ii.	Non-grant Accounts Receivables?	_____	_____	_____	_____
iii.	Excessive Payroll Liabilities?	_____	_____	_____	_____
iv.	Contingencies and Commitments?	_____	_____	_____	_____
v.	Inadequate breakdown of Other Support or Costs?	_____	_____	_____	_____
10.	Any Excess/Deficit LSC Net Assets Reported? (<Circle One)	_____	_____	_____	_____
11.	Are the Footnotes per Accounting Guide and GAAP?	_____	_____	_____	_____

OFFICE OF COMPLIANCE & ENFORCEMENT
FINANCIAL STATEMENT REVIEW MEMORANDUM
Page 4

PART III AUDIT REPORTS

1. Any Reportable Conditions or Auditor's Comments not referred by the OIG? YES NO

2. Are the Reportable Condition(s) or Comment(s)? MATERIAL NONMATERIAL

3. Any Reportable Condition(s) that would affect the recipient's performance YES NO
 (If yes, explain below)

COMMENTS: _____

APPENDIX P



BY FACSIMILE AND US MAIL

November 26, 2007

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meltes
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

John Q. Director, Executive Director
Acme Bay Corporation
123 Main Street
Any town, XX 12345

Re: CSR/CMS Visit, Recipient No. 456789

Dear Mr. Director:

This will confirm the Legal Services Corporation's ("LSC") upcoming compliance review of Acme Bay Corporation ("ABC"). As previously discussed, the review is scheduled for January 28 – February 8, 2008.

As was previously explained, LSC has determined to conduct an on-site Case Service Report/Case Management System ("CSR/CMS") review. The on-site review of cases and interviews with management and staff will determine the accuracy of the CSR data reported by ABC for 2005 and 2006, as well as the data to be reported for 2007 and 2008, and the effectiveness of ABC's intake practices, case screening, and related policies and procedures. Please be advised that the review could expand beyond this scope at any time, as necessary, to ensure compliance with the LSC Act, regulations, and appropriation riders, along with implementing policies.

While on-site, the team will request access consistent with Grant Assurances Numbers 8 and 9, and Section 509(h), P.L. 104-134, 110 Stat. 1321 (1996). Copies of the Data Collection Instruments ("DCI") that LSC uses during its compliance reviews are enclosed for your review. Regarding OCE's access to records that contain information protected by attorney-client privilege, applicable rules of professional responsibility, or other law, consistent with the *Access to Records Legal Services Corporation* protocol (January 5, 2004), ABC is encouraged, but not required, to utilize staff as intermediaries to review case files, as well as any other records containing privileged or confidential information, and answer questions. During the review, organizations which maintain a subgrant relationship with ABC will also be visited and case files reviewed. If ABC has entered into subgrant agreements, it is ABC's responsibility to ensure, in advance of the on-site review, that all ABC subgrantees will provide the OCE team with the necessary access to

information and case files. Subgrantees may also utilize intermediaries during the case review process. Your team leader will discuss this protocol with you in further detail and once an agreement is reached you will receive a follow-up letter detailing the on-site protocol to which you have agreed.

In preparation for the visit, LSC requests the following information by Friday, January 4, 2008:

A. Case Lists:

1. A list of all cases reported to LSC by ABC in its 2005 CSR data. (Please compile two lists; one for PAI cases and the other for staff cases.)
2. A list of all cases reported to LSC by ABC in its 2006 CSR data. (Please compile two lists; one for PAI cases and the other for staff cases.)
3. A list of all cases closed between January 1 and November 30, 2007. (Please compile two lists; one for LSC-funded and one for non-LSC funded. For these lists, please indicate whether each case would be included or excluded for CSR reporting. If the production of CSR reportable case lists is easier: one for LSC CSR reportable cases and one for those cases that are not eligible for LSC CSR reporting, please utilize this format but clearly indicate which cases on each list are LSC-funded and which are not); and
4. A list of all cases, both LSC and non-LSC funded, regardless of the year in which the case was opened or accepted, which remain open as of November 30, 2007. (Please compile two lists; one for LSC-funded and one for non-LSC funded.)

For each case, the lists must contain the client name (first and last), the file identification number, the name of the advocate assigned to the case, the opening and (if applicable) closing dates, the CSR closing category assigned (if applicable), as well as the funding code, and an indication as to whether the case is PAI or staff.

Each list should be in ***alphabetical order by the clients' last names*** and separate open and closed lists should be generated for ***each office*** and/or ***hotline***, as directed above. Unless discussed otherwise, the lists should be ***transmitted electronically*** in Excel format.¹

- B. An organizational chart;
- C. A copy of all ABC's intake procedures. If there are diverse intake procedures for different units, branches, or offices, please provide a copy of each such intake procedures and identify the unit, branch or office to which the procedure applies;
- D. A copy of ABC's eligibility guidelines, including income and asset ceilings for 2005, 2006, and 2007;
- E. ABC's 2005, 2006, and 2007 board approved priorities;

¹ If Excel format is not possible, please contact your team leader to discuss a mutually agreeable format.

- F. A list of every clinic operated by ABC. This list should be separated by office and should indicate whether the work conducted by each clinic is counted as cases for CSR purposes or as matters;
- G. A preliminary schedule of staff availability during the on-site review;
- H. A list of all attorneys and paralegals who are employed by both ABC and an organization that engages in restricted activities;
- I. A list of all persons and/or organizations to whom ABC has transferred non-LSC funds during the period January 1, 2005 through November 30, 2007; and
- J. A list of all persons and/or organizations to which ABC has transferred LSC funds during the period January 1, 2005 through November 30, 2007. Please exclude all bar associations, pro bono programs, private attorneys, law firms, and other entities that received LSC funds from ABC during this period for the sole purpose of funding private attorney involvement activities pursuant to 45 CFR Part 1614. **As well, exclude all transfers to vendors, accountants, or other providers of goods and services made by ABC in the normal course of business.**

Additionally, LSC requests that the following documents be available on the first day of the on-site review. It is not necessary that ABC actually provides these materials on the first day, but they should be available and provided at the request of the team leader, or designee.

- a. Documentation supporting the allocation of common costs to ABC's PAI effort;
- b. The time sheets accounting for the time staff attorney or paralegal have spent on the PAI effort;
- c. Documentation supporting personnel cost allocations for non-attorneys and non-paralegal staff for the PAI effort;
- d. As applicable, a list of any PAI contractors, copies of their 2005, 2006, and 2007 contracts, and their 2005, 2006, and 2007 compensation;
- e. Documentation relative to ABC's policies and practices for oversight and follow-up of PAI cases;
- f. ABC's subgrants;
- g. ABC's litigation and administrative manuals;
- h. Disbursement/Receipts register;
- i. Cumulative general ledger;
- j. Chart of accounts;
- k. Payroll register;
- l. Accounting Manual;
- m. Timekeeping records;
- n. Time and attendance records;
- o. Co-counseling arrangements or contracts; and
- p. A schedule of staff availability during the on-site review.²

Please note that once on-site, we may request an updated case list to ensure that LSC has the most current and accurate information regarding ABC's open and closed cases. You should feel

² LSC wishes to make its review as non-disruptive as possible and this list will be used to plan our work around staff schedules, to the extent possible.

John Q. Director, ED
Acme Bay Corporation
November 26, 2007
Page 4 of 4

free to include any other documents that might contribute to a better and more comprehensive understanding of ABC's intake procedures, case management system(s), and/or CSR reporting.

Please promptly advise us in writing if you believe that furnishing any of the requested information in the specified format would violate the attorney-client privilege or would otherwise be protected from disclosure to LSC. LSC's Access to Records protocol can be found on the LSC RIN Bulletin Board at <http://www.rin.lsc.gov/Rinboard/Rinboard.htm>. Pursuant to paragraph 7 of the Protocol, such written notice should set forth (1) a full description of the nature of the privileged or confidential information, (2) a statement explaining the basis for determining that such information is privileged or confidential, and (3) any recommendations of reasonable approaches to accessing such information. We will proceed with the review as planned unless we receive such written notice and determine that the information is protected from disclosure to LSC pursuant to the Access to Records protocol. If we determine that the information is protected we will modify our review as appropriate.

Should you have any questions, please feel free to contact Program Counsel, who will serve as the team leader for your review, at (202) 295-152X or at @lsc.gov.

Sincerely,

Danilo Cardona, Director
Office of Compliance and Enforcement

Enclosures

APPENDIX Q



BY FACSIMILE & U. S. MAIL

May 10, 2007

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

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Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Mary A. Director
Executive Director
Direct Legal Services Corporation
99 Main Avenue, Suite 400
Local City, XX 56789

Re: On-Site Compliance CSR/CMS Visit, Program No. 123456

Dear Ms Director:

I am writing to follow-up with your telephone conference with Program Counsel name regarding Legal Service Corporation ("LSC") Office of Compliance and Enforcement's ("OCE") on-site review of the Direct Legal Services Corporation ("DLSC") during the period June 4-7, 2007.

A team of 10 LSC staff will review cases, interview management and staff, and review documents and records at your main office and branch offices. The team is comprised of LSC attorneys, Program Counsel name (Team Leader), Program Counsel name (LSC Attorney), Program Counsel name (LSC Attorney), Program Counsel name (LSC Attorney), Consultant name (LSC Consultant), Consultant name (LSC Consultant), Consultant name (LSC Consultant), and fiscal reviewers, LSC staff member - Program Analyst name and LSC consultant - Consultant name.

In accordance with Grant Assurances, Numbers 9 and 10, Section 509(h), P.L.104-134, 110 Stat. 1321 (1996), and *Protocol Regarding Access to Information in Grant Recipients' Files* (January 5, 2004), Program Counsel name discussed case review procedures and access issues with you. It is our understanding that DLSC wishes to utilize advocate intermediaries in the case review process. In that regard, you agreed to provide one advocate per reviewer, for the 5 day period. The case review process requires that LSC reviewers see: 1) client names linked to case numbers; 2) client names linked to income and asset eligibility information, including waivers, where applicable; 3) where necessary, original signed retainer agreements; 4) where necessary, client statements of facts under 45 CFR Part 1636; 5) where necessary, original signed client attestations or alien eligibility documentation; 6) and evidence of legal advice provided.

Mary A. Director, ED
Direct Legal Services Corporation
May 10, 2007
Page 2

LSC staff and consultants are bound by the provisions of Section 509(h). LSC staff and consultants do not record client names in their paperwork. Per LSC/OCE policy, all documents with client identifying information will be destroyed upon completion of the final report. This policy binds LSC employees and consultants. Consultants are required at the end of the visit to turn in to LSC staff any copies of the case lists.

If this letter details accurately your agreement, please sign below and return by mail to this office not later than Thursday, May 24, 2007. Additionally please email the requested case lists to Program Counsel at counselp@lsc.gov. If you have any further questions, please call Program Counsel at 202-295-15XX.

Thank you for your attention to this matter. The review team looks forward to seeing you in June.

Sincerely,

Danilo Cardona, Director
Office of Compliance and Enforcement

Signed: _____
Mary A. Director, Executive Director

Date: _____

APPENDIX R

Workplan

The On-Site Review of

Legal Services Corporation of Formatting

Recipient No. xxxxxx

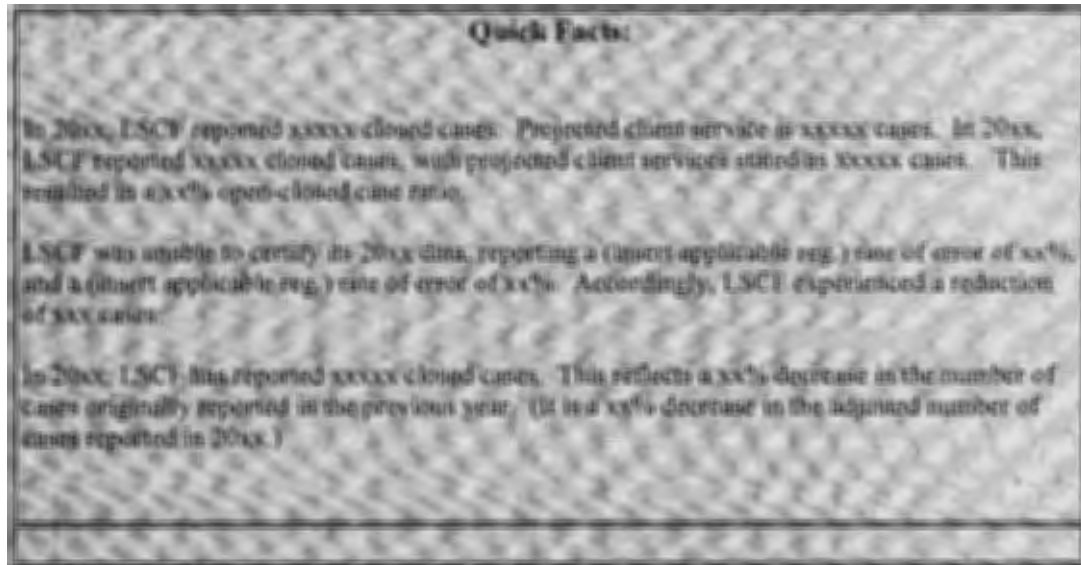
CSR/CMS Review

Dates of Review:

Team Members:

Danilo A. Cardona, Director, OCE

Date: _____



Major Objectives

Assess the following policies and procedures adopted by LSCF:

- a. Case tracking system/case management system - CSR Handbook (2001 Ed.), Section III and CSR Handbook (2008 Ed.), Chapter III;
- b. Case management policy and Intake;
- c. 45 CFR Part 1611 (Financial Eligibility);
- d. 45 CFR Part 1626 (Restrictions on legal assistance to aliens);
- e. 45 CFR § 1611.9 (Retainer agreements);
- f. 45 CFR Part 1636 (Client identity and statement of facts);
- g. 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources);
- h. CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided);
- i. CSR Handbook (2001 Ed.), Section VIII and CSR Handbook (2008 Ed.), Chapters VIII and IX (Closing codes);
- j. CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 (Timely closing and dormant cases);
- k. CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 (Duplicate cases);
- l. 45 CFR Part 1608 (Prohibited political activity);
- m. 45 CFR Part 1609 (Fee-generating cases);
- n. 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity);
- o. 45 CFR Part 1614 (Private attorney involvement);
- p. 45 CFR § 1627.4 (Membership fees or dues);
- q. 45 CFR Part 1635 (Timekeeping requirement);
- r. 45 CFR Part 1642 (Attorneys' fees);
- s. 45 CFR Part 1630 (Cost standards and procedures).
- t. 45 CFR Part 1612 (Restrictions on lobbying and certain other activities);

- u. 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions);
- v. 45 CFR Part 1617 (Class actions);
- w. 45 CFR Part 1632 (Redistricting);
- x. 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings);
- y. 45 CFR Part 1637 (Representation of prisoners);
- z. 45 CFR Part 1638 (Restriction on solicitation);
- aa. 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing);
- bb. 42 USC 2996f § 1007 (b) (8) (Abortion);
- cc. 42 USC 2996f § 1007 (b) (9) (School desegregation litigation); and
- dd. 42 USC 2996f § 1007 (b) (10) (Military selective service act or of desertion from the Armed Forces);

To assess program compliance with basic client eligibility, intake and case management regulatory and statutory requirements;

To ensure that LSCF has correctly implemented the CSR Handbook (2001 Ed.) and CSR Handbook (2008 Ed.); and

To determine the cost of any significant non-compliance with any legal authorities.

Scope of Review

The general review period will be from (start date of case list request) through (ending date of case list request). File review will focus on 20xx, 20xx, 20xx closed and 20xx open cases to ensure the accuracy of CSR data. In so doing, the team will assess LSCF's case intake, case acceptance, case management and case closure practices and policies in all of its substantive units and offices, and conduct a review of case files. The aim of the review is to both assess compliance with the applicable restrictions and assess the accuracy of the CSR data to be provided by LSCF.

This will necessitate on-site visits to all office locations unless otherwise decided by the team leader. In so doing, the team will interview members of LSCF's upper and middle management and staff, and assess case intake, case acceptance, case management and case closure practices and policies in all of its substantive units and offices.

As stated in correspondence to LSCF, LSC's review may be expanded at any time, beyond the scope of these matters, as deemed necessary by LSC. As such, if something is brought to your attention that indicates a potential violation of the LSC Act or regulations, please bring it to the attention of the team leader as soon as possible.

As noted above, the team will review open and closed cases, and interview representatives of upper management, middle management, staff, and support workers in an effort to assess compliance. Case file reviews will rely upon both randomly selected files as well as files identified for which specific questions may exist. The latter are referred to as "target" cases. Randomly selected cases will be selected utilizing the Randomizing system. Target cases will be

selected to test for, among other things, duplication, timely closing and proper application of closing categories.¹

LSC offered to LSCF that it may provide access through the use of staff intermediaries. LSCF has indicated that they will use intermediaries to conduct the review.

Areas of Review²

1. Case Tracking System/Case Management Systems

Review CSR Handbook (2001 Ed.), Section III and CSR Handbook (2008 Ed.), Chapter III.

Conduct a test of the computer intake processes to determine the scope of information obtained and that such systems lead to compliance with all necessary basic requirements, i.e., that program management has timely access to accurate information on cases and the capacity to meet funding sources' reporting requirements, that cases involving the same and specific legal problem are not reported to LSC more than once, that the timely closing of cases are tracked by the generation of cases management reports, and the overall systems approach.

Conduct a test of LSCF's manual or paper processes to determine the scope of the information obtained and that such systems lead to compliance with all necessary basic requirements.

Assess the case tracking system utilized by LSCF. Assess its effectiveness for case tracking. Determine whether LSC can rely upon the computer case printouts as provided by LSCF, and if not, discuss any shortcomings. Obtain program management input into any deficiencies noted.

2. Case Management Policy and Intake

Assess all program policies which involve intake, case acceptance, and case management and determine whether such policies comply with the LSC Act, regulations, and other appropriate guidelines.

Assess the computerized intake system.

Determine whether program *practices* regarding the above policies are consistent with the policy.

Assess all program policies that involve CSRs and determine whether such policies comply with the appropriate guidelines.

¹ Additional cases may be pulled while on-site, including cases pulled at random as well as cases specifically targeted for review.

² Each team member should be familiar with all of the requirements of the CSR Handbook (2001 Ed.), the CSR Handbook (2008 Ed.), the LSC Act and regulations, and LSC Program Letters 99-3, 01-1, 01-5, 02-1, and 02-6. Further, the team in following this work plan should always refer to the applicable sections of 45 CFR Part 1600 et seq. to ensure that no relevant sections have been overlooked.

Assess LSCF's policy changes that were effected as a result of the issuance of the 2001 CSR Handbook, the 2008 CSR Handbook, and Program Letter 99-3 (July 14, 1999).

Determine whether program *practices* regarding CSR policies are consistent with the policy.

Assess what program policies have been developed in response to LSC Program Letter 01-5 (July 25, 2001).

Assess what program policies were developed in response to the self-inspection of 20xx CSR data and their effectiveness.

Assess what program policies have been developed in response to LSC Program Letter 02-1 (April 25, 2002).

Assess what program policies have been developed in response to LSC Program Letter 02-6 (June 6, 2002).

Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how intake is organized. (By unit, by office, centralized hotline or a combined method)

Determine who is responsible for case acceptance.

Interview intake/case acceptance personnel and complete the intake form.

NOTE: Designated team members will be assigned the responsibility of conducting intake analysis and/or PAI analysis. These team members must complete an intake form for each field office and collect any intake forms, and other forms in use at those locations for comparison and analysis. A brief narrative of these interviews and the findings reached from them must be included in the team members' individual reports.

NOTE: A designated team member will be assigned the responsibility for checking the program's use of its computerized case management system. This analysis will be more focused on the end of the data collection process, i.e. how the data is used once in the system. Part of this will be to assess whether LSC can rely on the CSR data produced through the LSCF system.

3. Compliance under 45 CFR Part 1611 - Financial Eligibility

Review CSR Handbook (2001Ed.), ¶¶ 2.1, 2.2, and 5.2; CSR Handbook (2008 Ed.) §§ 2.1, 2.4, and 5.2; 45 CFR Part 1611; LSC Program Letter 99-3 (July 14, 1999); and LSC Program Letter 01-5 (July 25, 2001).

Review the sample of cases to determine whether all clients in each review sample are eligible under 45 CFR Part 1611. Determine whether LSCF is appropriately screening for financial eligibility (income and assets) and contemporaneously recording the data.

Interview staff to determine whether they are familiar with the applicable regulations, relevant policies and procedures and fully apply them. In addition, review any anomalies discovered during the random review of cases.

Your report should identify, by control number and file number, all cases reviewed that do not comply with 45 CFR § 1611.4, Program Letter 99-3, or Program Letter 01-5, lack income information, or are otherwise at variance with 45 CFR Part 1611 and/or the CSR handbook (2001 Ed.) and CSR Handbook (2008 Ed.). If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers. Significant violations of 45 CFR Part 1611 should be brought to the attention of the team leader on-site.

Team leader will select one group of eligible clients and ascertain the type of proof offered to determine the group eligibility, if appropriate.

4. Compliance under 45 CFR Part 1626 – Restrictions on legal assistance to aliens

Review CSR Handbook (2001 Ed.), ¶¶ 2.2, 5.1, and 5.2; CSR Handbook (2008 Ed.), § 2.4, 5.1, and 5.2; 45 CFR Part 1626; and LSC Program Letter 99-3 (July 14, 1999).

Review the sample of cases to determine whether LSCF is screening for citizenship or eligible alien status. (If any non-compliance is noted, such as acceptance of an ineligible client, please discuss with team leader, and then obtain an explanation from LSCF regarding the non-compliance.)

Interview staff to determine whether they are familiar with applicable regulations, and the relevant policies and procedures and fully apply them.³ In addition, review any anomalies discovered during the random review of cases.

Your report should identify, by control number and file number, all cases reviewed in which the documentation required by Part 1626 and/or Program Letter 99-3 is either lacking or deficient. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers. Be careful to exclude counsel and advice and brief service telephone cases from your discussion. Significant violations should be brought to the attention of the team leader on-site.

5. Compliance under 45 CFR § 1611.9 - Retainer agreements⁴

Review 45 CFR § 1611.9.

Review the sample of cases to determine whether LSCF is executing retainer agreements when necessary.⁵ Ensure that retainers are being signed before the commencement of work on the case or as soon thereafter as is practicable. If any significant non-

³ See 45 CFR § 1626.6(a) and 45 CFR § 1626.7(a).

⁴ The lack of a retainer agreement is a regulatory compliance issue and not a CSR compliance issue. Cases without a correct retainer, if otherwise eligible and properly documented, should be reported in a program's CSR. However, the lack of a retainer, or of a perfected retainer, raises an issue regarding compliance with 45 CFR § 1611.9.

⁵ See 45 CFR § 1611.9.

compliance is noted, such as an absence of information, the untimely execution of the retainer, or a retainer where the services provided do not match the services requested, discuss with team leader, and then obtain an explanation from LSCF regarding the issues.

Interview staff to determine whether they are familiar with the applicable regulations, relevant policies and procedures and fully apply them. Review any anomalies discovered during the review of cases.

Your report should identify by control number and file number, which cases required retainers that were lacking and, all cases reviewed that lacked a retainer agreement, or contained a deficient retainer agreement. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and cases numbers. Be careful to exclude counsel and advice, brief service cases and PAI cases from your discussion.

6. Compliance under 45 CFR Part 1636 – Client identity and statement of facts

Review 45 CFR Part 1636 and OPO'S Memo to All LSC Programs (December 8, 1997).

Review the sample of cases to determine compliance with 45 CFR § 1636.2.

Your report should contain a detailed discussion of any and all anomalies.

7. Compliance under 45 CFR § 1620.4 and § 1620.6(c) – Priorities in use of resources

Review CSR Handbook (2001 Ed.), ¶ 2.1; CSR Handbook (2008 Ed.), § 2.1; 45 CFR § 1620.6(c); LSCF's priorities; and LSCF's emergency case acceptance procedures.

Review the sample of cases to determine whether the case is within LSCF's priorities, or is an emergency case accepted under LSCF emergency case acceptance procedures. If any significant non-compliance is noted, discuss with team leader, and then obtain an explanation from LSCF regarding the issues.

Interview staff to determine whether they are familiar with the applicable regulations, relevant policies and procedure and adequately apply them. Review any anomalies discovered during the review of cases.

Your report should identify, by control number and file number, all cases reviewed in which legal assistance was provided in a non-emergency case, involving an issue outside LSCF priorities. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers. Significant violations should be brought to the attention of the team leader, on-site.

8. CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 - Description of legal assistance provided

Review CSR Handbook (2001 Ed.), ¶¶ 2.1, 5.1, 7.1, 7.2, 7.3, and Section VIII; CSR Handbook (2008 Ed.), §§, 2.3, 2.4, 2.5, 4.1 - 4.5, 5.6, and Chapter VIII; and 45 CFR §§ 1620.2(a) and 1635.2(a).

Review the sample of cases to determine whether legal advice or assistance has been provided by an attorney or paralegal.

Interview staff to determine whether they are familiar with the applicable regulations, relevant policies and procedure and fully apply them. Review any anomalies discovered during the review of cases.

Your report should identify, by control number and file number, all cases reviewed in which legal assistance was not provided, not provided at the level reported by LSCF, or lacks support for the level of assistance reported to LSC by LSCF. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers.

9. Case Service Reports "CSR" Closing Codes

Review CSR Handbook (2001 Ed.), Section VIII and CSR Handbook (2008 Ed.), Chapters VIII and IX.

Review of sample closed cases to determine whether LSCF properly coded the case, consistent with CSR Handbook instructions.

As necessary, interview staff to determine whether they are familiar with the relevant policies and procedures and adequately apply them. In addition, review any exceptions discovered during the random review of cases.

Interview staff in each office/unit to determine how LSC case closing categories are utilized. Obtain copies of any written intake and case handling policies unique to each office.

Your report should identify, by control number, all cases reviewed in which the closing code is inconsistent with CSR Handbook (2001 Ed.) Section VIII and CSR Handbook (2008 Ed.) Chapters VIII and IX. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers.

10. Timely Closing

Review CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3.

Review sample of cases to ensure that LSCF is timely closing cases so that case service reports submitted to LSC contain current and accurate information about both open and closed cases for the grant year.

Your report should identify, by control number, all untimely closed cases reviewed. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers. Your report should also contain a brief, supporting explanation demonstrating that the case should have been closed sooner.

11. **Duplicate Reporting**

Review CSR Handbook (2001 Ed.), Section VI and CSR Handbook (2008 Ed.), Chapter VI.

Review sample of cases to determine whether LSCF has reported more than one type of assistance to an eligible client during the reporting period in an attempt to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem.

Review sample of cases to determine whether LSCF has reported assistance provided more than once within the same reporting period to an eligible client who has returned to LSCF with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem.

Review sample of cases to determine whether LSCF has reported as a single case, efforts to resolve related legal problems, handled simultaneously through a single legal process.

Interview staff in each office/unit to determine familiarity with CSR Handbook (2001 Ed.), Section VI, and CSR Handbook (2008 Ed.), Chapter VI, and methods used by LSCF to identify duplicates.

If duplicates are noted, your report should identify, by control number, all duplicate cases. If there are a significant number of such cases, please select a strong representative sampling and discuss in detail, providing control numbers and case numbers. Your report should also contain a brief, supporting explanation demonstrating at least three sets of which are duplicates of another.

12. **Compliance with 45 CFR Part 1608 – Prohibited political activities**

Review 45 CFR Part 1608.

Review the program's policies, if any, to determine whether they are consistent with the LSC Act, regulations and other applicable authority. Bring significant variations to the attention of the team leader onsite. Discuss all variations in your report.

Staff interviewed should include, at minimum, upper and middle management including the Executive Director, fiscal officer/bookkeeper, professional staff and support workers.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, professional staff and support workers to determine whether program practices are consistent with program policies and procedures. Determine whether program practices are consistent with program policies and procedures. Inquire as to staff knowledge and understanding of the program's policy and procedures, as well as their knowledge of any activity that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Review program practices to ensure that neither the program, nor its employees or attorneys has, or is, undertaking any activity in violation of 45 CFR §§ 1608.3(b), 1608.4,

1608.5, 1608.6, and 1608.7. Bring significant variations to the attention of the team leader onsite. Discuss all variations in your report.

Determine whether the program expended grant funds or contributed personnel or equipment and resources in violation of the requirements of 45 CFR §§ 1608.3(b) and 1608.4 (b).

Examine cash disbursement records for any payments or contributions to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum.

Accounting records/supporting documentation to be reviewed should include, at minimum, the program's Accounting Policies and Procedures Manual, the General Ledger (GL) expense accounts, the most recent trial balance of GL accounts, and cash receipts and disbursement journal records for the review period.

Your report should contain a detailed discussion of any and all anomalies.

13. Compliance under 45 CFR Part 1609-Fee-generating cases

Review 45 CFR Part 1609 and OPO's Memo to All LSC Program Directors (December 8, 1997).

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Determine whether the program has established procedures for referral of fee-generating cases and evaluate whether the procedures conform to the requirements of 45 CFR § 1609.3. Bring significant variations to the attention of the team leader onsite. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the programs' policy and procedures, as well as their knowledge of any fee-generating case(s) undertaken by the program. Bring significant variations to the attention of the team leader onsite. Discuss all variations in your report.

If fee-generating cases were accepted by the program, assess whether all such fee-generating cases were accepted in accordance with the requirements of 45 CFR §1609.3. Also, select a reasonable sample of such cases to insure that they comply with the regulation. And, ensure compliance with the recordkeeping requirements in accordance with OPO's December 8, 1997 memo.

Your report should identify, by Control No. and Case No., all cases reviewed that do not comply with 45 CFR § 1609.3, or are otherwise at variance with 45 CFR Part 1609 and/or program policies and procedures, after an on-site discussion with the team leader. Your report should also contain a brief, supporting explanation.

14. Compliance under 45 CFR Part 1610 – Use of non-LSC funds, transfers of LSC funds, program integrity

Review 45 CFR 1610 and OPO's Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Review LSCF's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Determine how LSCF ensures compliance with 45 CFR Part 1610. Obtain an understanding of the internal controls in place to ensure compliance with the requirements of 45 CFR Part 1610.

Staff interviewed should include, at minimum, the Executive Director and the fiscal officer/bookkeeper, upper management (including the Board Chair) and any other personnel that may have information pertaining to the transfer of non-LSC funds, including part-time staff that conducts work for another organization.

Determine how and whether LSCF effectively communicates policies and procedures to staff. Interview upper and middle management, professional staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of LSCF's policy and procedures, as well as their knowledge of any activity that may fall outside the requirements of this regulation.

Determine whether LSCF transfers LSC and non-LSC funds to persons, entities or outside organizations. Examine the GL chart of accounts and the GL to determine that LSCF's accounting system has the ability to account for LSC and non-LSC funds separately and distinctly. Review cash receipts and disbursements journals for the review period to identify the source of non-LSC funds and how LSCF spends/transfers its LSC and non-LSC funds, respectively

Assess LSCF's use of non-LSC funds. Review non-LSC grant agreements to ascertain whether non-LSC funds are used consistent with the grant purposes and ensure that non-LSC funds are not used inconsistent with 45 CFR § 1610.4. Review LSCF's policy and procedures for notifying donors of \$250 or more of LSC prohibitions and conditions which apply to their donation. Determine how LSCF ensures compliance with this requirement of 45 CFR Part 1610.

Review any leases, contracts, agreements, arrangements, understandings or relationships that LSCF, its staff or its board may have, or had, with entities engaged in restricted activities in order to ensure compliance with 45 CFR § 1610.8 and the guidance provided by OPO's memo. Ascertain LSCF's relationships and/or arrangement(s) with outside organizations, persons or entity(ies) that LSCF transfers LSC funds.

Examine LSCF's organizational structure and physical locations to assess recipient integrity and independence.

Review and/or obtain a copy of LSCF's 45 CFR Part 1610 certification for the current audit period and the Executive Director's annual report to the Board on program integrity to ensure that LSCF is in compliance with the integrity requirements of 45 CFR § 1610.8. Determine the basis for such certification.

Accounting records/supporting documentation to be reviewed should include, at minimum, the program's Accounting Policies and Procedures Manual, the General Ledger (GL) chart of accounts, the cash receipts and disbursement journal records for the review period, the most recent trial balance of GL accounts, the program's organizational chart, all non-LSC grant agreements, and any other relevant documents that have information pertaining to the transfer of non-LSC funds.

Significant variations must be brought to the attention of the team leader onsite. Discuss all variations in your report.

The team leader should prepare a separate memorandum to the Director of OCE detailing the above review and findings, and a recommendation on whether a 45 CFR Part 1610 review is needed.

15. Private Attorney Involvement Casework & Intake

Review CSR Handbook (2001 Ed.), ¶¶ 4.2 and 7.3; CSR Handbook (2008 Ed.), §§ 4.2, 7.3 and 10.1-10.5; and 45 CFR Part 1614.

Staff interviewed should include, at minimum, LSCF upper and middle management including its Executive Director, PAI Coordinator and PAI staff, fiscal officer/bookkeeper, time-keeper, a sampling of staff attorneys/paralegals with PAI time assigned to them, and any others as situation dictates to gain a full understanding and explanation of PAI casework, case intake and case management.

Test whether the policies and procedures for case oversight and follow-up are being followed, by reviewing a combined minimum of 25 PAI open and closed cases, especially where cases do not appear to be timely closed. If discrepancies exist between the policies and practice, please discuss in your report.

Compute LSCF's PAI expenditure requirement for the review period. Review the annual audit report to determine whether LSCF met the 12.5% PAI requirement for FY 20xx and 20xx and projections for 20xx. Verify that LSCF has met the requirement, *i.e.*,

- Verify that costs attributed to the PAI effort are valid expenses and that they are allocated on a reasonable basis, consistent with 45 CFR § 1614.3(e).
- Interview a representative sample of ~~five~~ staff attorneys and/or paralegals with PAI time allocation (sample size must be determined in consultation with team leader). Verify that the time charged by the interviewees to PAI is substantiated by actual performance, and reflected accurately in timesheets and time records.
- Review LSCF's accounting manual, policies and procedures to verify documentation of the allocation method for PAI costs.
- Review the allocations made for staff salaries to the PAI efforts. Ensure that they are made on the basis of the method established in LSCF's accounting manual. Ensure that all salary allocations for attorneys and paralegals are supported by timesheets. Check the journal entries for allocations for four

randomly selected payroll periods against the time records and payroll record for those periods.

- Review a test sample of private attorneys' vendor files (*sample size must be determined in consultation with team leader*). Check paid invoices in these files to verify that they show billing for the hours worked and the correct hourly rate. Determine that the rate paid is no more than 50% of the going rate in the area, if over \$100 an hour inform the team leader. Ensure bills are properly approved for payment. Verify accuracy of hours billed against the time recorded in case files or if the type of case supports the hours billed.
- Check the sample of private attorney invoices to verify that recipient does not maintain a revolving litigation fund.
- Verify that PAI funds have not been paid to, or committed for direct payment to, any attorney who for any portion of the previous two years has been a staff attorney; except that there is no such restriction for payments made as a result of work performed by an attorney who practices in the same firm with a former staff attorney.
- Review subgrant expenses charged to the PAI effort. Check payments made to verify that they are made in accordance with the subgrant agreements. Interview the person responsible for providing oversight over the subgrantees to determine whether subgrantees are carrying out their obligations in case reporting and accounting for the subgrants, consistent with the terms of their agreements.

Compute the cost per case by dividing the total PAI cost for the year by the number of open and closed PAI cases for the year to assess operating efficiency of LSCF's PAI effort and expenditure of funds devoted to PAI. This computation should serve only as one element in assessing efficiency.

Accounting records/supporting documentation to be reviewed should include, at minimum, LSCF's Accounting Policies and Procedures Manual – excerpt of the relevant portion of the Accounting Manual stating the basis for allocation of expenses, the audited financial statements for the review period, the cash receipts and disbursement journal records for the review period, subgrant agreements, excerpts of recipient instructions for the follow-up and oversight of PAI cases and samples of attorney/paralegal timesheets approved by a supervisor reporting PAI hours, private attorney contracts, paid attorney invoices listing hours worked, cases handled and hourly rate along with recipient approval, and PAI correspondence with PAI attorneys and referred clients.

Your report should discuss any non-compliance or deficiencies.

16. Compliance under 45 CFR Part 1627 – Subgrants and membership fees or dues

Review 45 CFR Part 1627.

Staff interviewed should include, at minimum, LSCF's Executive Director, fiscal officer and accounting staff.

Review LSCF's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Identify all subgrants and ensure that they have been submitted in writing to, and approved by, LSC.

Review all subgrants to ensure that its term and conditions are consistent with LSC regulations. Assess LSCF's method of ensuring subrecipients' compliance with LSC Act, regulations, financial and audit provisions, and other applicable provisions of law. Review subrecipient's audit.

Examine expenditures for payments to attorneys or law firms representing LSCF's clients on a contract or judicare basis, to determine that such payments do not exceed the \$25,000 amount for which a program needs to obtain LSC prior approval in order to comply with the requirements of 45 CFR § 1627.2(b)(1).

Determine whether the program expended grant funds in violation of the requirements of 45 CFR §§ 1627.2(b)(1), 1627.2(c) and 1627.4(a).

Determine whether LSC funds are used to pay membership fees or dues. Identify contributions or gifts of LSC funds. Determine whether LSC funds transferred to organizations or private attorneys comply with the requirements of LSC regulations.

Verify that LSC funds received by LSCF from another recipient were properly accounted for in accordance with the requirements of LSC regulations.

Accounting records/supporting documentation to be reviewed should include, at minimum, the program's Accounting Policies and Procedures Manual, the audited financial statements for the review period, the cash receipts and disbursement journal records for the review period, General Ledger expense accounts and the most recent trial balance of the General Ledger accounts.

Your report should discuss any non-compliance or deficiencies.

17. Compliance under 45 CFR Part 1635 – Timekeeping requirement

Review 45 CFR Part 1635.

Staff interviewed should include, at minimum, the Executive Director, timekeeper, the fiscal officer/bookkeeper, sample of attorneys and/or paralegals, part-time staff, and others as situation dictates.

Identify the type of timekeeping records, whether manual or electronic. Assess whether LSCF's timekeeping system is able to aggregate time record information on both closed and pending cases by legal problem type. *See* 45 CFR § 1635.3(c).

Obtain a sample of time reports by cases, matters, and supporting activity. Determine whether the time spent by attorneys and paralegals are documented by time records which record the amount of time spent on each case, matter, or supporting activity. *See* 45 CFR § 1635.3(b)(1). Determine that each record of time spent contains: for a case, a unique

client name or case number and for matters and supporting activity, an identification of the category of action on which the time was spent. *See* 45 CFR § 1635.3(b)(2).

Verify the accuracy of the timekeeping system by testing a random sample of approximately fifteen attorney timesheets against the time recorded in case files. Check with the team leader or other team attorney member to verify that the time spent on the case is reasonable. The sample should include cases open for more than a year, request print out. Review activity coding and fund source codes to verify that case activity is eligible for LSC funding.

Review LSCF's policies and procedures for part-time case handlers. Verify that LSCF has certified in writing that any case handler who works part-time for LSCF and part-time for an organization that engages in restricted activities has not engaged in restricted activity during any time for which the case handler is compensated by LSCF. *See* 45 CFR § 1635.3(d).

Review LSCF's policies and procedures for time reported as matters and supporting activity. Review the time reported on matters and supporting activity. For matters and supporting activities, check that case handlers have identified the category of action on which the time was spent.

Accounting records/supporting documentation to be reviewed should include, at minimum, LSCF's Accounting Policies and Procedures Manual – excerpts related to timekeeping and part-time employment, sample of attorney/paralegal timesheets approved by a supervisor, and a list of timekeeping codes for cases, matters, and supporting activity.

Your report should discuss any non-compliance or deficiencies.

18. Compliance under 45 CFR Part 1642 – Attorneys' fees

Review 45 CFR Part 1642 and OPO's Memo to All LSC Program Directors (December 8, 1997).

Staff interviewed should include, at minimum, the Executive Director, the fiscal officer/bookkeeper, and accounting staff.

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Review LSCF's practices to ensure that LSCF or its employees do not claim, or collect and retain attorney's fees in any case undertaken on behalf of a client, in compliance with 45 CFR § 1642.3.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as their knowledge of any instances in which fees were received but not recorded in the accounting records. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Ensure that the recordkeeping requirements are in place in accordance with OPO's December 8, 1997 memo.

In conjunction with the review of the sampled case files, and including discussions with the appropriate case handler, inspect cases in order to determine compliance with this Part.

Verify, on a test basis, that the cases or circumstances in which fees or payments were received were allowable pursuant to 45 CFR § 1642.4 and including, if applicable, the interpretive guidance provided in Program Letter 97-1.⁶ Review and test method of allocating fees and related expenses associated with fee-generating cases to the various funds. Verify that the fees were recorded in the same fund to which the related expenditures were charged, and were not recorded as revenue until received. 45 CFR §1642.5(a). For each case in which the program received an award of attorneys' fees, verify that the accounting records include documentation indicating that the case was filed prior to April 26, 1996.

Accounting records/supporting documentation to be reviewed should include, at minimum, LSCF's Accounting Policies and Procedures Manual, the audited financial statements for the review period, the cash receipts and disbursement journal records for the review period, General Ledger chart of accounts, and the most recent trial balance of the General Ledger accounts.

Bring significant variations to the attention of the team leader. Discuss all variations in your report.

19. Determination of costs

Review 45 CFR Part 1630.

If necessary and as directed by the team leader, determine the following for any potential questionable cost:

As necessary, determine--

- the salary paid by LSCF for each of the advocates for the period January 1, 20xx to the present. Include all changes in the salary, the date of the change(s) and the amount of the change(s);
- whether LSCF has an established system for accounting for the indirect costs of its cases. If LSCF does have such an established system, please obtain copies of

⁶ As part of its recordkeeping system, recipients are required to maintain a separate file that identifies all attorneys' fees received. Further, in accordance with 45 CFR § 1642.2(b)(1), for each case in which a recipient receives compensation for representation in a case where the recipient or an employee of a recipient has been appointed to provide the representation pursuant to statute or court rule or practice of equal applicability to all attorneys in the jurisdiction, the recipients shall include in the client's file copies of the court order directing that the recipient or employee of the recipient provide representation in the case and a copy of the statute or court rule that permits such appointment. If the appointment was made orally or was subject to an unwritten practice, the recipient should include an appropriate written description of the appointment or practice, as the case may be.

all handbooks, manuals, memoranda, and other documentation of such a system;
and

- the number of advocates (attorneys and paralegals) employed by LSCF in 20xx to the present. Include and convert part-time advocates to full-time equivalents (e.g. if LSCF has three part-time paralegals who work one-half week each, this would be reflected as one and half FTEs).

For any cases referred for potential 1630, determine -

- all attorney and paralegal time used for the case. Include the name of the advocate, the date of activity, the hours devoted to the activity, a description of the activity and the source of funds for each activity; and
- a schedule setting forth all expenses related to the litigation of the cases.

20. Compliance under 45 CFR 1612 – Restrictions on lobbying and certain other activities

Review 45 CFR Part 1612 and OPO's Memo to All LSC Program Directors (December 8, 1997).

Review LSCF's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether LSCF effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of LSCF's policy and procedures, as well as their knowledge of any activity that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Review LSCF's documentation of expenditures of non-LSC funds for permissible legislative and/or rulemaking activities. Determine whether such expenditures are consistent with 45 CFR § 1612.6.

Review LSCF's semi-annual reports describing its non-LSC funded legislative activities, and the supporting documentation. Determine compliance with 45 CFR § 1612.6

Your report should contain a detailed discussion of any and all anomalies.

Ensure that the mandatory recordkeeping requirements impacting this regulation are in place in accordance with the OPO's memo (December 8, 1997).

Inspect written requests from a governmental agency or official, elected official, legislative body, committee, or member thereof made to an employee, or to a program and copies of any written responses. Assess compliance with 45 CFR § 1612.6. (LSC has provided a sample report form with the OPO's December 8, 1997 Memo.)

Inspect the list maintained by LSCF of the registered lobbyists employed by LSCF. Discuss with these individuals any activities undertaken by them in order to ensure compliance in accordance with this Part.

Verify whether LSCF maintains separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6. Test expenditures for allowability pursuant to 45 CFR Part 1612. Evaluate supporting documentation and cost allocation methods for adequate recordkeeping and accuracy of the amounts reported.

Review a sample of permissible activities conducted by LSCF using any funds and those using non-LSC funds, including the recordkeeping system in place, in order to determine compliance with 45 CFR § 1612.6.

21. Compliance under 45 CFR Parts 1613 and 1615 – Restrictions on legal assistance with respect to criminal proceedings and on actions collaterally attacking criminal convictions

Review 45 CFR Parts 1613 and 1615.

Review the program's policies and procedures, if any, to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as their knowledge of any LSC funded assistance in criminal proceedings. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Review a sample of cases to determine compliance with 45 CFR Parts 1613 and 1615.

Your report should identify, by Control No. and Case No. all cases reviewed that do not comply with 45 CFR Parts 1613 and 1615 or are otherwise at variance with 45 CFR Parts 1613 and 1615 and/or program policies and procedures, after an on-site discussion with the team leader. Your report should contain a detailed discussion of any and all anomalies.

22. Compliance under 45 CFR Part 1617 – Class actions

Review 45 CFR Part 1617.

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers

to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as their knowledge of any class actions undertaken by the program. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Review a sample of cases to determine compliance with 45 CFR § 1617.3.

Your report should identify, by Control No. and Case No. All cases reviewed that do not comply with 45 CFR Part 1617 or are otherwise at variance with 45 CFR Part 1617 and/or program policies and procedures, after an on-site discussion with the team leader. Your report should contain a detailed discussion of any and all anomalies.

23. Compliance under 45 CFR Part 1632 – Redistricting

Review 45 CFR Part 1632.

Review program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as any redistricting activities that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

24. Compliance under 45 CFR Part 1633 – Restriction on representation in certain eviction proceedings

Review 45 CFR Part 1633 and OPO's Memo to All LSC Programs (December 8, 1997).

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as any activities that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Ensure that the recordkeeping requirements are in place in accordance with OPO's December 8, 1997 memo.

Obtain the list maintained by LSCF of all cases that involve evictions from public housing where there is an allegation of, or conviction for narcotics distribution, manufacture, or possession with intent to distribute. Verify, by physical inspection of the

respective case file, that each case contained on the list complies with 45 CFR Part 1633. In conjunction with the review of the sampled case files, and including discussions with the appropriate case handler, assess compliance with this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Your report should contain a detailed discussion of any and all anomalies.

25. Compliance under 45 CFR Part 1637 – Representation of prisoners

Review 45 CFR Part 1637 and OPO's Memo to All LSC Program Directors (December 8, 1997).

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report. Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as any prisoner litigation that may fall outside the requirements of this regulation. Bring all significant variations to the attention of the team leader. Discuss all variations in your report.

Ensure that the recordkeeping requirements are in place in accordance with OPO's December 8, 1997 memo.

Determine whether pursuant to a court order, the recipient is representing incarcerated clients in litigation or administrative proceedings regarding the conditions of incarceration. Be alert for continuing involvement in prohibited case activity previously reported by the recipient to LSC as having been fully divested.

26. Compliance under 45 CFR Part 1638 – Restriction on solicitation

Review 45 CFR Part 1638.

Review LSCF's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether LSCF effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of LSCF's policy and procedures, as well as any activities undertaken by LSCF that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

27. Compliance under 45 CFR Part 1643 – Restrictions on assisted suicide, euthanasia, and mercy killing

Review 45 CFR Part 1643.

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Inquire as to their knowledge and understanding of the program's policy and procedures, as well as any activities undertaken by the program that may fall outside the requirements of this regulation. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

In conjunction with the review of the sampled case files, and including discussions with the appropriate case handler, inspect cases in order to determine compliance with this Part.

28. Compliance with other statutory prohibitions

42 USC 2996f Sec. 1007 (b) (8), Abortion, 42 USC 2996f Sec. 1007 (b) (9) School Desegregation Litigation, and 42 USC 2996f Sec. 1007 (b) (10) Military Selective Service Act or Desertion.

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

Public Law 104-134 Abortion SEC. 504.

(a) None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a "recipient") that participates in any litigation with respect to abortion. This provision applies the previously existing statutory prohibition to all funding. The restriction in the Act, Section 1007(b) (8), prohibiting all legal assistance (not just

litigation) concerning the procurement of non-therapeutic abortions, continues subject to 45 CFR §§ 1610.2 and 1610.3.

Review the program's policies and procedures to determine whether they are consistent with the LSC Act, regulations, and other applicable authority. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

Determine how and whether the program effectively communicates policies and procedures to staff. Interview upper and middle management, staff and support workers to determine whether program practices are consistent with program policies and procedures. Obtain an understanding of the policies, practices and internal controls in place to ensure compliance with the statutory prohibitions identified above. Bring significant variations to the attention of the team leader. Discuss all variations in your report.

In conjunction with the review of the sampled case files, and including discussions with the appropriate case handler, inspect cases in order to determine compliance with this Part.

APPENDIX R-1

LSC OFFICE OF COMPLIANCE AND ENFORCEMENT POLICIES AND PROCEDURES FOR ON-SITE FISCAL REVIEWS

PURPOSE:

- To establish a general framework for conducting fiscal reviews required in the workplan for on-site CSR/CMS reviews and for reporting on the reviews.
- To conduct a limited review and assessment of the recipient's internal controls.
- To establish the relevant records and documents that at a minimum should be reviewed in advance of the on-site visit and on-site.
- To establish the relevant personnel to interview on-site.
- To list review procedures.

These procedures are not exhaustive, and depending on the circumstances and complexity of an on-site review may require additional testing and interviews.

The reviewer's individual report should contain discussion of any and all significant deficiencies and/or material weaknesses found from the review and list the indicators of compliance, substantial compliance, and non-compliance.

The report should indicate whether the recipient is in compliance, substantial compliance, or non-compliance with LSC rules and regulations outlined below.

Significant deficiencies must be brought to the attention of the team leader while on-site.

LSC REGULATIONS WITH A FISCAL COMPONENT

45 CFR Part 1608 – Prohibited political activities

This part is designed to insure that the Corporation's resources will be used to provide high quality legal assistance and not to support or promote political activities or interests.

Scope of Review

- Review program's practices, policies, and procedures to ensure compliance with this Part.
- Determine whether the program expended grant funds or contributed personnel or equipment and resources in violation of the requirements of 45 CFR §§ 1608.3(b) and 1608.4(b).

Personnel to Interview

- Executive Director
- Fiscal Officer/Bookkeeper
- Upper management

Review Procedures

- Examine cash disbursement records for any payments or contributions to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum.

Accounting Records to be examined /Supporting Documentation

- Accounting Policies and Procedures Manual
- General Ledger (GL) Expense Accounts and most recent Trial Balance of GL accounts.
- Cash Receipts and Disbursements Journal for the review period
- Most recent Trial Balance of GL accounts

45 CFR Part 1610 - Use of non-LSC funds, transfers of LSC funds, program integrity

This part is designed to implement statutory restrictions on the use of non-LSC funds by LSC recipients, and to ensure that no LSC-funded entity shall engage in any restricted activities, and that recipients maintain objective integrity and independence from organizations that engage in restricted activities.

Scope of Review

- Determine whether the recipient transfers LSC and non-LSC funds to persons, entities or outside organizations.
- Ascertain recipient's relationships and/or arrangement(s) with outside organizations, persons or entity that the recipient transfers LSC funds.
- Assess the recipient's use of non-LSC funds.

Personnel to Interview

- Executive Director
- Fiscal Officer/Bookkeeper
- Upper management – including the Board Chair
- Any other personnel that may have information pertaining to the transfer of non-LSC funds, including part-time staff that conducts restricted work for an other organization.

Review Procedures

- Examine the GL chart of accounts and the GL to determine that the recipient's accounting system has the ability to account for LSC and non-LSC funds separately and distinctly. *See 45 CFR § 1610.9*
- Review cash receipts and disbursements journals for the review period to identify the source of non-LSC funds and how the recipient spends/transfers its LSC and non-LSC funds, respectively. *See 45 CFR §§ 1610.4 and 1610.7*
- Review the recipient's policy and procedures for notifying donors of \$250 or more of LSC prohibitions and conditions which apply to their donation. *See 45 CFR § 1610.5*
- Examine the recipient's organizational structure and physical locations to assess recipient integrity and independence. *See 45 CFR § 1610.8*
- Review non-LSC grant agreements to ascertain whether non-LSC funds are used consistent with the grant purposes and ensure that non-LSC funds are not used inconsistent with 45 CFR § 1610.4
- Review and/or obtain a copy of the recipient's latest certificate of recipient integrity and the Executive Director's annual report to the board on program integrity.

Accounting Records to be examined /Supporting Documentation

- Accounting Policies and Procedures Manual
- GL chart of accounts
- Cash Receipts and Disbursements Journal for the review period
- Most recent Trial Balance of GL accounts
- Donor written notification letter
- Organizational chart
- Non-LSC grant agreements
- Any other relevant documents not included in this list that has information pertaining to transfer of non-LSC funds.

45 CFR Part 1612 – Restrictions on Lobbying and Certain Other Activities

The purpose of this part is to ensure that LSC recipients do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities.

Specifically, recipients shall not use any funds to pay for costs associated with any prohibited legislative and administrative activities as described in 45 CFR §1612.3(a) & (b). No funds made available by the Corporation shall be used to pay for administrative overhead or related costs associated with any activity listed in 45 CFR § 1612.6.

Recipients shall maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6. Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

Scope of Review

- Determine whether the recipient and their employees engage in any prohibited legislative and administrative activities.
- Assess the recipient's permissible activities using LSC and/or non-LSC funds.
- Assess the recipient's recordkeeping and accounting for permissible activities funded with non-LSC funds, if needed.

Personnel to Interview

- Executive Director
- Fiscal Officer/Bookkeeper
- Upper management staff – including the Board chair
- Any other personnel that has knowledge and/or information pertaining to these activities.

Review Procedures

- Examine the recipient's semi-annual reports describing their legislative activities with non-LSC funds conducted pursuant to § 1612.6, together with such supporting documentation as specified by the Corporation for the review period.
- Examine cash disbursement records and supporting documentation for related payments.
- Review the recipient's written policy and procedures to guide its staff in complying with this part.

Records to be examined /Supporting Documentation

- Operating Policies and Procedures Manual
- Cash Disbursement Records
- Time records for applicable staff members
- Any other relevant documents not included in this list that has information pertaining to legislative activities.

45 CFR Part 1614 - Private attorney involvement

This Part is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients and that recipients dedicate an amount equal to at least 12.5% of their annualized basic field grant to the PAI effort. Recipients are also required to provide case oversight and follow-up to ensure the timely disposition of cases and the efficient and economical use of recipients' funds.

Scope of Review

- Verify that recipient has met the 12.5% PAI expenditure requirement for the last two years and projects to meet it for the current year. *See* 45 CFR § 1614.1.
- Examine the recipient's PAI policies, range of activities, and development of annual PAI plan pursuant to 45 CFR §§ 1614.2, 1614.3, and 1614.4.
- Examine accounting for PAI costs, direct and indirect, PAI timekeeping, payments to private attorneys, contractual payments to individuals or organizations related to the PAI effort and local prevailing market rates for attorney's fees. *See* 45 CFR § 1614.3(e).
- Verify that costs attributed to the PAI effort are valid expenses and that they are allocated on a reasonable basis, consistent with 45 CFR § 1614.3(e).
- Determine that PAI cost allocation methodology is documented. *See* 45 CFR § 1614.3(e)(1)(i).
- Verify the staff casehandlers' PAI time is documented with timesheets. *See* 45 CFR § 1614.3(e)(1)(i).
- Verify that the recipient is not maintaining a revolving litigation fund. *See* 45 CFR § 1614.5.

Personnel to Interview

- Executive Director
- PAI coordinator
- Sample of attorneys and/or paralegals with PAI time
- Fiscal Officer/Bookkeeper
- Timekeeper
- Any others as situation dictates

Review Procedures

- Compute recipient's 12.5% PAI expenditure requirement for the review period.
- Examinee financial statement reporting of PAI activity for the review period.
- Examine the recipient's accounting policies and procedures for PAI costs.
- Interview at least four attorneys who have time allocated to the PAI effort to verify that time being charged to PAI is substantiated by actual performance.
- Check the recipient's accounting manual to verify documentation of the allocation method.
- Review a test sample of one-quarter of the number of private attorneys' vendor files. Check paid invoices in these files to verify that they show billing for the hours worked and the correct hourly rate. Determine that the rate paid is not more than 50% of the going rate in the area. Ensure bills are properly approved for payment. Verify accuracy of hours billed against the time recorded in case files or if the type of case supports the hours billed.
- Check the sample of private attorney invoices to verify that recipient does not maintain a revolving litigation fund.
- Verify that PAI funds have not been paid to, or committed for direct payment to, any

attorney who for any portion of the previous two years has been a staff attorney; except that there is no such restriction for payments made as a result of work performed by an attorney who practices in the same firm with a former staff attorney.

- Review the allocations made for staff salaries to the PAI effort. Ensure they are made on the basis of the method established in the recipient's accounting manual. Ensure that all salary allocations for attorneys and paralegals are supported by time sheets. Check the journal entries for allocations for four randomly selected payroll periods against the time records and payroll records for those periods.
- Review subgrant expenses charged to the PAI effort. Check payments made to verify that they are made in accordance with the subgrant agreements. Interview the person responsible for providing oversight over the subgrantees to determine whether subgrantees are carrying out their obligations in case reporting and accounting for the subgrant consistent with the terms of their agreements.
- Interview PAI staff to determine that the recipient provides oversight and follow-up of PAI cases. Check a sample of at least 25 PAI case files to determine whether they evidence oversight and follow-up, especially where cases do not appear to be timely closed.
- Compute the cost per case by dividing the total PAI cost for the year by the number of open and closed PAI cases for the year to assess operating efficiency of the recipient's PAI effort and expenditure of funds devoted to PAI. This computation should serve only as one element in assessing efficiency.

Accounting Records to be examined /Supporting Documentation

- Accounting Policies and Procedures Manual - excerpt of the relevant portion of the Accounting Manual stating the basis for allocation of expenses
- Audited financial statements for the review period
- Cash disbursements journal for PAI expenses for the review period
- Subgrant agreements
- Sample of attorney/paralegal timesheets approved by a supervisor reporting PAI hours
- Sample of private attorney contracts, paid attorney invoices listing hours worked, cases handled and hourly rate along with recipient approval
- Excerpt(s) of recipient's instructions for follow-up and oversight of PAI cases
- Sample of PAI correspondence with PAI attorneys and referred client.

45 CFR Part 1627 – Subgrants and membership fees or dues

This part is designed to promote accountability for Corporation funds and the observance of the provisions of the Legal Services Corporation Act and the Corporation's regulations adopted pursuant thereto, it is necessary to set out the rules under which Corporation funds may be transferred by recipients to other organizations (including other recipients).

Scope of Review

- Assess program policies and procedures to ensure compliance with this Part.
- Determine that LSC funds were used for allowable expenses.

Personnel to Interview

- Executive Director
- Fiscal Officer
- Accounting Staff

Review Procedures

- Determine whether the program expended grant funds in violation of the requirements of 45 CFR §§ 1627.2(b)(1), 1627.2(c) and 1627.4(a).
- Examine expenditures for payments to attorneys or law firms representing a recipient's clients on a contract or judicare basis, to determine that such payments do not exceed \$25,000 which amount for which the program needs to obtain LSC prior approval in order to comply with the requirements of 45 CFR § 1627.2(b)(1).
- Examine recipient policies and procedures regarding subgrant activities.

Accounting Records to be examined /Supporting Documentation

- Audited financial statements
- Accounting policies and procedures manual
- GL expense accounts
- Cash disbursements journal for the review period
- Most recent Trial Balance of GL accounts

45 CFR PART 1635 - Timekeeping

This Part is intended to improve accountability for the use of all funds by a recipient by: (a) Assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters and supporting activities for which funds have been expended; (b) Enhancing the ability of recipients to determine the cost of specific functions; and (c) Increasing the information available to LSC for assuring recipient compliance with Federal Law and LSC rules and regulations.

Scope of Review

- Determine whether the time spent by attorneys and paralegals are documented by time records which record the amount of time spent on each case, matter, or supporting activity. *See* 45 CFR § 1635.3(b)(1).
- Determine that each record of time spent contains: for a case, a unique client name or case number and for matters and supporting activity, an identification of the category of action on which the time was spent. *See* 45 CFR § 1635.3(b)(2).

- Assess whether the recipient's timekeeping system is able to aggregate time record information on both closed and pending cases by legal problem type. *See* 45 CFR § 1635.3(c).
- Verify that the recipient has certified in writing that any casehandler who works part-time for the recipient and part-time for an organization that engages in restricted activities has not engaged in restricted activity during any time for which the casehandler is compensated by the recipient. *See* 45 CFR § 1635.3(d).

Personnel to Interview

- Timekeeper
- Executive Director
- Sample of attorneys and/or paralegals
- Fiscal Officer/Bookkeeper
- Part-time staff
- Any others as situation dictates

Review Procedures

- Identify the type of timekeeping system maintained: For example, KEMPS, TIME, manual or electronic.
- Examine a sample of recipient time records maintained by attorney and paralegal staff to determine whether their time is recorded contemporaneously and describes the activity performed.
- Verify the accuracy of the timekeeping system by testing a random sample of timesheets against time recorded in case files.
- Review the recipient policies and procedures for time reported as matters and supporting activity. Are casehandlers identifying the category of action on which the time was spent?
- Obtain a sample of time reports by cases, matters, and supporting activity.
- Review the recipient's policies and procedures for part-time casehandlers.

Accounting Records to be examined /Supporting Documentation

- Recipient Policies and Procedures Manual — excerpt portion(s) related to timekeeping and part-time employment
- Sample of attorney/paralegal timesheets approved by a supervisor
- List of timekeeping codes for cases, matters, and supporting activity

45 CFR Part 1642 – Attorneys' fees

This part is designed to ensure that recipients or employees of recipients do not claim, or collect and retain attorneys' fees available under any Federal or State law permitting or requiring the awarding of attorneys' fees.

Scope of Review

- Review program practices to ensure that recipients or employees of a recipient do not claim, or collect and retain attorney's fees in any case undertaken on behalf of a client of the recipient, in compliance with 45 CFR § 1642.3.

Personnel to Interview

- Executive Director
- Fiscal Officer
- Accounting Staff

Review Procedures

- Examine the recipient's accounting records and financial statements for the recognition and reporting of attorneys' fees.
- If any, assess compliance with 45 CFR §§ 1642.2, 1642.3, 1642.5, and 1642.7

Accounting Records to be examined /Supporting Documentation

- Audited financial statements
- Accounting policies and procedures manual
- GL chart of accounts
- Cash receipts and disbursements journal for the review period
- Most recent Trial Balance of GL accounts

CHAPTER 3 OF LSC ACCOUNTING GUIDE – INTERNAL CONTROL EVALUATION

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as the process put in place by the recipient's board of directors, management, and other personnel which is designed to provide reasonable assurance of achieving the following objectives: (1) Safeguarding of assets against unauthorized use or disposition; (2) Reliability of financial information and reporting; and (3) Compliance with regulations and laws that have a direct and material effect on the program.

LSC recipients to demonstrate the effective discharge of its stewardship responsibilities must comply with the Fundamental Criteria of an Accounting and Financial Reporting system. The Fundamental Criteria encompass the coordinated methods and measures that should be adopted by recipients of any size to safeguard assets, check the accuracy and reliability of accounting data, promote operating efficiency, and encourage adherence to prescribed management policies. Variations from this model should only be made when justified by particular program

characteristics. The Fundamental Criteria emphasize the results to be achieved. However, there can be substantial flexibility in the methods implemented to achieve the required results.

The objectives of LSC Fundamental Criteria are intended to provide: (1) criteria which allow a nonfinancial manager to assess whether the system for which he or she is responsible reduces inherent financial management risks sufficiently to demonstrate the proper discharge of his/her stewardship responsibilities; and (2) standards which allow program personnel to evaluate performance in the financial area in accordance with consistent criteria, and to make improvements, as needed.

Scope of Review

- On a limited basis assess the effectiveness of the recipient's internal controls in comparison to the LSC Fundamental Criteria. *See* § 3-5 of Chapter 3 of the Accounting Guide for LSC Recipients (AG)
- Review internal control structure for deficiencies in risk areas listed below.

Personnel to Interview

- Executive Director
- Fiscal Officer
- Accounting Staff
- Any staff with fiscal duties and responsibilities

Review Procedures

- Review the recipient's internal control policies and procedures in comparison to the Fundamental Criteria. *See* § 3.5 of Chapter 3 of the AG.
- Interview program management and staff regarding the recipient's financial management and internal controls. *See* § 3-5.1 of the AG – Controls, Roles and Responsibilities.
- Review the following areas for internal control deficiencies and/or significant and unusual transactions and unallowable costs:
 - Supporting documentation
 - Contract services arrangements and payments
 - Employee interest-free loans or salary advances
 - Lobbying fees
 - Late fees or penalties due to lack of good financial management systems
 - Derivative income
 - Alcohol purchases
 - Bank reconciliations
- Review a sample of various payments to determine that they are properly documented and supported: for example, travel expenses, seminar costs, vendor list, training costs,

subgrants and one time LSC grants

- Review policies and procedures manuals to determine if program adheres to its own policies
- Assess whether any type of late fees, interest and/or penalties have been paid with LSC or non-LSC funds.

APPENDIX R-2

Legal Services Corporation INTERNAL CONTROL WORKSHEET

Program: _____

Reviewer: _____

Grantee No: _____

Segregation of financial duties is necessary to establish an effective system of Internal control. List employees(s) assignment to perform the following financial duties within the program.

EMPLOYEE

A. Cash (check) Receipts – WHO?

1. open the mail
2. lists cash receipts in Cash receipts Log
3. prepares pre-numbered receipts
4. signs the Cash Receipts Log
5. restrictively endorses checks received
6. receives cash receipts from person opening mail
7. prepares the bank deposit ticket
8. makes the deposit to the bank
9. posts receipts to the Cash Receipts Journal
10. posts receipts to Accounts Receivable and General Ledger
11. receives duplicate deposit ticket stamped by bank
12. compares bank-stamped duplicate deposit ticket with Cash Receipts Log
13. opens bank statement mail
14. prepares monthly bank statement reconciliations
15. reviews monthly bank statement reconciliations
16. reconciles bank statement balances to General Ledger
17. processes and safeguards incoming cash receipts
18. protects cash by using safes or locks kept in areas of limited access

B. Check Disbursements (Except Payroll) – WHO?

1. controls blank checks
2. approves payment of billing invoices
3. prepares checks for payment
4. manually signs the checks
5. distributes or mails the checks
6. stamps and dates invoices paid
7. posts entries to Check Disbursements Journal
8. protects blank checks by using safes or locks kept in areas of limited access
9. keeps signature die under adequate control

C. Petty Cash – WHO?

1. has custody of the Petty Cash Funds
2. maintains the Petty Cash Fund records
3. conducts surprise counts and internal audits of Petty Cash
4. keeps adequate controls of petty cash funds

CONTINUE ON PAGE 2

Legal Services Corporation
INTERNAL CONTROL WORKSHEET
(CONTINUED)

EMPLOYEE

D. Procurement (Recurring Purchases) – WHO?

1. is responsible for purchasing.....
2. approves purchase orders.....
3. receives shipments from vendors.....
4. compares purchase order to vendor invoice.....
5. verifies the accuracy of the vendors invoice.....
6. maintains control of unpaid vendor invoices.....
7. maintains control of office supplies.....
8. keeps adequate control of office supplies.....

E. PROPERTY (Capital Assets) – WHO?

1. maintains the property inventory records.....
2. takes the annual property inventory.....
3. reconciles the property record to the General Ledger.....

F. Payroll – WHO?

1. calculates and prepares the payroll.....
2. maintains the Payroll Journal.....
3. signs the payroll checks.....
4. opens the payroll checks.....
5. prepares monthly payroll bank statement reconciliations.....
6. reviews monthly payroll bank statement reconciliations.....
7. prepares the Federal and State Payroll Returns.....
8. protects blank checks by using safes or locks kept in areas of limited access.....
9. keeps a signature die under adequate control.....

G. Client Trust Accounting – WHO?

1. maintains Client Trust Account records.....
2. issues receipts for monies received from clients.....
3. signs Client Trust Account checks.....
4. opens Client Trust bank statement mail.....
5. prepares monthly Client Trust bank statement reconciliations.....
6. reviews monthly Client Trust bank statement reconciliations.....
7. reconciles Client Trust Account balances to General Ledger.....

H. General Journal – WHO?

1. makes entries to the General Journal.....
2. reviews and approves General Journal.....
3. posts the General Ledger.....
4. prepares the monthly Trial Balance of the General Ledger.....
5. reviews the monthly Trial Balance of the General Ledger.....
6. prepares the financial statements and reports.....

I. General – WHO?

1. maintains the accounting and procedures manual.....
2. is covered by bond insurance for handling assets or performing significant financial duties.....
3. protects against a loss of important files, accounting records or equipment.....

APPENDIX S

Office or Unit _____ Reviewer Initials: _____ Control No. _____

Summary: Circle all Non-Compliance areas Identified:

ELIGIBILITY a / i	1626	CSR	RETAINER	1636	
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If there are any areas of non-compliance, please explain at the end of form.

(Note: This is a summary form only, Regulations should be consulted as necessary)

CASE FILE REVIEW FORM (A-1)

CASE NUMBER: _____ T R P PAI[] STAFF []
CASE HANDLER(S): _____ FUNDING: LSC[] OTHER []

PROBLEM TYPE/CODE OR LEGAL SUBJECT AREA: _____

IS THE CASE WITHIN PROGRAM PRIORITIES: YES [] NO []

DATE OF INTAKE: _____

DATE ON WHICH THE CASE WAS ACCEPTED/OPENED: _____

CLOSED CASES ONLY: CLOSURE CATEGORY: _____ DATE CASE CLOSED: _____

INCOME VERIFICATION:

For group client, use notes section on back for verification

Assets: _____	Income: _____	Number in Household: () ()
_____	Total: _____	Total: _____

1. a. Are the applicant's assets at or below the recipient's applicable asset ceiling?
YES [] 1611.4(c) [] NO [] NO EVIDENCE []
b. If over, is there evidence that the ceiling has been waived?
YES [] NO [] NO EVIDENCE []
2. a. Is the applicant's income at or below the recipient's applicable annual income level??
YES [] 1611.4(c) [] NO [] NO EVIDENCE []
b. If not, is there evidence that one or more of the authorized exceptions applies under 1611.5?
YES [] NO [] NO EVIDENCE []
c. If not, was legal assistance wholly supported by non-LSC funds?
(Note: These cases should not be reported to LSC in the CSR.)
YES [] NO [] SOURCE: _____

3. Client eligibility under Part 1626, as documented in the file:
- a. If US citizen, has the client attested to citizenship in writing?
YES [] Date _____ **NO []**
Not Needed [] Telephone only with citizenship questioned and recorded
- b. If non-citizen is there evidence of appropriate screening and document review?
YES [] Date _____ **NO []**
Not Needed [] Telephone only with proper documentation/status questioned and recorded
- c. If a or b is Yes, is the date before commencement of representation?
YES [] **NO []** (a "no" answer may indicate the program failed to adequately screen this matter prior to representation)
4. a. Is there evidence of legal advice/work in the file?
YES [] **NO []**
- b. Is the CSR closure category of this case correct? (closed cases only)
YES [] **NO []**
5. a. Has the case been timely closed? (closed cases only)
YES [] **NO []**
- b. Is the case dormant? (open cases only)
YES [] **NO []**
6. a. Has this case been doubled counted? (open and closed cases)
YES [] **NO []** Other Number(s): _____
7. a. Is there a signed retainer agreement? **YES []** **NO []** **Not Needed []**
b. Date _____; Is it timely? **YES []** **NO []**
c. Does retainer contain adequate scope & subject matter? **YES []** **NO []**
8. If required, is there a written signed client statement under 45 CFR Part 1636?
(Effective May 21, 1997)
REQUIRED AND YES [] **REQUIRED AND NO []** **N/A []**
9. All cases with pleadings/court documents:
Pleadings were reviewed for any prohibited items/claims/parties and were:
IN COMPLIANCE [] **NOT IN COMPLIANCE []** **N/A []**
10. Does the information in case file match the information in the program's computerized case system? **YES []** **NO []**
11. Should this case be included in CSRs? (open and closed cases)
YES [] **NO []**
12. Explain any exception to compliance noted in any category above and any other comments:
- _____
- _____
- _____

APPENDIX T

Intake, PAI and Case Management Review Form

Note: Team members assigned to Intake and /or PAI must review the program's Priorities and financial eligibility requirements prior to conducting interviews.

Intake/Case Acceptance:

Office:	
Intake Hours:	
No. of staff interviewed:	

Number of intake staff responsible for conducting initial intake:

Name and title of intake staff: (Specify primary and back up staff if applicable.)

Provide a detailed description of the program's walk-in applicant intake procedure:

Are walk-in applicants provided access to a telephone in order to contact other offices or Hotlines?

Yes/ No

If **yes**, provide an example of under what circumstances these applicants are granted telephone access: (Specify, among other things whether an eligibility screening is conducted prior to granting telephone access.)

[illegible][illegible]

Yes/No

Conflict Checks:

Does the office perform program-wide conflicts checks during intake?

Yes/No

If yes, at what point of the intake screening is it done?

Duplicate Case Checks:

Does the office perform program-wide duplicate case check during intake?

Yes/No

If yes, provide an explanation of the procedure used:

45 CFR Part 1626 (Restrictions on legal assistance to aliens):

Describe the procedure used by the program to comply with 45 CFR Part 1626: (Specify, among other things, at what stage of the intake screening it is done and distinguish the methods used for in-person verses telephone verification.)

Are the intake staff personnel aware of Program Letter 06-02, Violence Against Women Act 2006 Amendments?

Yes/No

If yes, what is their understanding of this program letter?

45 CFR Part 1611 (Financial eligibility):

Is the intake staff aware of the program's asset/income eligibility guidelines?

Yes/No

Does the program's guidelines include asset and income limits?

Yes/No

If yes, what is their understanding of these limits?

Is the intake staff aware of the exceptions to the income and asset ceilings (i.e. Medical Expenses and taxes)?

Yes/No

If yes, what is their understanding of these exceptions?

Over-income/Over-asset:

Describe in detail the over-income/over-asset applicant acceptance procedure: (Specify, among other things, who has authorization to make this decision and how it is documented.)

List the factors used and the manner in which they are documented: **(Due to the revision of 45 CFR Part 1611, programs are no longer required to consider all the factors listed. However, the specific factors the program has chosen must be considered in all offices.)**

Is the program using a spend-down?

Yes/No

If **yes**, does the staff realize that if factors are applied to reduce an applicant's income, the applicant is still considered an over-income client and the original income amount must be documented in the case file or CMS.

Yes/No

Is the client's income minus the deductions documented in the file or the CMS system?

Yes/No

Government Benefit Exemptions:

Has the program's Board adopted a Government Benefits Exemption to the asset/income screening?

Yes/No

If **yes**, is there proof (Board Minutes) that the Board reviewed the Government Benefit prior to its approval?

Yes/No

If **yes**, provide explanation.

Is the Government Exemption included in the CMS: **(Programs are not required to adopt the Government Exemption (45 CFR § 1611.4(c))**

Yes/No

Group eligibility:

If applicable how does the program determine Group eligibility (45 CFR § 1611.6) for those clients who receive legal assisted **supported by LSC funds**?

Does the program document that the group lacks and has no practical means of obtaining funds to retain private counsel, and either (1) the majority of members are financially eligible for LSC assistance or (2) the group principal activity is to delivery services to those in the community who are financially eligible for LSC funds. *See* 45 CFR § 1611.6: (Specify, among other things, whether the program consider the group's income prospects and assets and obligations.)

Outreach:

Does the program conduct outreach?

Yes/No

If **yes**, provide a detailed description of the intake conducted: (Specify, among other things, any prescreening conducted, staff members that conduct the intake and their title, what forms are used, and how conflicts are checked)

Are there partnerships or subgrants associated with the outreach?

Yes/No

If **yes**, provide a detailed list.

Do non-attorneys provide services at outreach?

Yes/ No

If **yes**, describe the supervision of the non-attorneys: (Specify, among other things, who provides the supervision, and when it is provided.)

CSR/Training:

Does the intake staff have the CSR Handbook (2001Ed.) and CSR Handbook (2008 Ed.) and FAQ for each? Provide the date the staff received each said material.

Yes/No - CSR Handbook (2001 Ed.)

Date received: _____

Yes/No - CSR Handbook (2008 Ed.)

Date received: _____

Yes/No- FAQ (2001 Ed.)

Date received: _____

Yes/No – FAQ (2008 Ed.)

Date received: _____

Provide a description of the training intake staff receives regarding the CSR Handbook, and FAQ: (Specify, among other things, the manner in which changes to these documents are communicated to the staff.)

Onsite observation:

Request that a fictitious case be opened in CMS and role play through a dummy intake. If time permits observe telephone intake conducted by the staff: (Assure that the program advises the applicant that there is an observer listening to their questions and obtains their consent.) ****STOP observing once eligibility questions have been asked****

Are all of the required eligibility questions asked in the appropriate order?

Yes/**No**

If **no**, provide a detailed explanation.

Do the questions follow the same format as the CMS?

Yes/**No**

If **no**, provide a detailed explanation.

Are there any defaults in CMS?

Yes/No

If **yes**, provide a detailed list of all defaults in the system.

Case Management:

Case acceptance/ rejection:

Provide a detailed description of the program's case acceptance procedure: (Specify, among other things, who decides whether to accept the application for service, how often do case acceptance meetings take place; who attends, how and when are applicants advised of whether their case has been accepted.)

Letter/ pamphlets/ memorandums...etc.:

For cases accepted only for brief services, does the program utilize pamphlets or standard letters?

Yes/No

If **yes**, obtain copies and review for sufficiency of legal advice provided. Provide a brief description of your finding below.

Do advocates utilize an opening, a closing memorandum, or a compliance checklist?

Yes/No - Opening Memorandum

Yes/No - Closing Memorandum

Yes/No - Compliance checklist

Case closing:

Provide a detailed description of the programs case closing procedures: (Specify, among other things, who is responsible for closing cases on the CMS, who assigns the closing code, and what is the time frame from advocate closing to closure on CMS.)

Oversight:

Provide a detailed description of the programs oversight procedures: (Specify, among other things, how often are file reviews conducted by the program's managers, whether managing attorneys generate reports to assess timeliness, duplicate reporting, etc, and whether advocates can/do run these reports.)

45 CFR Part 1614 (Private Attorney Involvement)

General Information:

Does the office handle contract or pro-bono files?

What types of cases are handled by PAI attorneys?

Who responsible for referrals and oversight of PAI files? (Specify, their title and whether they are an attorney or non-attorney.)

Intake:

Is the PAI intake process the same as the intake for staff cases?

Yes/**No**

If **no**, fill out the intake form for the PAI office and attach.

Eligibility documentation regarding 45 CFR Part 1626:

When is the required eligibility verification/documentation obtained?

Oversight:

Provide a detailed description of the PAI oversight procedure: (Specify, among other things, what documents are used to assist in oversight; whether a checklist consisting of LSC closing codes used to oversight cases, how many times a year oversight is conducted, and what process occurs if there is no response from attorney regarding oversight.)

Case closure:

Provide a detailed description of the PAI case closure procedure: (Specify, among other things, how files are closed if a private attorney does not see a client, and who applies the closing code, PAI attorney, PAI coordinator or managing attorney.)

If the PAI coordinator is a not an attorney does an attorney review the files before they are closed? (Specify, among other things, what items are reviewed by the attorney.)

PAI-Clinics:

Does the program have PAI attorneys participate in clinics?

Yes/No

If **yes**, provide a detailed description of the intake procedure at the clinics: (Specify, among other things, when the eligibility screening is done, who conducts the screening, and when the citizenship attestations are filled out.)

How is the legal assistance provided during these clinics documented in the files?

Do staff members participate in the clinic as well?

Yes/No

If yes, how are the staff cases closed?

Contract attorneys:

How is time documented for contract cases and who ensures that sufficient legal advice documentation is included in the file?

Documents:

Please obtain copies of the following from each field office:

Intake:

All forms used for intake. For example:

- ☐ Manual intake forms for the office, outreach, clinics...etc.
- ☐ Forms relating to 1626 (Restriction on legal assistance to aliens)
- ☐ Forms relating to 1611(Financial eligibility)
- ☐ 1611 over asset and over income forms
- ☐ Retainer agreement
- ☐ Emergency acceptance
- ☐ Blank or dummy CMS intake screen.

Case management:

- ☐ Opening memorandum
- ☐ Case acceptance letter
- ☐ Advice letter
- ☐ CSR compliance checklist
- ☐ Rejection letter
- ☐ Closing memorandum
- ☐ Pamphlets
- ☐ Any other form letter sent to applicant or clients
- ☐ Any other documents explaining or concerning CSR requirements

PAI:

- ☐ Initial letter to client
- ☐ Initial letter to attorney
- ☐ Closing letter
- ☐ Any other form used in case oversight
- ☐ Intake forms

APPENDIX U

TIMELINE FOR SUBMISSION OF OCE REPORTS

I. INDIVIDUAL REPORTS

Individual Reports must be submitted to the team leader and the OCE Director within ten (10) working days following a CSR/CMS review. However, some leeway may be necessary in light of any novel compliance issues raised in the course of the on-site investigation.

II. DRAFT REPORTS

Team leaders must submit a Draft Team Report to the OCE Director within 60 calendar days following the completion of a one week CSR/CMS review and within 90 calendar days following the completion of a two week CSR/CMS review.

The following factors may be considered for extending the time line for submission:

- The size of the program, including the number of field and PAI offices¹;
- Any novel or complex issues that may have surfaced on-site;
- Any need for consultation with LSC management, OLA, or OPP regarding issues discovered on-site; and
- Any complaint investigations, if any assigned while on the CSR/CMS review.

All requests for extensions must be submitted to the OCE Director in writing.

III. FINAL REPORTS

Programs are normally allotted 30 days after receipt the date the Draft Report is released to submit written comments to OCE. However, upon request to OCE, programs may be granted a reasonable extension of time in which to make their submission. Team leaders are responsible for submitting draft Final Reports to the OCE Director within 14 calendar days of OCE's receipt of the program's comments in response to the Draft Report.

Team leaders must take due care and responsibility to ensure that both Draft and Final Reports are submitted to the OCE Director requiring minimal editing.

¹ In general, programs with 10 or more offices would be considered a large program.

APPENDIX V

OCE Guidelines for Team and Individual Reports

All reports submitted as Team and Individual reports should follow the following format:

I. Findings

For all reports (Individual and Team) only three conclusive phrases may be used in the findings of a report, Non-Compliance, Substantial Compliance and Compliance.

Non-Compliance - This term should be used if a program's current policies or procedures are not in compliance with LSC regulations, case file review reveals several exceptions to the regulations, the CSR Handbook, or one or more finding of non-compliance of a restriction.¹

The term non-compliance should be utilized in all of the following circumstances:

- a) One or more cases are found not in compliance with the following restrictions 45 CFR Parts 1608 (Political activity), 1609 (Fee-generating cases), 1610 (Use of non-LSC-funds, transfer of LSC funds program integrity), 1612 (Restrictions on lobbying and certain other activities), 1613 and 1615 (Restriction on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions), 1617 (Class actions), 1626 (Restrictions on legal assistance to aliens), 1627 (Sub-grants and membership fees or dues), 1632 (Redistricting), 1633(Restrictions on representation in certain eviction proceedings), 1636 (Client identity and statement of facts), 1637 (Representation of prisoners), 1638 (Restrictions on solicitation), 1642 (Attorneys' fees), 1643 (Restriction on assisted suicide, euthanasia, and mercy killings,) and the statutory prohibitions on cases pertaining to Abortion, School desegregation litigation, and Military selective service act or desertion.
- b) Five or more case files (depending on the size of the case sample) were found not in compliance with 45 CFR Parts 1611(income, assets, retainer), 1614 (PAI oversight), 1620.2 (legal assistance), or 1620.4 (priorities).
- c) A program's screening/intake procedures do not include consistent and adequate asset, income or citizenship screening (Refer to Sections 2 and 3 of the Workplan).
- d) Five or more case files (depending on the size of the case sample) were found not in compliance with CSR Handbook Chapter VIII (Case Definitions and Closure Categories).
- e) A program's PAI procedures do not include oversight of PAI files (Refer to Section 15 of Workplan).

¹ If one office is non-compliant regarding regulation or a requirement of the CSR Handbook, the program as a whole is non-compliant. Office distinction should not be made in the Final Report. However, feedback should be provided on-site to the Executive Director

- f) A program's allocation of PAI time is based on percentages and not actual time

Substantial Compliance – This term should be used when a program is in compliance with CSR Handbook or regulations but exceptions were noted. In the case of the CSR Handbook this term should only be used if a significant majority amount of case files were found to be compliant. This term should only be used for regulations 45 CFR Parts 1611, 1614, and 1620.²

Compliance – This term should only be used if there were no **(zero)** exceptions noted during case file review. If exceptions are noted, the terms substantial compliance or non-compliance should be utilized.

II. Standard Report Format

- A. EXECUTIVE SUMMARY** - All findings must be numbered and have the exact information contained in the corresponding Finding heading. All reviewers must follow the sequential order provided in Report template.
- B. BACKGROUND OF REVIEW** – Should correspond to the workplan summary and, for an Individual Report must include the number and type of cases reviewed (75 files including 25 open files, 25 closed 2006 files and 25 closed 2007 files. Of the 75 files reviewed, 25 were targeted and 50 were randomly selected). For Draft and Final Reports, the Background must include the information cited in the template and include documentation regarding access negotiations.
- C. FINDINGS** - (*See Below*)
- D. RECOMMENDATIONS** – (*See Below*)
- E. REQUIRED CORRECTIVE ACTIONS** – (*See Below*)

III. Other Standards for Reports

- Each finding should include the applicable regulation or CSR Handbook citation and a description such as "LSBD is in substantial compliance with financial eligibility as required by 45 CFR Part 1611". The potential audiences for LSC reports are not always familiar with the LSC Act and regulations.

² When deciding when to use non-compliance or substantial compliance, the reviewer must consider the case sample. If the case sample is 100 and five or more case files were noted as exceptions then non-compliance should be utilized.

- Blanket findings are not acceptable; all reports must include language to support Findings.
- Case numbers must be cited in the following format and must include the year. For Individual Reports: AX-26 (Case No. 04-0012345, 2005). For Team Reports: Case No. 04-0012345.
- In the Draft and Final Reports, case numbers must be cited in the body of the Report. However, it is not necessary to list every case that is found to be non-compliant unless it is dealing with regulations implementing a restriction such as those listed in this memorandum under I. Findings (a). The team leader should use his or her discretion to select a representative sample of cases that will adequately reflect the finding of non-compliance or substantial compliance, i.e. 3-10 cases.
- In the Individual Reports, case numbers should be cited in footnotes unless a specific example more properly belongs in the body of the report. All cases found by the reviewer to be non-compliant should be cited. If a case is cited, there should be a brief explanation of why the case is non-compliant (i.e. Case No. 06-000098, a dormant case, was opened on 9/2/02 and remained on the open list although the last notes in the file were dated 9/3/02). Only non-compliant cases should be noted as examples.
- The Individual Report finding must include a statement that cites the number of non-compliant cases. This will assist the Draft Report writer in determining whether there is a pattern of non-compliance either in the entire program or in a specific field offices i.e. Of the 20 cases reviewed 10 were found to be non-complaint regarding 45 CFR Part 1626. Five of the non-compliant cases were noted in the ZZZ branch office.
- Individual reports must include a section in which the reviewer notes whether there was any difference and/or improvement in compliance from year to year (if any). Example, a review of 2005 revealed no oversight of PAI files. However, a review of 2006 case files revealed oversight of PAI case file was conducted monthly.
- Intake reviewers are required to take notes for each person interviewed and retrieve all documents utilized during intake. Unlike in the past, reviewers are not required to recite in individual reports every detail of the intake interviews which in many instances was repetitive. However, the reviewer is required to fill out an intake review form for each office in which intake was conducted. The filling out of the form is not lie of writing intake summaries in your report. When drafting Individual reports, reviewers are required to give a brief summary of the intake practice of each office. The reviewer must highlight any non-compliance issues and standard practices of the office. All Draft and Team Reports should include summary of all intake practices based on the intake review forms and Individual Reports. Team Leaders are no longer required to give long narratives for each office.
- When reviewing a program's PAI practices, the reviewer must interview the PAI Coordinator, retrieve copies of all PAI documents, and if possible review PAI files. A

review form must be filled out for each coordinator interviewed. The reviewer is required to include in his or her Individual report a PAI summary regarding the intake and oversight of PAI files. All Draft and Team Reports should include a summary of all PAI practices based on the PAI review forms and Individual Reports. Team Leaders are no longer required to give long narratives for each office.

IV. Recommendations and Required Corrective Actions

- All recommendations and required corrective actions must be supported by a report finding.
- The Recommendations heading must include the standard OCE footnote regarding difference between Recommendations and Required Corrective Actions.

V. Standard Formatting

- All reports - Individual, Draft and Team - should utilize the OCE standard cover format.
- Body of every report must be in 12 pt. Times New Roman. Footnotes must be in 10 pt. Times New Roman.
- Utilize standard spacing throughout all reports - two spaces above each new finding and one space between paragraphs.
- Utilize standard spacing in section headings and findings - all roman numerals and finding #s should be followed by two spaces and then the section title or the finding statement.
- Margins – entire report must be flush/justified left with one inch margins on all sides – left, right, top and bottom - throughout the report.
- Citations – utilize § rather than section and ¶ rather than paragraph when citing to the Handbook and/or to the regulations.
- Citations – cite to “CSR Handbook (2001 Ed.), §” or CSR Handbook (2008 Ed.), ¶” and to the CFR not C.F.R.
- Citations - use *See* before citations to the CSR Handbook, regulations, case examples etc. – no comma after the “*See*”.
- Acronyms – use extreme care to replace all acronyms with the correct program name and individual program or project acronyms. Before utilizing an acronym for the first time, spell out the complete name being replaced with the acronym in (parentheses).
- Capitalization – Executive Director, Deputy Director, PAI Coordinator etc. Use capitals for job titles that are unique or of a small number within the program – i.e., the

program has only one Executive Director but 15 supervising attorneys and two Managing Attorneys.

- Numbers – for numbers between one and nine, the word should be written out and for numbers 10 and higher, numerals should be utilized.

APPENDIX W

Office of Compliance and Enforcement**MEMORANDUM**

TO: Karen J. Sarjeant, Vice-President
Programs and Compliance

FROM: Danilo A. Cardona, Director
Counsel Name, Program Counsel
Office of Compliance and Enforcement

DATE: June 13, 2007

RE: **On-Site Visit to Acme Bay Corporation, Recipient No. 456789.**

On June 4-7, 2007 Legal Services Corporation ("LSC"), Office of Compliance and Enforcement ("OCE") conducted an on-site CSR/CMS review of the Acme Bay Corporation ("ABC"). The objectives of the on-site review were to: 1) assess ABC's compliance with the LSC Act, regulations, and other applicable laws, particularly client eligibility, intake and case management regulatory and statutory requirements, 2) assess ABC's compliance with LSC instructions applicable to case review reporting, and 3) determine the validity of ABC's response to LSC Program Letter 2001-1.

The preliminary findings are as follows:**Intake**

- Interviews with staff revealed that standard procedures are used in each office. However, it is highly recommended that the offsite intake forms mirror the Kemps case management system. In particular the assets and income sources should be listed on the forms to ensure that applicants are screened properly. This is a particular concern since newly hired attorneys will be conducting offsite intakes when the current attorney leaves for maternity leave for 6 months.

Income

- A review of files revealed compliance regarding the screening and documentation of income.

Assets

- A review of files revealed compliance regarding the screening and documentation of assets. However, there is an inconsistency as to how asset values are documented. ABC
- must determine if the actual value or the equitable value of assets should be documented.

Citizenship Attestation

- A review of files revealed that there was general compliance regarding citizenship attestations. There were some LSC and non-LSC files that did not include a citizenship attestation or alien documentation when required.

Documentation of Legal Advice

- A review of files revealed compliance regarding the documentation of legal assistance. Only a few files were noted that did not have documentation of legal advice.

Retainer Agreement

- A review of files revealed compliance regarding the execution of retainer agreements. However, the scopes of some retainers were very brief and did not adequately describe the legal assistance provided.
- Also, the standardization of retainers is needed. One of the four offices did not utilize the same retainer as the other three offices.

Closing Codes

- A review of files revealed several files that did not include the correct closing code. There is confusion regarding the difference between closing codes A and B and the proper use of closing codes C, E, and K.

Statement of Fact

- All of the files reviewed included a statement of fact when required.

ACMS

- Files were noted in which the information in the ACMS did not match the information in the case file. For example some rejected files were listed on the LSC eligible case lists.

PAI

- ABC is not in compliance with 45 CFR Part 1614 regarding oversight and allocation of PAI time.
- In one of the offices the PAI coordinator does not conduct oversight of files once they were referred to the bar association.
- ABC incorrectly estimates the time spent on PAI activities by attorney and paralegals.

FISCAL

- ABC did not perform bank reconciliations in a timely manner.

These are the preliminary findings, to be followed by a detailed individual report by each team member. The individual reports will be followed by a draft team report. A final report including ABC's comments will follow the draft team report.

APPENDIX X



**INDIVIDUAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement**

Acme Bay Corporation
CSR/CMS Review

Recipient No. 000000

Submitted by: Willie Wonker, Program Counsel
Office of Compliance and Enforcement
Date:

I. EXECUTIVE SUMMARY

Finding 1: ABC's automated case management system ("ACMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information in the ACMS and the case files.

Finding 2: ABC's intake procedures and case management system support the program's compliance related requirements.

Finding 3: ABC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines.

Finding 4: ABC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

Finding 5: ABC is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: ABC is in substantial compliance with the retainer requirements of 45 CFR § 1611.9.

Finding 7: ABC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 9: ABC is in non-compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were several staff case files which contained no description of the legal assistance provided.

Finding 10: ABC's application of the CSR case closure categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

Finding 11: ABC in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.) § 3.3 as numerous staff case files reviewed were untimely closed.

Finding 12: Sample cases evidenced non-compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 15: A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 16: ABC is in non-compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. ABC has been granted a partial waiver of their required 12.5% PAI expenditures for the year 2007. In addition, ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

Finding 17: ABC is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. However, ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.00.

Finding 18: ABC is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

II. BACKGROUND OF REVIEW

On June 18-27 2007, the Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") review at the Acme Bay Corporation ("ABC"). In accordance with the approved work plan, I conducted intake interviews in the Vancouver office and the Olympia office. In addition, I reviewed 131 files, including 80 closed 2006 files, 13 closed 2007 files, 10 closed 2005 files, 20 closed 2004 files, and eight open files. Twenty-five of the files I reviewed were targeted files, five were pulled on-site, and 101 were randomly selected.

III. FINDINGS

Finding 1: ABC's automated case management system ("ACMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information in the ACMS and the case files.

Recipients are required to utilize ACMS and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. See CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, ABC's ACMS is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information contained in the case files and the ACMS. Some examples are below.¹

¹ See closed 2004 Case No. (ww-18) 03-1016868 (ACMS indicated it was a staff case and closed with a closing code of "other," however the file indicated that the case was referred to a PAI attorney who rejected the case).

See closed 2005 Case Nos. (ww-19) 05E-10010425 (closing code in file different from closing code yielded by the ACMS), (ww-20) 05-1020498 (ACMS indicated the case was closed, however the file revealed that the case was open), (ww-21) 05-1891-A (ACMS indicated the case was a staff case and the file indicated it was a PAI case), (ww-22) 20015568 (closing code in file different from closing code yielded by the ACMS), (ww-23) 200115511 (closing code in file different from closing code yielded by the ACMS), (ww-24) 05E-29915693 (closing code in file different from closing code yielded by the ACMS), and (ww-25) 05E-10010522 (closing code in file different from closing code yielded by the ACMS).

See also, closed 2006 Case Nos. 06E-10011122 (closing code yielded by the ACMS was "brief service", however file indicated it was an open file), (ww-1) 06-0002898 (ACMS indicated that the file was open, while the file revealed that the applicant was incompetent and the file was never accepted), (ww-2) 05-10196618 (ACMS indicated the case was a staff case and the file indicated it was a PAI case), (ww-3) 05-1021001 (inconsistent closing codes), (ww-17) 06E-11011161 (ACMS indicated that it is a PAI case, but file indicates it is a staff case), (ww-4) 05E-10010477 (ACMS indicated that it is a PAI case, but file indicates it is a staff case), 05E-20017246 (ACMS indicated that it is a PAI case, but the file revealed it is a staff case), (ww-5) 06E-20018496 (ACMS indicated that it is a PAI case, but the file revealed it is a staff case), (ww-6) 06E-20019258, (ww-7) 03E-20013766, (ww-8) 06E-20018614, (ww-9),

Finding 2: ABC's intake procedures and case management system generally support the program's compliance related requirements.

(Offices visited, and whether or not intake procedures were in compliance). Evidence will be the completion of the Intake, PAI and Case Management Form provided. Brief summary in the report. Offices with issues should be discussed in detail.

Finding 3: ABC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. See 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.² See 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. See CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45

(ww-10) 06E-20018164, (ww-11) 06E-20017864, (ww-12) 04E-20015127, (ww-13) 06E-20018894, (ww-14) 06-0003768, (ww-15) 06E-30006588, and (ww-16) 06E-20018496 (closing category indicated in the file was different from the case closing category yielded by the ACMS). ABC explained that it recently converted from Kemps to LegalFiles and that, in the process, some of its data may have been altered. See also, open Case Nos. (ww-26) 03E-10007957 (ACMS indicates file is open, however paper work indicated that the case was closed in 2003 and the file could not be located), (ww-27) 03E-10008632, (ACMS indicated that the case is open, yet the file indicated that the file was closed in 2003), (ww-28) 01E-10004099 (could not be located), (ww-29) 03-10007739, (while ACMS indicated that the case is open, the file indicated that the case was closed in 2006), (ww-30) 05-1162-0 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2005), (ww-31) 01-2067-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002), (ww-32) 03-0280-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2003), (ww-33) 04-1000829-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), (ww-34) 05-0586-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2003) (ww-35) 03E-40009541 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), (ww-36) 02E-400006581 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), (ww-37) 03E-40009666 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), (ww-38) 01E-20007556 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002), (ww-39) 04E-10009648 (lost file) and (ww-40) 01E-20006836 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002).

² A numerical amount must be recorded, even if it is zero. See CSR Handbook (2001 Ed.), ¶ 5.3 and CSR Handbook (2008 Ed.), § 5.3.

CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

ABC's revised Income Guidelines were adopted by its Board on March 10, 2006. In addition, ABC maintains Eligibility Standards and Guidelines that are included in the program's Client Service and Compliance Manual. ABC's Financial Standards indicate that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC. It is the Director of Advocacy's responsibility to ensure that each supervising attorney, Regional Director and Advocacy Director is provided with a copy of the most recent income eligibility guidelines showing 125% of the FPG and 200% of maximum income.

All sampled cases reviewed evidenced that the applicants were screened for income eligibility. Sampled case files reviewed for applicants whose income exceeded 125% of the FPG evidenced that the applicant had authorized exceptions pursuant to the ABC's over-income authorized exceptions and the exceptions were identified in the LegalFiles ACMS. Review of case files and interviews with Brighton office staff indicated that the office maintains grants with HUD which allows the program to provide advice and counsel to clients with housing problems whose income exceeds 125% of the FPG. If the client's income exceeds the income guidelines without exceptions, staff are instructed to designate the case as "Not LSC Reportable" and indicate the reason why. In addition, the Brighton office maintains an Aging Grant which prohibits program staff from asking clients questions pertaining to their income. Staff advised that since the Aging Grant clients are not screened for income, these cases are always identified in the ACMS as "Not LSC Reportable" and are not reported to LSC in CSR submission.

ABC's group eligibility policy complies with the requirements of 45 CFR Part 1611. In addition, the program has developed an intake form and procedures to ensure that groups are eligible for services in compliance with 45 CFR §§ 1611.7(a)(2), (b), and (c). ABC's Community Economic Development Advocacy Group provides services to groups that are currently non profit organizations or want to become a nonprofit organization which focuses on activities or services that benefit 1) low income persons or communities or otherwise benefit the public interest; and 2) the organization must be unable to pay for legal services without significant impairment of program resources. The ABC attorneys provide free legal representation on a variety of legal issues related to starting a non-profit organization including 1) incorporation, 2) application for tax exempt (501)(c)(3) status, and 3) contract, real estate, tax, employment and other areas of the law.

In addition, it was noted that the ABC policy pertaining to Over-Income Authorized Exceptions indicates consideration of authorized exceptions which does not involve subtracting any expense from income, but rather considering factors that could prevent an applicant from obtaining private legal assistance. However, during the review of LegalFiles it was noted that the system automatically subtracts the applicant's income when factors are entered into the ACMS contrary to the noted policy.

Sampled cases evidenced that ABC is in substantial compliance with 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.) § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the poverty guidelines.³

ABC should review its ACMS procedures as it pertains to subtracting authorized exception for applicants whose income exceeds 125% of the FPG in light of its current Over Income-Authorized Exceptions policy contained in Section 1106 of the Client Service and Compliance Manual. In addition, ABC must ensure that advocates screen for income prospects pursuant to 45 CFR § 1611.7(a)(1).

Finding 4: ABC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁴ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient's governing body to establish, "specific and reasonable asset ceilings, including both liquid and non-liquid assets," to "reasonable asset ceilings for individuals and households." *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

³ However, there was one exception. *See* closed 2006 Case No. (ww-41) 06E-20017528. The file was opened on January 2006 and involved a household of one with a monthly income of \$1,039.00. The file contained no documentation of ABC's consideration of any of the authorized exceptions.

⁴ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

The policy approved by the ABC Board of Directors on November 4, 2006 establishes the asset ceiling at \$5,000. Exempt from consideration is the applicant's home and surrounding land; all household goods and personal effects of the applicant's household; property that must be liquidated to defray an existing debt or obligation; property that produces income upon which the applicant depends; property directly related to the special need of an elderly, institutionalized or handicapped applicant; one car or truck; any IRA, TDA, stock bonus, pension, profit-sharing, annuity, or similar plan or contract for which the right to receive payment is on account of illness, disability, death, age, or length of service; resources belonging to a household family member or members who receive Family Assistance, SSI or Food Stamps; trusts designated for education and medical expenses; cash value of life insurance; burial plots; and assets that a domestic violence victim holds jointly with an abuser.

Sampled case files reviewed revealed that ABC maintains asset eligibility documentation as was required by 45 CFR § 1611.6 and as is required by revised 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.) § 5.4.⁵ However, there were four exceptions.⁶

Finding 5: ABC is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data

⁵ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

⁶ *See* closed 2005 Case Nos. (ww-42) 02E-12003375, (ww-43) 05E-20015897, (ww-44) 05E-20016525, and (ww-45) 05E-20015634 (each lacking asset eligibility determinations). The above identified case files, and those similar to them, are not CSR reportable.

⁷ *See* Kennedy Amendment at 45 CFR § 1626.4.

submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

ABC is in non-compliance with 45 CFR § 1626.6, as there were two case files that were not in compliance.⁸ Moreover, ABC is admonished that Part 1626 is regarded as a substantive regulatory requirement, and continued noncompliance could result in the imposition of sanctions.

Finding 6: ABC is in substantial compliance with the retainer requirements of 45 CFR § 1611.9.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁹ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

ABC is in substantial compliance with the requirements of 45 CFR § 1611.9.¹⁰

Finding 7: ABC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it

⁸ *See* closed 2005 Case No. (ww-46) 04E-12004411 and closed 2007 Case No. (ww-47) 05E-12004680. The above identified case files, and those similar to them, are not CSR reportable.

⁹ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

¹⁰ However, closed 2006 Case Nos. (ww-48) 05-1632-0, (ww-49) 06-3121-A and (ww-50) 06E-20018164 and open Case No. (ww-51) 06-0003157 lacked a description of the legal services to be provided to the client. *See also*, open Case Nos. (ww-52) 06-0003461(a case pending litigation lacking an executed retainer agreement), (ww-53) 06-0002419 (lacking an executed retainer), and closed 2005 Case No. (ww-54) 05E-10010412(which closed with a closing code of "court decision" lacking an executed retainer agreement).

represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a)(1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Case files reviewed indicated that ABC is in compliance with the requirements of 45 CFR Part 1636.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

Prior to the visit, ABC provided LSC with a list of its priorities. The priorities are stated as “supporting families, preserving the home, promoting economic stability, achieving safety, stability and health and serving populations with special vulnerabilities.”

ABC is in compliance with 45 CFR Part 1620. None of the sampled files reviewed revealed cases that were outside of ABC’s priorities.

Finding 9: ABC is in non-compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were several staff case files which contained no description of the legal assistance provided.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a “case”, reportable in the CSR data, depends, to some extent on whether the case is within the recipient’s priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

If the applicant’s legal problem is outside the recipient’s priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

ABC is not in compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6 as there were several staff case files reviewed which contained no description of the legal assistance provided.¹¹

Finding 10: ABC's application of the CSR case closure categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.)

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

The files reviewed demonstrated that ABC's application of the CSR case closing categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). There were numerous instances of case closing code errors.¹²

¹¹*See* closed 2005 Case Nos. (ww-55) 04-2001-A, (ww-56) 05E-20016247, (ww-57) 05E-20015897, (ww-58) 05E-20015932, (ww-59) 05E-20016525, (ww-60) 05E-20016722, (ww-61) 05E-20015684; and closed 2006 Case Nos. (ww-63) 01-2067-A, (ww-64) 04-1000829-A, (ww-65) 03-0280-A, (ww-66) 05E-20017462, (ww-67) 06E-20018614, (ww-68) 06E-20018496, (ww-69) 06E-40013159, (ww-70) 06E-40012598, (ww-71) 06E-40013224, (ww-72) 06E-40012631, (ww-73) 06E-40013235, (ww-74) 02E-20010821, (ww-75) 06E-20017719, and (ww-76) 06E-40012809. These files, and others like them, are not CSR reportable.

¹²*See* closed 2004 Case No. (ww-77) 05-1282-A (with a closing code of "client withdrew and did not return" when the more appropriate closing code would have been "counsel and advice"). *See also*, closed 2004 Case Nos. (ww-78) 05E-20015897 (closed with a closing code of "counsel and advice" when the applicant failed to keep their appointment with the attorney), (ww-79) 05E-20016401 (closed with a closing code of "brief service" when the more appropriate closing code would have been "counsel and advice"), (ww-80) 05E-20016914 (closed with a closing code of "brief service" when the more appropriate closing code would have been "counsel and advice"), (ww-81) 04E-10009555 (closed with a closing code of "other" when the more appropriate closing code would have been "client withdrew or did not return"), (ww-82) 05E-10010428 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "client withdrew or did not return"), and (ww-83) 05-51006972 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "counsel and advice").

See also, closed 2006 Case Nos. (ww-84) 06-3010-0 (closed with a closing code of "client withdrew or did not return" when the more appropriate closing code would have been "counsel and advice"), (ww-85) 05-1062-A (closed with a closing code of "referred after legal assessment." This case was transferred to one of ABC's branch offices and the case should have remained opened until services were completed by that branch office), (ww-86) 06-0720-A (PAI case closed with a closing code of "referred after legal assessment." This case was transferred to one of ABC's branch offices and the case should have remained opened until services were completed by that branch office), (ww-87) 03-0814-0 (closed with a closing code of "court decision" when the more appropriate closing code would have been "client withdrew or did not return"), (ww-88) 06-000378 (closed with a closing code of "counsel and advice." The attorney filed a petition on behalf of the client. The client then obtained new counsel and the PAI

Finding 11: ABC is in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as numerous staff case files reviewed were untimely closed.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).¹³ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

ABC is not compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a) and staff case files were not closed in a timely manner.¹⁴

attorney filed a motion to withdraw, which was granted. The more appropriate closing code would have been "court decision"), (ww-89) 06E-20018635 (closed with a closing code of "brief service" when the more appropriate closing code would have been "negotiated settlement without litigation"), (ww-90) 06E-20018894 (closed with a closing code of "brief service" when the more appropriate closing code would have been "counsel and advice"), (ww-91) 05E-12004658 (closed with a closing code of "negotiated settlement without litigation" when the more appropriate closing code would have been "court decision"), (ww-92) 05E-10010601 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "counsel and advice"), (ww-93) 06E-10010929 (closed with a closing code of "referred after legal assessment" when the most appropriate closing code would have been "court decision" reflecting the order of protection obtained by the attorney), (ww-94) 05E-10010500 (closed with a closing code of "change eligibility status" when the more appropriate closing code would have been "court decision" reflecting the order of protection obtained by the attorney), and (ww-95) 06-51008166 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "counsel and advice"). Finally, *see also*, closed 2007 Case No. (ww-96) 06-0002444 (closed with a closing code of "client withdrew or did not return" when the more appropriate closing code would have been "counsel and advice.").

¹³ The time limitation of the 2001 Handbook that a brief service case should be closed "as a result of an action taken at or within a few days or weeks of intake" has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

¹⁴ The following case files, and those similar to them, should not be reported to LSC in ABC's' CSR data submission and should be closed administratively. Examples include: Case Nos. (ww-97) 97-10-06014731 (which was opened on August 22, 1997 and remains open. This case notes indicate that all activity ceased in the year 2002 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), (ww-98) 02-10-03000451 (which was opened on January 25 2002, and remains open. All activity ceased in this case file in the year 2002 with no recent legal activity and no documented activity in the file regarding future

Finding 12: Sample cases evidenced non-compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

ABC is not in compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases as there were 15 duplicate case files noted in the review sample.¹⁵

legal assistance pending or needed), (ww-99) 05-10-01001448 (which was opened on March 8, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), (ww-100) 04-10-03001864 (which opened on December 28, 2004 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), (ww-101) 05-10-02003276 (which opened May 31, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), (ww-102) 05-10-02003195 (which opened on May 25, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), (ww-103) 99-1003005432 (which opened on September 24, 1999 and remains open. Case notes indicate file should be closed), (ww-104) 98-10-06004297 (which opened on June 4, 1998 and remains open. The case notes indicate that the file was closed after it was selected for review by LSC and was labeled dormant) (ww-105) 99-10-11003202 (which opened on June 4, 1998 and remains open. The case notes indicate that the file was closed after it was selected for review by LSC and was labeled dormant), and (ww-106) 03-10-03001094, which opened March 19, 2003 and remains open. The case notes indicate that the advocate had closed the file in the year 2003, but it had not been closed in the ACMS. ABC should take corrective action and review all open cases to identify those that cannot be timely closed. Those cases identified as dormant should be closed in such a manner that they and not reported to LSC in the CSR submission.

¹⁵*See* closed 2004 Case No. (ww-107) 04-1534, closed 2005 Case Nos. (ww-108) 05-0072, (ww-109) Z05E-20016958, and (ww-110) 05E-20016544, closed 2006 Case Nos. (ww-110) 06-0720-A, (ww-111) 06-3227-A, (ww-112) 06-0003703, (ww-113) 06-60017430, (ww-114) 06-0272-A, (ww-115) 06-1876-A, (ww-116) 06-1877-A, (ww-

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Sampled files reviewed, and interviews with staff indicate, that ABC is not involved in such activity. Discussions with the Executive Director also confirmed that ABC is not involved in these prohibited activities.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

None of the sampled files reviewed involved legal assistance with respect to a fee-generating case. Discussions with the Executive Director also confirmed that ABC is not involved in any fee-generating case.

117) 05E-20016542, (ww-118) 05E-20017246, and (ww-119) 06E-20019285 and 2007 closed Case Nos. (ww-120) 06-0003002 and (ww-121) 07-0004137.

Finding 15: A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engage in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use its resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipient are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) the extent to which signs and other forms of identification distinguish the recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. Particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. See OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610.

Finding 16: ABC is in non-compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. ABC has been granted a partial waiver of their required 12.5% PAI expenditures for the year 2007. In addition, ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. See 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. See 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

ABC's PAI plan is designed to ensure that ABC involves private attorneys in the delivery of legal assistance to eligible clients through both pro bono and compensated mechanisms, via subgrant agreements and contracts with private attorneys and law firms on a reduced fee plan.

The Audited Financial Statement ("AFS") for Fiscal Year Ending ("FYE) December 31, 2005 reported in the "Statement of Private Attorney Involvement Expenses", expenditures dedicated to the PAI effort in the amount of \$576,713 which translates to 9.9% of the total basic field grant (\$5,849,856). This amount is short of the 12.5% PAI requirement. In 2004, ABC received a partial waiver of \$73,171 which added to the requirement of 2005 totaling \$804,403, leaving a

shortage for 2005 of \$227,690 for which a partial waiver was requested, granted and added to the requirements of 2006.

The review of the AFS for the FYE December 31, 2005 of the "Statement of Private Attorney Involvement Expenses" for PAI disclosed that ABC correctly allocates the salaries of attorneys and paralegals in actual time as reported in their timekeeping records and as required by 45 CFR § 1614.3(e)(1)(i). ABC has a cost allocation basis in their Consolidated Reference Manual under Tab-4 Private Attorney Involvement Program.

In a review in excess of 25 contracts and payments to private attorneys or law firms for 2005 and 2006, no exceptions were noted. Case files were well documented with corresponding approvals, including contracts and documents were canceled to avoid duplicate payments. ABC maintains reduced fee PAI referrals in each of its offices. In addition, it maintains subgrants for VLP referrals in its Maddingly County, Motown and Brighton offices. The program also maintains a subgrant agreement with the Atlantis State Bar VLP in Lockerbie. The program refers to pro bono as the four bar VLP programs and PAI as the reduced fee component.

ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight of the PAI case files. As a result, there were numerous PAI case files reviewed that were dormant and numerous PAI case files which did not contain a description of the legal assistance provided in most offices visited.

Lockerbie Office

The Atlantis State Bar Volunteer Lawyers Project ("VLP") provides referral services for 64 out of the 67 counties in Atlantis that do not have county sponsored bar referral services. The VLP is staffed by the Director and an administrative assistant. Each of the ABC offices conducts eligibility screening prior to cases being referred to the State Bar VLP. In addition, the Bar does not accept cases that have not been previously screened by ABC. On a quarterly basis, the State Bar VLP forwards to ABC charts for each county in the program's service area which include the type of cases as well as the number of referrals that the VLP estimates they will be able to refer to private attorneys for that quarter. The types of cases that are referred to the VLP include cases that ABC typically does not handle, such as uncontested divorces. The VLP also is available to accept the overflow cases that ABC is unable to handle due to limited staff.

Cases referred to the State Bar VLP by the local offices are typically mailed by ABC along with the completed Client Statement of Facts and Release of Information/Citizenship Attestation or Legal Residency Form, the Legal Files Intake Form and relevant case documents. In addition, a Referral Authorization and Information Release Form is forwarded to the VLP as well as the applicant. A copy of the form is also maintained by the ABC local office within the client's case file. Per form letters provided by the VLP, the client is 1) advised by VLP that their case has been referred in an effort to locate a private attorney and to call the VLP offices immediately; 2) advised that VLP is in the process of trying to locate an attorney; 3) notified that VLP is having difficulty locating an attorney to accept the case; and 4) advised that VLP was unable to locate

an attorney willing to accept the case.¹⁶ If the VLP is able to locate an attorney for the applicant, the applicant is advised to call the attorney to make an appointment. If the applicant fails to follow-up with the attorney, the applicant is advised by letter that VLP will close their file and that they should contact ABC to make another application for services.

When an attorney accepts a case from ABC, they are forwarded a Case Referral Agreement, a copy of VLP's letter to the applicant and any referral information received from ABC. The attorney is requested to conduct a conflicts check and to return the signed and executed case referral agreement. Thirty days after the case is initially referred, the attorney is forwarded a case status form and requested to return it to VLP. The attorneys are requested to provide status updates every 90 days thereafter. At the completion of a case, the attorney is requested to forward a Time Sheet/Final Disposition form that includes a checklist of the disposition of the case. The VLP, however, does not require pro bono attorneys to forward court documents relative to the case. VLP is able to obtain the status of court cases through the Atlantis Judicial Court System web site and VLP will convert its Kemp's Clients for Windows ACMS to LegalFiles so that information regarding referred cases can be dropped into ABC's ACMS.

The VLP Director advised that recruitment of VLP attorneys is performed at the beginning of the year by forwarding information concerning the program to new bar admittees and by including VLP enrollment information in the State Bar's monthly publication. The VLP Director indicated that the VLP case closures have declined due to the decline in case closures for ABC.¹⁷

There were numerous dormant PAI Files in the Lockerbie office.¹⁸

Brighton Office

The Brighton office maintains a subgrant with the county bar association for pro bono cases. The Brighton Volunteer Lawyers Program ("BVLP") is staffed by a Director and an administrative assistant. The procedures for referral to the BVLP by the Brighton office staff are similar to those used by the Atlantis State Bar VLP.

¹⁶The Atlantis State Bar VLP Director advised that at least 3-4 attempts are made before notifying the applicant of their inability to locate an attorney willing to accept the case.

¹⁷Based on information provided solely by the State Bar VLP.

¹⁸See open Case Nos. (ww-123) 04E-10009669 (which opened on November 9, 2004 and remains open with no anticipated further legal services needed or documented in the file), (ww-122) 03E-10008722 (opened on December 12, 2003 and remains open with no anticipated further legal services needed or documented in the file), (ww-124) 01E-10004701 (opened on July 12, 2001 and remains open with no anticipated further legal services needed or documented in the file) (ww-126) 02E-10007363 (which was opened on December 6, 2002 and remains open with no anticipated further legal services needed or documented in the file), (ww-125) 05E-10010271 (which opened on July 20, 2005 and remains open with no anticipated further legal services needed or documented in the file), (ww-127) 03E-10007904 (which opened on May 8, 2003 and remains open with no anticipated further legal services needed or documented in the file), (ww-128) 01E-1000393 (which opened on February 1, 2001 and remains open with no anticipated further legal services needed or documented in the file), and (ww-129) 00E-60002800 (which opened on February 21, 2000 and could not be located. These case files, and others similarly situated, are not CSR reportable).

There were two closed PAI case files that were reviewed during the visit that did not contain a description of the legal assistance provided. See closed 2006 Case Nos. (ww-130) 03E-10007739 and (ww-130B) 06E-10010909. These case files, and others similarly situated, are not CSR reportable.

The BVLVP provides the local office staff with a list of the types of cases that ABC can refer for placement on a quarterly basis. The Brighton office staff mail cases to BVLVP along with the ABC intake forms, Statement of Facts and Citizenship Form, and the Referral Authorization Form. All applicants are screened for eligibility by ABC staff. The applicant is advised by ABC that their case is being referred to the BVLVP for referral to a private attorney, that an effort is being made to contact an attorney to provide assistance and advised if they are having difficulty locating an attorney. The applicant is also advised by letter when an attorney has been located and willing to handle their case and to call the attorney to schedule an appointment; and the applicant is also advised that their case will be closed if they do not contact the attorney within 14 days.

The attorney is forwarded a cover letter that includes the applicant's name, adverse party information and the type of case. The attorney is requested to conduct a conflicts check. The attorney is also advised to sign a retainer agreement with the applicant and obtain a signed statement of facts from the plaintiff prior to engaging in pre-compliant negotiations or file a verified complaint. The attorney is also forwarded an Initial Disposition Form and Case Referral Agreement subsequent to agreeing to accept the case for assistance. The attorney is requested to advise ABC within two weeks whether he/she will accept a referred case. A status update form is forwarded to the attorney within 30 days of the initial referral and every 90 days thereafter. At the completion of a case, the attorney is requested to forward a closing form which includes the total pro bono hours, the date service ended, whether the client has been informed of the case closure and the case disposition.

Reduced Fee PAI

Each ABC office refers cases to private attorneys on a reduced fee basis. The procedures and accompanying forms for the reduced fee panel referral are set forth in the ABC's PAI Plan. Attorneys are paid according to a PAI fee schedule. In addition, the PAI plan advises that attorney's fees paid may not exceed 50% of the local prevailing market rate for that type of service. When a PAI case is referred to a private attorney, the supervising attorney of the referring office forwards the form entitled Notice of Referral/Fund Encumbrance to the central office. The notice provides the following information: client's county, case number, type of case, attorney's name, client's name, estimated cost, case referral date, estimated completion date, supervising attorney's signature and date signed.

At the completion of a case, the attorney forwards to the local office the Closing Memo/Request for Payment form along with relevant court documents. The supervising attorney of each office is responsible for tracking the status of open cases. Within 90 days of the initial referral, the supervising attorney of the referring office is required to check the State Judicial Information Services website to see whether any action has been taken. If the supervising attorney is unable to determine whether any action has been taken on the case, a letter is forwarded to the PAI attorney to assess whether representation is ongoing. If the supervising attorney determines that the legal work has ceased in the case, the PAI attorney is requested to submit a final bill.

ABC does not maintain PAI coordinators within the local offices. Each office has designated an administrative assistant to conduct the follow-up activities for either the VLP referrals, the reduced fee PAI referrals, or both.

There were numerous closed PAI case files in the Brighton office that were reviewed during the visit that did not contain a description of the legal assistance provided.¹⁹

Hunt Office

The majority of Hunt's PAI cases are referred to the Maddingly County Volunteer Lawyer's Project ("MCVLP"). Cases outside of Maddingly County are referred to the Atlantis State Bar's Volunteer Lawyer's Program. In the past the supervising attorney referred cases to a panel of private attorneys which were left over from the pre-merged program; however she stated she has not referred any such cases in at least two years.

The MCVLP, a 501(c)(3), was formed in 1982, at which time the current Director was hired.²⁰ The MCVLP is solely funded by a subgrant from ABC in the amount of \$44,538.00 (2006). Since the sub-grant is the only source of funds, all cases handled by VLP must be LSC eligible. The MCVLP is staffed by a part-time Director (25 hours) and a part-time secretary (20 hours).

The Hunt ABC office refers two types of cases to the MCVLP: (1) uncontested divorces which are handled by the MCVLP Director who is an attorney, and (2) other cases to a pro bono panel of approximately 50 attorneys in Maddingly County. These attorneys agree to handle two cases per year or 20 hours of work, whichever comes first. Attorneys can sign up to receive cases in 18 legal areas.

Intake is conducted through the normal channels at the Hunt office. If a case is deemed appropriate for referral to the VLP by a Hunt attorney and approved by the supervising attorney, staff walks the case (intake sheet and copies of any other paperwork) to the Director of MCVLP.

Most cases referred to MCVLP are uncontested divorces which are placed on a waitlist. Due to the significant demand, at the time of the on-site review, the waitlist was about six months and MCVLP had asked the Hunt office not to refer any additional divorces, instead the Hunt office was sending such applicants a pro-se packet with instructions. When a name comes up, the Director calls the applicant and sets an appointment. However, a significant number of applicants drop off the wait list and receive no assistance from MCVLP.

¹⁹ See closed 2005 Case Nos. (ww-25) 01-1011853, (ww-27) 01-1012722, (ww-20) 04-1019059, (ww-69) 01-1011916, (ww-75) 98-1006708, and (ww-45) 04-1018238 and closed 2006 Case Nos. (ww-39) (ww-54) 06-1021553, (ww-55) 06-1021558, (ww-87) 05-1020897, and (ww-64) 04-108485. There were also dormant PAI case files. See open Case Nos. (ww-88) 03-1017064 (which opened on September 29, 2003 and remains open with no anticipated further legal services needed or documented in the file), (ww-77) 02-1014858 (which opened on July 10, 2002 and remains open with no anticipated further legal services needed or documented in the file), and (ww-22) Z05-1020688 (which opened on September 26, 2005 and remains open with no anticipated further legal services needed or documented in the file.). The above identified case files, and others similarly situated, are not CSR reportable.

²⁰ The official name of the entity is registered as the Lawyer's Referral and Information Service of Maddingly County, Inc., though it is currently doing business as the MCVLP.

For cases other than uncontested divorces, the MCVLP Director contacts an attorney who has agreed to accept cases within the appropriate legal area and sets an appointment for the applicant. The applicant is then notified of the referral and appointment time by telephone or letter.

The MCVLP Director stated that attorneys are required to respond within 30 days to report whether the attorney made contact with the applicant. Subsequently, files are tickled for 90 days.

A very small number of cases are referred to the Atlantis State Bar Volunteer Lawyer's Program ("ASBVLP") which receives a \$38,100.50 (2006) subgrant from ABC. In these instances, the local office receives a citizenship attestation and referral authorization.

MCVLP does not utilize a case management system; accordingly tracking, oversight and reporting is conducted by hand. Monthly reports of closed cases are compiled manually by the MCVLP or the ASBVLP and sent to the Hunt office. Hunt administrative staff closes the cases in LegalFiles and run the computerized reports.

A review of open and closed 2006 case lists reveal that very few cases are actually referred to the MCVLP panel of private attorneys or the Atlantis State Bar. The overwhelming majority of the cases are uncontested divorces handled by the MCVLP Director.

At the time of the on-site review, MCVLP had 20 active cases open, two of which were referrals to private attorneys and the remaining 18 uncontested divorces. A case list of all open cases as of 2/14/06 revealed that 103 cases are open to MCVLP. Accordingly, approximately 83 cases are on the wait list.

Case review revealed significant issues with the MCVLP. Of the 11 sampled closed 2005 cases, only two were eligible for PAI CSRs and of the 19 sampled closed 2006, none were eligible PAI CSRs. Further, interviews and a review of the case list of all 147 closed cases in 2006 reveals that less than 20 will be eligible. The non-compliance is related to two problems: reporting cases that lack legal assistance and a failure to obtain written citizenship attestations.

The primary compliance issue with the MCVLP cases is that the overwhelming majority are closed without MCVLP providing legal assistance. Uncontested divorce cases are referred to MCVLP by the Hunt office and placed on a wait list which ranges from three to 12 months. Many if not most individuals do not stay on the wait list and these cases are closed with the closing code of "client withdrew or did not return", and reported to LSC in the CSR submission.²¹

Of the 147 closed 2006 MCVLP cases, 116 were closed with the closing code of "client withdrew and did not return" and therefore must be removed from MCVLP CSR submission. The Regional Director instructed the Hunt supervising attorney to review all the cases closed by

²¹ See closed 2005 Case Nos. (ww-61) 05-0159-A and (ww-62) 04-1884-A, and (ww-##) 04-1813-A. See also, closed 2006 Case Nos. (ww-67) 03-0215-A, (ww-56) 05-0394-A, (ww-90) 04-0186-A, (ww-91) 06-1700-A, (ww-92) 05-0520-A, (ww-65) 05-2096-A, (ww-76) 05-0506-A, (ww-131) 03-1872-A, (ww-28) 03-0927-A, (ww-78) 06-0027-A, (ww-25) 05-0545-A, (ww-12) 05-1874-A, (ww-15) 06-0124-A, (ww-16) 06-0019-A, (ww-37) 06-0206-A, (ww-91) 06-0322-A, and (ww-15) 06-0200-A.

MCVLP with a closing code of "client withdrew or did not return" to determine if there was documented legal assistance provided by staff and if so, to change the case in LegalFiles to a staff advice case. If not, the cases will be coded in a manner to exclude them from the CSR submission.

The second compliance problem with the MCVLP cases is that the MCVLP does not obtain written citizenship attestations. If the case originated with an in-person intake, the local office obtained a citizenship attestation thereby satisfying the requirement. However, as intake in the Hunt office continues its transition from in-person to telephonic intake, fewer cases contain executed citizenship attestation prior to referral to MCVLP unless the case originated at an outreach intake site. During an interview, the MCVLP Director stated that she assumed the Hunt office obtained the required documentation and the local office believed it satisfied its requirement by telephonic screening since its only contact with the client was telephonic advice.

Two closed 2005 cases and three closed 2006 cases were closed with the closing code of "court decision", lacking citizenship attestations.²² This pattern extends to all MCVLP cases in which decrees were obtained. In 2006, there were 21 decrees obtained by MCVLP which are not CSR reportable because the citizenship attestations were not obtained.

The Regional Director for Hunt instructed the MCVLP Director to write letters to the 21 clients for whom she obtained decrees in 2006 in an effort to obtain citizenship attestations.²³ She stated that this must be accomplished by February 23, 2007 so that LegalFiles could be changed in time for the Director of Advocacy to run the CSR report. Subsequent to February 23rd, the Regional Director instructed the MCVLP Director to review all open active cases and closed 2007 cases and attempt to obtain citizenship attestations for those cases.

For new cases, the MCVLP Director will obtain citizenship attestations from all referrals. She was provided a copy of the Hunt Office Statement of Facts/Certification of Citizenship during the visit. Further, the Hunt case handlers will document the advice provided to the clients prior to the referral to the MCVLP. Before the end of the visit, the Hunt supervising attorney revised the letter sent to clients advising them of the referral to the VLP to reiterate the divorce advice previously provided to them. Accordingly, future MCVLP cases that fall off the wait list can be reverted to staff advice cases and reported to LSC as such in the CSR submission.

Motown Office

ABC has a PAI subgrant with the Motown Bar Association Volunteer Lawyers Program ("VLP"). The Motown office VLP Director stated that over 600 volunteer attorneys are enrolled and that about 200 are active on an annual basis.

²² See closed 2005 Case Nos. (ww-10) 04-1347-A and (ww-11) 05-0106-A and closed 2006 Case Nos. (ww-99) 05-0364-A, (ww-110) 05-2132-A, and (ww-115) 05-0588-A.

²³ Even if ABC is successful in obtaining these citizenship attestations, these case files still would not be CSR reportable. A recipient shall require all applicants for legal assistance who claim to be citizens attest in writing. See 45 CFR § 1626.6 (a).

The VLP takes referrals from the MCC and employs its own intake specialist. The intake specialist has access to LegalFiles and conducts intake in the same manner as the MCC and the Motown office administrative assistants. The VLP uses the Kemp's Caseworks, but applies the same eligibility criteria as the ABC Motown office.

VLP has a slightly different set of priorities, all of which fit within the Motown office's "core" case priorities. The Motown office supervising attorney explained that it tries to use the VLP as a compliment to the services it offers. The VLP Director added that it works closely with the Motown office to avoid duplication of service. Nonetheless, they both agreed that for any number of reasons the types of cases routinely handled by staff may also be referred to the VLP. The supervising attorney also indicated that an effort is made to refer only those cases that are likely to result in extended representation.

The VLP requests that participating attorneys submit quarterly status reports. At the conclusion of the case, attorneys are requested to submit their hours and any closing documents. Copies of the intake, quarterly reports, and closing materials are forwarded to the ABC Motown office.

In addition to the cases that are referred out, on Tuesdays and Thursdays participating VLP attorneys see clients in the VLP office and provide counsel and advice. In addition to the VLP, the Motown office has two attorneys that handle bankruptcies on a reduced fee basis. Written contracts are maintained and are renewed each year. The attorneys are paid according to the schedule set forth in the PAI plan, which, according to the Motown office, is less than 50% of the prevailing market rate.

The ABC Motown office screens for eligibility and case acceptance, and places the client with one of the participating attorneys. The participating attorneys are requested to provide an update every six months. The attorneys are paid at the conclusion of the case and upon submission of an invoice and any closing documents.

Annton Office

The Annton office maintains both pro bono and reduced fee PAI components. The pro bono cases are referred to the Atlantis State Bar Volunteer Lawyers Program for referral and placement with a pro bono attorney. Pro bono clients are initially screened for eligibility by the intake screeners in the Annton office. The supervising attorney makes the determination with regard to which cases to refer to pro bono for placement by the VLP based on the caseloads of the staff attorneys as well as the list of cases that pro bono attorneys will accept that is provided by the State Bar VLP. Applicant and case information is mailed to the State Bar VLP. The applicant is forwarded an Atlantis Volunteer Lawyers Program Referral Authorization and Information Release and the citizenship attestation to complete. The completed copies of the forms are also forwarded to the VLP.

The Annton office staff relies on the State Bar VLP staff to provide them with information regarding the status of referred cases. The VLP sends closing information to the Annton office staff either by mail or e-mail once the case is completed. However, most of the sampled cases reviewed that were VLP referrals in the Annton office did not reflect oversight and follow-up

after the cases were referred. In addition, many of the closed cases did not reflect legal work provided to the client. During interviews with staff at both the VLP and the Annton office staff, case status information can be obtained through access to the Atlantis Court website.

Applicants that are referred to attorneys on the reduced fee panel are advised by letter and instructed to complete and return a PAI Referral Authorization form and citizenship attestation as well as make an appointment with their assigned attorney. The PAI reduced fee attorney receives a cover letter, Referral Form and Fee Schedule, Timesheet and a copy of the client's signed Referral Authorization. Attorneys are paid a flat rate based on the type of case. For example, a bankruptcy case pays \$600; an uncontested divorce is \$350. Attorneys are paid at a rate of \$50.00 per hour for incomplete cases or cases in which the client withdraws or terminate representation.

There were numerous closed PAI case files in the Annton office that were reviewed during the visit that did not contain a description of the legal assistance provided.²⁴

Tusca Office

The Tusca office also maintains both pro bono and reduced fee PAI components. Pro bono cases are referred to the State Bar Volunteer Lawyers Program. The supervising attorney determines which cases are appropriate for pro bono referral. Applicants sign an Authorization and Release and also sign the citizenship attestation. The Pro Bono Coordinator for the Tusca office monitors the status a cases that are referred to the VLP every 3-4 months. She forwards a list of open referred cases to the Executive Director of the State Bar VLP and requests that a status update be provided. In addition, she checks the status of the cases through the Atlantis Court website.

Tusca office staff refers applicants to its reduced fee panel utilizing the same schedule as the one used in the Annton office. In addition, the procedures for referral are the same for both offices. The Tusca office maintains two forms that are submitted to the central office in Lockerbie when the PAI attorney agrees to accept a case which includes the referral date and estimated completed dated and a request for payment.

Dothan, Telma, and Opeka Offices

The Dothan, Telma, and Opeka offices operate two PAI components, pro bono referrals to the Atlantis State Bar Volunteer Lawyer's Program ("VLP") and compensated referrals to a panel of attorneys.

The VLP, located in Lockerbie, periodically sends lists to the offices with the number of attorneys that have agreed to accept pro bono cases in each of the offices' counties, separated by legal problem, mostly uncontested divorces, bankruptcies, wills and adoptions. The names of the

²⁴ See closed 2005 Case Nos. (ww-111) 05-51007126, (ww-89) 03-51004883, and (ww-90) 04-51006268 and closed 2006 Case Nos. (ww-73) 06-51008181, (ww-54) 06-51008000, (ww-22) 04-51005745, and (ww-17) 06-0001087 (the last file listed was a "lost" file which the program could not locate.). The above identified case files, and others similarly situated, are not CSR reportable.

attorneys are not provided to the offices, but the lists assist the program in determining the number of available attorneys and the likelihood of a successful placement by the VLP.

Once the case is determined to be appropriate for referral, the above-mentioned compliance forms for staff cases are sent, along with a Referral Authorization permitting ABC to refer the case to VLP. When returned, the office's senior administrative assistant sends VLP a referral letter and copies of the printed intake sheet, Referral Authorization, Statement of Facts, questionnaires, and any other documents provided by the applicant. The applicant is sent a referral letter informing them that they will receive a letter from the VLP which will ask them to contact the office, after which the applicant will receive the name of an attorney. In Dothan, the client also receives an advice letter from the supervising attorney which provides information concerning divorce in Atlantis. In Telma and Opeka, the advice is provided verbally and documented in LegalFiles.

Once the referral is made, VLP sends the local office copies of correspondence sent to and from private attorneys. When the case is concluded, the attorneys send the VLP a letter stating the outcome and a closing memo; final orders are not sent but referenced in the memo. The administrative assistants close the case in LegalFiles.

If the applicant never makes contact with VLP, the case is closed by the ABC local office based upon the advice from staff provided prior to the referral. It is noted that since week one of the review, to facilitate the generation of PAI case lists, a new field has been added to LegalFiles set up to designate whether the case is staff or PAI. It is also noted that when a case is returned to ABC without assistance by VLP, this designation is not changed from PAI to staff.²⁵

Compensated Panel

Dothan maintains a panel of 22 attorneys in the service area's seven counties who have signed up for fixed-fee cases; Telma has recruited approximately 18 attorneys and Opeka has approximately 13 participants. Once a case is designated for referral to the compensated panel, the above-mentioned compliance paper work and a Referral Authorization are sent to the applicant. When the paper work is completed and returned, as discussed above, one of the administrative assistants will call attorneys on the list to determine whether they will accept the referral. Attorneys are called in rotating order according to the county and legal problem.

Once a referral is accepted, a file is created and an encumbrance form is sent to the Lockerbie office. The attorney and the applicant receive a referral letter. The Dothan and Telma referral forms indicate the fixed amount that the program will pay for the case, for example, \$750 for spouse abuse and \$600 for bankruptcy.

After the attorneys meet with the applicant, they must return the bottom portion of the referral form (in Dothan and Telma) indicating whether the case was accepted, declined, resolved with advice or if the applicant failed to keep the appointment. In Opeka, the attorney returns a separate form similar to the one used in Dothan and Telma.

²⁵ Prior to the recent addition of this field, other field used to determine whether the case was staff or PAI were also not changed, for example, in Kemps, the Case Type field was not changed from S to P.

When the case is closed, the attorney returns the Closing Memo and Request for Payment indicating the outcome, and the final order. The administrative assistants review the closures, and complete the pink Request for Payment to Private Attorney form which is signed by the office's supervising attorney.

In March 2007, after the first week of the review, ABC staff was told to conduct quarterly follow-up of VLP cases, if they had not received interim updates or copies of attorney correspondence from VLP. With respect to compensated cases, staff was told to contact attorneys with open cases every three months.

Interviews and case review reveal that actual follow-up is inconsistent. The administrative assistant in Dothan responsible for PAI is relatively new to the position and had not been conducting follow-up for either type of case. The administrative assistant in Telma is experienced and stated that before the new procedures, she followed-up with VLP regarding open cases twice per year and periodically, depending upon the case type. The Opeka administrative assistant stated that she will occasionally contact VLP or judicare attorneys depending upon the type of case and length of time between contacts.

There were dormant case files, lost case files and untimely closed case files in the Dothan, Telma, and Opeka offices.²⁶

Finding 17: ABC is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. However, ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.00.

LSC regulation 45 CFR § 1627.4(a) requires that:

²⁶See open Case Nos. (ww-120) 05E-40011223 (a Dothan case which opened on January 10, 2005 and remains open with no anticipated further legal services needed or documented in the file), (ww-121) 01E-30003058 (a Telma case which opened on December 3, 2001 and remains open with no anticipated further legal services needed or documented in the file), (ww-29) 05-12004676 (an Opeka case which opened on June 2, 2005 and remains open with no anticipated further legal services needed or documented in the file), (ww-116) 02E-400006581 (a closed 2004 file, Dothan- lost file), and (ww-130) 05E-12004664 (an open file, Opeka-lost file).

See also, closed 2004 Case No. (ww-10) 03E-30004539 (a Telma case which opened on March 10, 2003 and services were completed on the same day, with a closing code of "court decision." According to the file, the case was concluded on March 10, 2003, but the case was not closed until April 27, 2004), and closed 2007 Case Nos. (ww-20) 03E-12004032 (an Opeka case which opened on November 6, 2003 and closed on April 20, 2007, with a closing code of "court decision." The court executed the order on August 5, 2004, and the case was not closed until April 20, 2007), (ww-30) 01E-12002712 (an Opeka case which opened on November 29, 2001 and closed on February 8, 2007, with a closing code of "client withdrew or did not return." The PAI attorney provided documentation closing the file in the year 2003), and (ww-50) 03E-40008969 (a Dothan case which opened on August 4, 2004 and closed on February 14, 2007 with a closing code of "client withdrew or did not return." Services were completed on August 4, 2004, yet the file did not close until the year 2007.). The above identified case files, and others similarly situated, are not CSR reportable.

- a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

The review of accounting records and detailed general ledger for the calendar year ending 2005 through December 31, 2006 disclosed that ABC is in compliance with 45 CFR § 1627.4(a).

ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval for payments to attorneys in excess of \$25,000.00. ABC paid two private contract attorneys, Harry Dogooder and Peggy Reducefee, \$26,120 and \$34,662.43 respectively in 2006, without the LSC subgrant agreement and approval as required by 45 CFR § 1627.2(b)(1). ABC was not aware of this requirement. ABC should take corrective action to discontinue this practice and set up a system to red flag payments reaching the \$25,000.00 limit and/or provide managing attorneys at each office with a regularly scheduled report of total payments by attorney and office. It is recommended that contracts involving private attorneys should contain language that will certify compliance with the requirements of 45 CFR § 1627.2(b)(1). The language should state:

This contract is on the condition that if payments exceed \$25,000 in a year, attorneys or law firms shall execute a subgrant agreement which will require LSC's approval. See 45 CFR § 1627.2(b)(1).

Subgrant payments reviewed for 2005 and 2006 for the Atlantis State Bar Volunteer Lawyer's Program, Brighton Volunteer Lawyer's Program, Motown Bar Association Volunteer Lawyer's Program, and the Referral and Information Service of Maddingly County disclosed that documentation and approvals required were adequate.

Finding 18: ABC is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

The timekeeping requirement, 45 CFR Part 1635 is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. See 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by

date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

The review of 17 advocates timekeeping records (selected from all of the ABC offices) for the first pay period in February 2007 disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter or supporting activity is recorded in substantial compliance with 45 CFR §§ 1635.3(b) and (c).

Thirteen advocate timesheets were compared against the time recorded in case files to determine if the time reported on the case appeared reasonable. The results of the review disclosed no exceptions. Accordingly, ABC is in compliance with 45 CFR Part 1635.

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Except as provided by LSC regulations, recipients may not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3. The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

None of the sampled files reviewed contained a prayer for attorney fees. Discussions with the Executive Director and fiscal review also confirmed that ABC is not involved in any attorney's fee case.

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local

governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define "initiating or participating in any class action" as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).²⁷

None of the sampled files reviewed involved initiation or participation in a class action. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

²⁷ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds , personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

None of the sampled files reviewed revealed participation in litigation related to redistricting. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

None of the sampled files reviewed involved defense of any such eviction proceeding. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited

LSC recipients and their staff from engaging a client which it solicited.²⁸ This restriction has been contained in all subsequent appropriations acts.²⁹ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation, such as community education materials and program literature indicated program involvement in such activity. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Discussions with the Executive Director also confirmed that ABC is not involved in these prohibited activities.

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the

²⁸ *See* Section 504(a)(18).

²⁹ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews conducted further evidenced and confirmed that ABC was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

IV. RECOMMENDATIONS³⁰

Consistent with the findings of this report, it is recommended that ABC:

1. Review all PAI forms and letters to ensure consistency;
2. Run periodic case management reports in order to ensure the accuracy of the CSR reporting information prior to submission to LSC;
3. *Hire Pro Bono Coordinators to assist in organizing the various PAI components in each office and to ensure that the PAI components are conducting its activities in compliance with the requirements of 45 CFR § 1614.3; and
4. Standardize its manual intake forms in all offices in an effort to ensure that all applicants are being screened consistently for eligibility.

³⁰ Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

*In the report submitted by the Office of Program Performance (OPP), it was recommended that ABC create a PAI Coordinator position that would oversee referrals to the contract attorneys and to the VLPs, plan trainings for the private attorneys, facilitate case follow-up, oversight and reporting requirements and generally work with the VLPs to improve coordination between ABC and the VLPs.

ABC has seven offices that are involved with the PAI effort, namely, Lockerbie, Brighton, Hunt, Annton, Dothan, Opeka and Telma. In OCE's review of PAI case files in each of these offices, numerous case files were non-compliant with LSC Regulations and were not CSR reportable. Over 175 case files were problematic and not reportable. Accordingly, both OPP and OCE recommend some overt action to be taken regarding oversight and follow-up of the PAI case files. Since these are recommendations, ABC is free to choose the recommendation which will adequately address these concerns or develop their own plan.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, ABC is required to take the following corrective actions:

1. Ensure that the automated case management system is sufficient to record accurate and timely information regarding the case files;
2. Ensure that all cases that are referred to *pro bono* attorneys and PAI attorneys include effective oversight and follow-up subsequent to referral in an effort to ensure compliance with the requirements of 45 CFR § 1614.3(d)(3);
3. Ensure that PAI case files are not dormant by providing effective follow-up and oversight;
4. Ensure that all PAI case files contain citizenship attestations pursuant to 45 CFR Part 1626 where appropriate;
5. Ensure that the legal assistance provided is documented in the case file and that those case files identified in this report lacking documented legal assistance are not reported to LSC in the CSR data submission. As part of this corrective action, a review of all files at the time of closing is necessary;
6. Ensure that the scope of representation portion of retainer agreement is provided by the attorney or paralegal and not the clients;
7. Ensure that staff is trained on the proper closing codes categories to comply with CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1;
8. Ensure that duplicate files are not reported LSC in the CSRs and provide a methodology to eliminate duplicate case files;
9. Ensure that all offices apply the over-income exception policy in a similar manner. As part of this, training should be provided to staff as to when and how to apply expenses and factors to applicants whose income falls between 125% and 200% of the FPG;
10. Ensure that advocates screen for income prospects pursuant to 45 CFR § 1611.7(a)(1);
11. Ensure that case files are closed in a timely manner;
12. Ensure that 45 CFR Part 1614 is complied with, in that at least 12.5% of the basic field award should be dedicated to the PAI involvement;
13. Ensure that rejected cases are identified and not reported to LSC in the CSRs and to comply with CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1;

14. Ensure compliance with 45 CFR § 1627.2(b)(1) and add the language to PAI contracts as suggested at Finding 17; and
15. Ensure that the language in the Authorization & Release form utilized in the Telma office be modified or removed.

Exhibits

- Ex. 1 Case File Review Forms (ww-1-131)
- Ex. 2 K of employment
- Ex. 3 ABC's intake form
- Ex. 4 Legal Information document
- Ex. 5 Legal advice letter

APPENDIX Y



DRAFT/FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Acme Bay Corporation
February 12-16, 2007
Case Service Report/Case Management System Review

Recipient No. 000000

I. EXECUTIVE SUMMARY

Finding 1: ABC's automated case management system ("ACMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information in the ACMS and the case files.

Finding 2: ABC's intake procedures and case management system support the program's compliance related requirements.

Finding 3: ABC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines.

Finding 4: ABC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

Finding 5: ABC is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: ABC is in substantial compliance with the retainer requirements of 45 CFR § 1611.9.

Finding 7: ABC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 9: ABC is in non-compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were several staff case files which contained no description of the legal assistance provided.

Finding 10: ABC's application of the CSR case closure categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

Finding 11: ABC is in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as numerous staff case files reviewed were untimely closed.

Finding 12: Sample cases evidenced non-compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 15: A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 16: ABC is in non-compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. ABC has been granted a partial waiver of their required 12.5% PAI expenditures for the year 2007. In addition, ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

Finding 17: ABC is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. However, ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.00.

Finding 18: ABC is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and actions collaterally attacking criminal convictions).

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

II. BACKGROUND OF REVIEW

On June 18 through 26, 2007, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site visit at Acme Bay Corporation ("ABC"). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable laws. The visit was conducted by a team of six attorneys, two management analysts, and one fiscal analyst. Four of the attorneys were OCE staff members; the remaining attorneys were consultants.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements and to ensure that ABC has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed ABC for compliance with regulatory requirements 45 CFR Part 1611 (Financial Eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees); 45 CFR 1630 (Cost standards and procedures); 45 CFR 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of ABC's upper and middle management, staff attorneys and support staff. ABC's case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, a case file review was conducted. The sample case review period was from January 1, 2004 through April 30, 2007. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed approximately 825 case files which included 90 targeted files.

ABC is an LSC recipient that operates 13 offices and two satellite offices throughout Atlantis in addition to a toll free state intake and referral hotline. The main office is located in Brighton. ABC's executive staff consists of an Executive Director, Director of Private Bar Development & CLEAR, Director of Advocacy, Director of Program Administration, and Director of Finance. ABC received a grant award from LSC in the amount of five million dollars for 2006, five million dollars for 2007 and six million dollars for 2008.

¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

For 2005, ABC reported 18,657 closed cases in its CSR data. ABC's 2005 self-inspection report indicated a 3.7% error rate with exceptions noted in 10 files out of 270 reviewed. The problem areas identified were: cases in which there was no written evidence of advice or representation and cases reported more than once in 2005 with the same client, problem code and set of facts. For 2006 ABC reported approximately 17,625 closed cases in its CSR data.

ABC's 2006 self-inspection report indicated a 4.9% error rate with exceptions noted in 14 files out of the 288 cases reviewed. The problem areas identified were: telephone cases which lacked a citizenship attestation or documentation of alien eligibility (and client not eligible under the 2006 amendments to the Violence Against Women Act ("VAWA") 2006 or Victims of Trafficking and Violence Protection Act of 2000 Protection ("TVPA") - see Program Letters 05-2 or 06-2); cases in which there is no written evidence of advice or representation; cases in which the household income exceeded 200% of the poverty guidelines; and counsel & advice, brief service or referred after legal assessment cases opened prior to October 1, 2005 that did not fall under the exception in § 3.3 (a)(ii) of the 2001 CSR Handbook.

By letter dated April 18, 2007, OCE requested that ABC provide a list of all cases reported to LSC in its 2004 CSR data submission ("closed 2004 cases"), a list of all cases reported in its 2005 CSR data submission ("closed 2005 cases"), a list of all cases reported in its 2006 CSR data submission ("closed 2006 cases") a list of all cases closed between January 1, 2007 and April 30, 2007 ("closed 2007 cases"), and a list of all cases which remained open as of April 30, 2007 ("open cases"). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by ABC staff and the other for cases handled through ABC's PAI component. ABC was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 9 and 10, and the LSC *Access to Records* (January 5, 2004) protocol. ABC was requested to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

Team Leaders should discuss the sequence of negotiation regarding access i.e. dates of phone calls, emails and letters. If access is not an issue (no client identifiers) continue to the next paragraph.

Thereafter, an effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was created proportionately among 2004, 2005, 2006, and 2007 closed and 2007 open cases, as well as a proportionate distribution of cases from ABC's office. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and ABC agreement of January 10, 2007, ABC staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of

the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.² ABC's management and staff cooperated fully in the course of the review process. As discussed more fully below, ABC was made aware of any compliance issues during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review as well as Managing Attorneys in the branch offices and the Executive Director in the main office.

At the conclusion of the visit on June 26, 2007, OCE conducted an exit conference during which ABC was made aware of the areas in which a pattern of non-compliance was found. No distinction between 2004, 2005, 2006, and 2007 case were found. OCE cited instances of non-compliance in the areas of intake, case management, execution of citizenship attestations, execution of retainer agreements, documentation of legal advice, application of closing codes, and allocation of PAI time and PAI oversight. ABC was advised that they would receive a Draft Report that would include all of OCE's findings and they would have 30 days to submit comments. Afterwards, a FOR FINAL REPORTS would be issued that would include ABC's comments.

[FOR FINAL REPORTS]ABC was provided a Draft Report ("DR") and given an opportunity to comment. ABC's comments were received on January 3, 2008. By letter dated January 7, 2008, OCE requested supplemental comments to the corrective actions. The supplemental comments were received on January 22, 2008. The comments and the supplemental comments have been incorporated into this Final Report, where appropriate, and are affixed as an exhibit.

² In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

III. FINDINGS

Finding 1: ABC's automated case management system ("ACMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information in the ACMS and the case files.

Recipients are required to utilize ACMS and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, ABC's ACMS is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were numerous instances of inconsistent information contained in the case files and the ACMS. Some examples are below.

See closed 2004 Case No. 03-1016868 (ACMS indicated it was a staff case and closed with a closing code of "other," however the file indicated that the case was referred to a PAI attorney who rejected the case).

See closed 2005 Case Nos. 05E-10010425 (closing code in file different from closing code yielded by the ACMS), 05-1020498 (ACMS indicated the case was closed, however the file revealed that the case was open), 05-1891-A (ACMS indicated the case was a staff case and the file indicated it was a PAI case), 20015568 (closing code in file different from closing code yielded by the ACMS), 200115511 (closing code in file different from closing code yielded by the ACMS), 05E-29915693 (closing code in file different from closing code yielded by the ACMS), and 05E-10010522 (closing code in file different from closing code yielded by the ACMS).

See also, closed 2006 Case Nos. 06E-10011122 (closing code yielded by the ACMS was "brief service", however file indicated it was an open file), 06-0002898 (ACMS indicated that the file was open, while the file revealed that the applicant was incompetent and the file was never accepted), 05-10196618 (ACMS indicated the case was a staff case and the file indicated it was a PAI case), 05-1021001 (inconsistent closing codes), 06E-11011161 (ACMS indicated that it is a PAI case, but file indicates it is a staff case), 05E-10010477 (ACMS indicated that it is a PAI case, but file indicates it is a staff case), 05E-20017246 (ACMS indicated that it is a PAI case, but the file revealed it is a staff case), 06E-20018496 (ACMS indicated that it is a PAI case, but the file revealed it is a staff case), 06E-20019258, 03E-20013766, 06E-20018614, 06E-20018164, 06E-20017864, 04E-20015127, 06E-20018894, 06-0003768, 06E-30006588, and 06E-20018496 (closing category indicated in each file was different from the case closing category yielded by the ACMS). ABC explained that it recently converted from Kemps to LegalFiles and that, in the process, some of its data may have been altered. *See also*, open Case

Nos. 03E-10007957 (ACMS indicates file is open, however paper work indicated that the case was closed in 2003 and the file could not be located), 05-1162-0 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2005), 01-2067-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002), 03-0280-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2003), 04-1000829-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), 05-0586-A (while the ACMS indicated that the case is open, the file indicated that it was closed in 2003) 03E-40009541 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), 02E-400006581 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), 03E-40009666 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2004), 01E-20007556 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002), 04E-10009648 (lost file), 01E-20006836 (while the ACMS indicated that the case is open, the file indicated that it was closed in 2002), 03E-10008632, (ACMS indicated that the case is open, yet the file indicated that the file was closed in 2003), 01E-10004099 (could not be located), and 03-10007739, (while ACMS indicated that the case is open, the file indicated that the case was closed in 2006).

[FOR FINAL REPORTS]Comments to the DR stated that ABC believes that its system, to the extent that it is defined as the hardware and software used to help create a repository of case information, is in fact sufficient, but also recognized that input by staff has been inconsistent and insufficient. Since the OCE review, ABC has emphasized the importance of ensuring that the ACMS is used to enter information in a timely, complete and accurate manner, according to comments to the DR. Further comments to the DR stated that the responsibility for ensuring that the ACMS ensures accurate information for the effective management of cases has been specifically given to the Director for Advocacy, and he now has direct line supervision over the ten field office supervisors, who also are responsible for the ACMS entries of their respective staffs. Additionally, in November 2007, ABC applied for and was awarded a grant for \$50,000 to fund training of all staff in the correct and accurate use of its ACMS. The training will take place the first quarter of 2008, and will result in staff being "certified" in the use of the ACMS, thereby by ensuring that staff is aware of the ACMS' basics, according to comments to the DR. Additional comments to the DR stated that regular system audits by the Director for Advocacy will identify and correct deficiencies in the system.

[FOR FINAL REPORTS]OCE is not persuaded that ABC's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded as evidenced by the numerous instances of inconsistent information in the ACMS and the case files as noted in the DR, which were not all inclusive.

Finding 2: ABC's intake procedures and case management system support the program's compliance related requirements.

All Intake Offices will no longer be discussed in the DR. A general overview of the intake of the program and branch offices with issues will be discussed. Team leader must review and make

sure that the Intake, PAI and Case Management Review form is completed by each team member assigned to this duty.³

During the last two years, intake at ABC has been in transition from individual office intake to statewide telephonic intake. Program-wide intake is conducted by the Call Centers ("CC").

The Call Centers

ABC's statewide telephone hotline is operated from the CC in Brighton, Hunt, Motown, and Lockerbie. The CCs are considered a separate division from the local offices.

The Hunt Call Center ("HCC") was the prototype for the statewide intake model. Although ABC was planning to implement a statewide hotline, Hurricane Katrina created a need for disaster assistance and funding was obtained to launch a center ahead of schedule. ABC seized this opportunity and staff was hired for the HCC in November 2005. The hotline was operational by December 2005. Over time as disaster related calls decreased (the office still receives a few such calls), the hotline began assisting in all ABC core case types.

Each of the four CCs is staffed by an intake screener, paralegal, supervising attorney and a director. At scheduled intervals, staff log onto one or both of the two Hotline queues, the Disaster/Hotline and the Spanish Hotline. Spanish Hotline staff sign onto both queues and the non-Spanish speaking staff sign onto the Disaster/Hotline queue only. A third Hotline, the Elder Line, will be functional by the end of February 2007. Once the Elder Line is open, Spanish speaking staff will log onto all three queues and non-Spanish speakers will log onto two queues. Each of the three Hotlines are served by an 800 number and a fourth 800 number is planned for the near future.

The telephone system rotates calls among the staff that are logged on. It is programmed to first route telephone calls to the four intake screeners for eligibility screening. If the intake workers are already on calls, the system routes the calls to the four paralegals and if all eight are busy, to the supervising attorneys. The system also considers the amount of time that staff has been on calls and rotates the telephone calls to the staff member who has been idle for the longest period of time. The calls are routed without regard to geography, so a caller from Brighton may speak to a CC staff member in Hunt.

When telephone calls ring through to a staff member, a screen on the telephone advises which hotline the caller has contacted. Accordingly, if it is the Spanish Hotline, the staff answers the telephone in Spanish.

When a telephone call is answered by either the Hunt based CC intake screener or paralegal, the screener writes down on a piece of paper the caller's name and telephone number in case the call is lost during the conversation. The screener asks the caller the nature of their legal problem and zip code. If the legal problem is not one of the program's core cases, the case is rejected and the screener completes basic information on the LegalFiles Inquiry Screen. The disposition is also

³ Despite this notation, and verbal direction from Director, this report template still contains detailed explanations of each office's intake process rather than exception only reporting.

recorded, for example Referral to the Bar. If the legal problem is on the program's core case list, the screener begins to enter data in LegalFiles starting with the conflicts check. LegalFiles conducts a statewide conflicts check and the screener can select one of four different parameters for the search: "sounds like", "exact match", "contains match" or "begins with". Accordingly, conflicts can still be checked if the caller is unsure of the exact spelling of the name of the adverse party. Inasmuch as the program completed its transition from Kemps to LegalFiles in December 2006, all information was not converted to LegalFiles, but name cards are available in LegalFiles. If there appears to be a conflict, the CC screener checks the Kemps database to conclusively determine if there is a conflict. If a conflict is identified, the case is rejected.

If there is no conflict, LegalFiles guides the screeners through a menu of Screens (Household, Income, Factors, Benefits, Assets, Funding, and Demographics). There are no defaults in the income, asset or citizenship fields, in compliance with Program Letter 02-06.

If an applicant's household income is between 125%-200% of the Federal Poverty Guidelines ("FPG") the screener proceeds to the Factors Screen which contains a list of factors which match the revised 45 CFR Part 1611.⁴ The HCC supervising attorney reviews all intakes and makes a decision whether to accept or reject the case based upon the factors. While on a telephone call, screeners send an instant message, using a feature built into LegalFiles, to the supervising attorney asking for approval. In most cases, the supervising attorney is at her desk and is able to simultaneously review the case. If she wants more information, she sends a message to the screener who asks the questions of the telephone caller. Approvals are noted on the Funding Screen.

The asset screen lists a number of asset types, such as exempt vehicle and non-exempt vehicle. The screeners select as many as apply and insert values for non-exempt categories. The Hunt staff stated that if the household has two vehicles, both are exempted if they are utilized for employment. This conflicts with the financial eligibility policy which exempts a single car/truck. This was discussed with the HCC supervising attorney who agreed that she misunderstood the policy and will correct the screening. She stated that it is extremely rare that a household has more than one operational vehicle and accordingly it is unlikely that this misunderstanding resulted in acceptance of over-asset clients. The asset drop-down box also contains a selection, "not applicable/benefit eligible." This is chosen if the telephone caller receives a means tested benefit. This practice is allowed by ABC's revised financial eligibility policy. An applicant is deemed asset eligible if an applicant receives Family Assistance, Food Stamps or SSI.

The Funding Screen contains fields critical to the CSR query and does not contain any defaults. The first; "Is Funded by LSC" is selected if the case is eligible for LSC funding; next the screener selects one of four options from a drop-down box; "Gross Income less than 125%", "Authorized Exception" (selected for cases 125%-200% when approved by the supervising attorney), "Emergency" (must be approved by the Executive Director) and "Other" (not funded by LSC); and the third field is "Is Reportable to LSC?" If the case is eligible for CSRs, the field

⁴ This practice has been in place since the Board of Directors revised ABC's financial eligibility policy in November 2006.

is selected. If it is left blank because it is not reportable, the screener must select a reason it is not reportable from a drop-down box.

The Funding Screen also has a status field in which the screener, and later the case handler if the case progresses, selects from a drop-down box the action currently undertaken with the date, for example, open, closed, transferred, etc. Each activity, with the date and case handler's name, is recorded in a list format so that prior actions can easily be identified.

Citizenship is screened on the Demographics screen. If the telephone caller is not a citizen but an eligible alien, the screener records the type of document that qualifies the telephone caller. Lastly, the screener records basic case facts, guided by legal problem specific questionnaires programmed into LegalFiles.

If the telephone caller is eligible, the next action is dependent upon whether the intake screener or the paralegal has done the screening. The intake screener instant messages the supervising attorney asking if she is ready for the call. If yes, the call is transferred. After reviewing information and asking additional questions, the supervising attorney provides counsel and advice. If the paralegal has conducted the screening, she provides advice if she feels she is able and before the call is terminated, instant messages the supervising attorney who reviews and approves the advice.

If the case is resolved with advice, a letter reaffirming the advice is sent to the client. If the case is appropriate for extended representation, the supervising attorney sends a message to the contact in the appropriate local office. The receiving office staff switches sites to the CC database and reviews the case.⁵ If the receiving office agrees to accept the case, the HCC copies the case to the local office site and closes the HCC case with a closing code of "other", and disposition reflecting "ABC Local Office Accepted." Both the original case in HCC and the copy of the case at the local office site have the same case number. The Director of Advocacy stated that the "other" closing code and the disposition code will exclude the HCC case from the CSRs. If the receiving office provides additional assistance, it closes the case depending upon the level of service provided. If the receiving office is not able to contact the client, the case is closed based upon the advice which was provided by the HCC.

Hunt Office

As statewide intake continues to develop, intake is accepted at the Hunt office on Monday, Tuesday and Friday from 8:30 a.m.-12:00 p.m. and Wednesday and Thursday from 1:30 p.m.-4:00 p.m. Though walk-in intake is accepted, telephonic intake is emphasized and the number of walk-ins decreased dramatically in 2006. Senior management anticipates that in 2007 all intakes, except emergencies, will be conducted by the CC.

Administrative staff determines whether walk-in or call-in applicants have legal problems that are within the core case list. If not, the individual is provided with referral information. If so,

⁵ Files are maintained on a single database with a section for the Call Centers and a section for each of the branch offices, each section is called a "site." Call Center staff and designated local office staff have privileges to "switch sites" and view the others' database.

the applicant is referred to the intake paralegal, who enters intake information directly into LegalFiles following the same procedures as the CC screeners, described above. This paralegal does not provide legal assistance, but assigns an attorney to the case depending upon the legal problem and county.⁶ The paralegal then sends a message through LegalFiles to the attorney with a link to the case number. If the attorney is available, s/he reviews the case and speaks to the applicant at that time. If the attorney is not available, the attorney calls back as soon as possible. If the applicant appears in-person, the attorney has the applicant sign the Statement of Facts/Certification of Citizenship or reviews eligible alien documentation, and the retainer agreement. The attorney does not sign the retainer at this time. All intakes are reviewed at the weekly case acceptance meeting.

Hunt staff conducts regular intake at outreach sites in seven counties, according to their assigned county. Outreach in Cherokee was expected to begin in 2007. Each attorney is assigned a county for outreach. Intake is on a first come first served basis. Eligibility is recorded on a written intake form. Applicants also complete a retainer agreement⁷ and a Statement of Facts/Certification of Attestation form. Eligible clients receive advice and cases are taken back to the case acceptance meeting for consideration for extended service.

ABC Hotline

The ABC Hotline was initially established on August 29, 2005 in order to respond to the needs of Hurricane Katrina evacuees. The Hotline started by establishing a toll free number and staffing one attorney in the Lockerbie office to field the calls. In March 2006, the Hotline expanded to include a Spanish line which utilizes bilingual ABC staff members. In January 2007, an Elder Law Hotline was added. Each Hotline office is staffed by a supervising attorney, a paralegal and an intake screener, with the exception of the Elder Law unit which includes a supervising attorney and a paralegal. The Hotline offices are located in Lockerbie, Motown, Hunt, and Brighton at the Cumberland School of Law.

The Call Center is open from 8:00 a.m.-8:00 p.m. Monday through Friday and 9:00 a.m.-12:00 p.m. on Saturday. In addition, each Call Center takes rotating shifts in the evenings and Saturdays. Calls are initially placed in a queue and answered by intake screeners who screen clients for: 1) city, 2) zip code, 3) county residing, 4) prior assistance, 5) citizenship, 6) conflicts check, 7) income, 8) assets, and 9) legal problem. If intake screeners are unavailable, the call then rotates to the next available paralegal. The eligibility information is inserted directly into the LegalFiles ACMS and the intake is transferred to a supervising attorney or a paralegal in the office where the intake screener is located or the next staff member on the assignment list. Attorneys and paralegals provide counsel and advice and limited brief services. Callers that need representation or extended services are referred to an ABC local office, Private Attorney Involvement (PAI) or Volunteer Lawyers Project ("VLP"). If a client is transferred to a local office for extended representation, the case is identified in the ACMS as transferred from the Hotline or Call Center.

⁶ Each attorney in the office is assigned to substantive legal problem types and counties.

⁷ The applicant completes the scope and subject matter of the retainer and then executes it. The case handler signs the retainer if and when the case is accepted for extended representation.

The Director of the Hotline advised that the program is currently in the process of trying to centralize all intake screening to the Hotline. At the time of the review, the Hotline performed intake screening for the Florist and Opeka office Monday through Friday and the Telma office on Monday only. All other offices were performing their own intake screening.

Lockerbie Office

Intake is performed by intake screeners Monday through Friday from 8:30 a.m.–5:30 p.m. Walk-ins and emergencies are assisted at any time. Eligibility information is typically entered directly into the ACMS at the time of intake, however some screeners utilize a manual intake form initially and enter the information into the ACMS subsequent to intake. Additional screening is performed using checklists depending on the type of legal problem that is being addressed. For applicants whose income falls between 125%-200% of the FPG with exceptional factors, the applicant's income is entered into the ACMS which automatically subtracts the applicant's income based on the amount of the factors that are included. In addition, the LegalFiles maintains a drop down box for the applicant's assets. The options include cash, cash greater than monthly benefits, cash less than \$100, CDs, stock or bonds, checking account minus monthly benefits, exempt car/truck, exempt real property, non exempt car/truck, non exempt real property, non applicable benefit eligible, other, savings account minus benefits, unknown and zero assets. Applicants who meet eligibility guidelines are scheduled for appointments with attorneys and paralegals on Tuesdays and Thursdays for counsel and advice. Cases that require extended services are discussed at the Wednesday case acceptance meeting. The retainer agreements and citizenship attestations are signed by the applicants when they meet with the advocates. The supervising attorney determines which cases should be referred to PAI or the VLP for assistance.

Outreach intake is performed by paralegals on specified days of each month at the Lockerbie AIDS Outreach Center, Lowndes County Library and Crenshaw County Family Guidance Center. Outreach is performed using manual intake forms. Citizenship attestations and statement of facts are completed during outreach intake. The information is later entered into the ACMS by intake screeners who also perform conflicts checks.

Brighton Office

In the Brighton office, the intake screeners screen applicants for eligibility Monday through Thursday from 9:00 a.m.–3:00 p.m. Emergencies and walk-ins are accepted at any time. Eligibility information is either entered directly into the ACMS or the information is included on manual intake forms and entered later into the system. All intake applications are initially screened by the supervising attorney who checks for completeness and assigns the cases to the advocates. Subsequent to the supervising attorney's review, a paper file is created by the administrative assistants who also make appointments for applicants to meet with an advocate. The supervising attorney makes the determinations with regard to cases that will be accepted for extended representation, rejected or referred to reduced fee PAI or VLP attorneys. The Brighton office receives funding from an HUD as well as an Aging Grant which allows the office to provide assistance to clients whose income exceed 125% of the FPG. Such cases are not

reported to LSC in its CSRs. Outreach is also performed by Brighton office staff using manual intake forms.

Annton Office

In the Annton office, walk-in intake screening is performed at any time during normal business hours. Applicants are given a manual intake form and a citizenship attestation document to complete. The form utilized includes all the information that is included in the ACMS. The information is then entered into the ACMS and a conflicts check is performed. In addition, applicants complete applications specific to their case type. If the applicant has a deadline, the client is seen immediately by a staff attorney. If the applicant does not have a deadline, the case is held for the weekly case acceptance meeting to determine acceptance. Applicants are notified by letter whether their case is accepted or rejected. Telephone intake is conducted Monday – Wednesday from 9:00 a.m.–5:00 p.m. Eligibility screening information is entered directly into the ACMS during the intake interview. Outreach intake is performed using remote access to the LegalFiles ACMS. Applicants over the age of 60 are referred to the Elder Law Paralegal for screening. The Elder Law applicants are not screened for income and asset limitations and their cases are not reported to LSC in the CSR submission.

Tusca Office

In the Tusca office, telephone and walk-in intake screening is performed at any time during normal business hours. At the time of the on-site review, many of the telephone applicants were being routed to the Central Office Hotline for eligibility screening due to a shortage of staff on leave. However, some applicants were being screened by the Tusca staff who entered eligibility screening information directly into the ACMS during the intake interview. Applicants that call the office are given an appointment to come into the office and sign the ACMS intake application, citizenship attestation and relevant documents. In addition, copies are made of court documents. Walk-in applicants complete a manual intake application. Applicants seeking a divorce are asked to complete a Divorce Information Sheet. All clients receive initial advice from a staff attorney and are informed that their case will be reviewed by the supervising attorney for an extended case acceptance determination. Clients are advised by letter whether their case will be accepted or rejected for extended representation.

Dothan Office

The Dothan office is open for intake Monday and Tuesday from 9:00 a.m.-11:00 a.m. and 1:00 p.m.-3:00 p.m. and Wednesday from 9:00 a.m.-11:00 a.m. The majority of applicants apply by telephone, though the office does accept walk-ins. Emergency applicants contacting the office during non-intake hours are immediately assisted; other applicants are asked to re-contact the office during intake hours.

Intake is conducted by two administrative assistants who conduct a pre-screen of the applicant's legal problem. If the applicant's legal problem is not in the program's core priorities, the screener asks and records the caller's name, telephone number, nature of their legal problem and zip code on the LegalFiles contact screen. The disposition is also recorded, for example

"Referral to the Bar." This contact is then reported to LSC as a matter. If the legal problem is a core priority, the screener begins to enter data in LegalFiles starting with the conflicts check. LegalFiles conducts statewide conflicts check and the screener can select one of four different parameters for the search, such as "sounds like", "exact match", "contains match" or "begins with." Accordingly, conflicts can still be checked if the caller is unsure of the exact spelling of the name of the adverse party.

If there are no conflicts, LegalFiles guides the screeners through the first four elements of the file menu: Eligibility, File Facts, File Related People, File Set-Up, Communication/Activity and Litigation. The Eligibility Wizard contains seven screens: Household, Income, Factors, Assets, Benefits, Funding Source, and Demographics. There are no defaults in the income, asset or citizenship fields, in compliance with Program Letter 02-06.

If a caller's household income is between 125%-200% of the FPG, the screener proceeds to the Factors Screen which contains a drop-down box listing factors which mirrors the revised 45 CFR Part 1611.⁸ Relevant factors are recorded and the screener attempts to "spend-down" the applicant's income below 125%. If the income is brought below 125%, the applicant is eligible and the supervising attorney reviews the intakes during the case acceptance meeting and makes a decision whether to accept or reject the case based upon the factors. If the income cannot be "spent-down," the applicant is considered to be ineligible unless the legal problem is a HUD-related housing problem.

The asset screen lists a number of asset types, such as exempt vehicle and non-exempt vehicle. The screeners select as many as apply and inserts values for non-exempt categories. The asset drop-down box also contains a selection, "not applicable/benefit eligible." This is chosen if the caller receives a means tested benefit. This practice is allowed by ABC's revised financial eligibility policy. An applicant is deemed asset eligible if an applicant receives Family Assistance, Food Stamps or SSI.

The Funding Screen contains fields critical to the CSR query and there are no defaults. The first "Is Funded by LSC" and is selected if the case is eligible for LSC funding. Next, the screener selects one of four options from a drop-down box: "Gross Income less than 125%", "Authorized Exception" (selected for cases 125%-200% when approved by the supervising attorney, as discussed above), "Emergency" (must be approved by the Executive Director) and "Other" (not funded by LSC). The third field is "Is Reportable to LSC?" If the case is eligible for CSR submission, the field is selected. If it is left blank because it is not reportable, the screener must select a reason it is not reportable from a drop-down box.

The Funding Screen also has a status field in which the screener, and later the case handler if the case progresses, selects from a drop-down box the action currently undertaken with the date, for example, open, closed, transferred, etc. Each activity, with the date and case handler's name, is recorded in a list format so that prior actions can easily be tracked. Citizenship is screened on the Demographics screen. If the caller is not a citizen but an eligible alien, the screener records the type of document that qualifies the caller.

⁸ The drop-down menu of factors are exhaustive; they break down the regulatory factors into specifics, i.e., credit card debt, alimony, health insurance premiums, loans, rent, land payment, etc.

Following the eligibility screens, the administrative assistants move through other menu elements, such as File Facts, File Related People (a list of staff who touched the case with the dates and description of the activity), and File Set-Up. The other two menu elements, Communication/Activity and Litigation are utilized by the case handlers. These screens include areas for the case handlers to record notes or other actions, questionnaires and other sample documents depending upon the case type.

The screener then transfers the case to an advocate who interviews the applicant, provides advice and documents activity in LegalFiles. All cases are reviewed at a weekly case acceptance meeting. If the case is accepted for additional representation, the Retainer Agreement and Statement of Facts and Authorization to Release Information (which contains a citizenship attestation) are sent to the applicant. If the case will be funded by HUD, additional grant specific forms are also sent. Once these documents are completed and returned, the file is opened for extended representation. If the applicant is not a citizen, the applicant is asked to bring in their documentation and an Alien Eligibility Form is completed by a staff member.

When work is complete, case handlers close the files in LegalFiles. Case files are reviewed by the supervising attorney and one of the administrative assistants, and then filed.

In-person intake does not differ from the telephonic process except that the applicants meet in-person with a case handler and the above-mentioned forms are completed at that time. Eligible alien documentation is also reviewed at that time, when applicable.

Call Center Referrals

The supervising attorney reports that the CC has referred a few cases, possibly as few as five, to the Dothan office since November. She stated that none of the cases have been accepted because they did not match the office's criteria for extended representation. It is anticipated that Dothan will be transitioned to the CC in the future.

Telma and Opeka Offices

The majority of the Telma and Opeka office's intake has been transitioned to the CC. Telma's transition occurred in March, 2007 and Opeka's transition occurred in January 2007. Accordingly, callers to these offices are greeted with a telephone message advising them to select (1) if they are a new applicant or (2) if they are an existing client. Callers selecting (1) are transferred by the telephone system to the CC queue which is routed to a CC staff member. The office still conducts intake for walk-ins, telephone applicants who select (2) and are not an existing client, or callers with an emergency.

A Telma administrative assistant conducts intake in Octopus, a satellite office.

Call Center Referrals

After eligibility screening, the provision of advice by CC staff, and review by a CC supervising attorney, an e-mail with case numbers and names of cases to be considered for extended representation is sent to the supervising attorney at the local office.

The local office supervising attorneys review the case information and decide whether the office should provide extended representation and, if so, assigns the case to a local case handler. An administrative assistant changes the case handler information from the CC attorney who gave the initial advice to the local office attorney and LegalFiles tracks this activity in the file.

Administrative assistants in both offices conduct the eligibility screening for emergencies, walk-ins applicants and applicants who get through the telephone system without being transferred to the CC. The Telma administrative assistant and the Opeka administrative assistant enter the eligibility information directly into LegalFiles and follow the same entry procedures as described for the Dothan office. Eligible cases are printed and provided to a case handler to immediately speak with the applicant. In Telma, cases are then taken to a weekly case acceptance meeting for further consideration. The Opeka office does not hold weekly meetings and the supervising attorney makes all acceptance decisions. If the case is accepted for extended representation, compliance forms are mailed to the client, which includes the Retainer Agreement, Statement of Facts and Authorization to Release Information, HUD funding if appropriate, and, in Telma an Authorization & Release (AR). This form was not identified in other offices. The AR form appoints ABC as the client's attorney and authorizes them to provide services and obtain records. It is noted that this form includes the following language:

I authorize ABC to take all actions necessary or desirable in representing me, including negotiation, legislative and administrative advocacy and court action.

This language, referencing legislative and administrative advocacy, is problematic because it could be interpreted to include activities prohibited by 45 CFR Part 1612. This form should be reviewed by Senior Management and the language should be modified.

When work is complete, the case handler prepares a closing memorandum and the administrative assistants close the cases in LegalFiles.

Walk-in intake is conducted as described above except that the applicant speaks with a case handler at that time and the above-mentioned compliance forms are executed.

Octopus Office

The Octopus office, approximately 50 miles from Telma, is a satellite of the Telma office. Historically it was a stand-alone office and was closed August 2005. However, after a fire at the Telma office in December 2005, the Octopus office was reopened.

Currently, an administrative assistant with over twenty years experience works out of the Octopus office two to four days per week. The other days she works from the Telma office.

While the majority of the intake is conducted by the CC, the administrative assistant conducts emergency intake. Prior to the transition to the CC intake, she conducted walk-in or telephonic intake any time she was in the office.

Although the Octopus office has had access to LegalFiles since early 2007, the administrative assistant conducts intake on a blank printout for a LegalFiles case which is subsequently entered into LegalFiles. If the applicant is eligible and has an emergency, she calls the supervising attorney (or the Regional Attorney who works out of Telma on most days). In most such instances, she receives immediate permission to refer the case to a private attorney in the area.

Motown Office

As indicated previously, ABC is in the process of establishing a statewide call center for intake. In the meantime, intake is conducted primarily by the Motown Call Center ("MCC").

MCC is staffed by a supervising attorney, a paralegal, and an intake screener. Its hours of operation are Monday through Friday, from 8:00 a.m.-8:00 p.m., and Saturdays from 9:00 a.m.-12:00 p.m. MCC takes calls from all over the state, which are placed in a queue. The next person in the queue appears on the computer monitors in MCC and is taken by any available MCC staff.

Each caller is questioned concerning the nature of their legal problem. If the caller's legal issue is within ABC's priorities, MCC will gather eligibility information, both financial and citizenship/alien. All information so collected is entered directly into LegalFiles. All questions related to eligibility are prompted by LegalFiles. Thereafter, a conflicts check is performed using LegalFiles. If the caller is eligible and there are no conflicts, MCC will then gather additional information concerning the caller's legal issue.

If the MCC supervising attorney, or the paralegal with the approval of the supervising attorney, determines that the caller's legal issue can be resolved with counsel and advice, such limited legal assistance is provided at that time. As practicable, such legal assistance is memorialized in an advice letter to the caller. Otherwise, the caller's request for assistance is routed either to the local office serving the area where the caller resides, or to the VLP, according to the nature of the caller's legal issue.

In addition to the MCC, the Motown office has a volunteer receptionist who filters calls for legal assistance. The Motown office supervising attorney explained that the volunteer collects basic information concerning the nature of the caller's legal problem and refers the caller to one of the Motown office's two administrative assistants.

The two administrative assistants conduct intake Tuesdays through Thursdays from 8:30 a.m.-5:30 p.m. As with the MCC, the administrative assistants collect information related to the caller's legal issue and their eligibility. A conflicts check is performed on all eligible callers whose legal issue is within ABC's priorities. All of the information is entered directly into LegalFiles. The administrative assistants do not provide any legal assistance.

The Motown office also advised that the staff paralegal and one of the staff attorneys conduct intake at the area domestic violence shelters and other social services centers. Typically, the outreach intakes are conducted once per month. Information is recorded on a form that is actually a print out of the LegalFiles intake screens. All information so collected is entered into LegalFiles once the paralegal or staff attorney return to the office.

Within the Motown office, case acceptance decisions are the province of the Motown office supervising attorney. The Motown office supervising attorney explained that case acceptance meetings are held each Friday. Decisions are made collectively, with consideration given to the office caseload, the merit of the legal issue, and the availability private attorneys. There are five advocates in the Motown office. Although there is some overlap, each has a particular practice area and new applications for legal assistance are assigned accordingly.

For cases accepted for extended service, advocates are required to draft an opening memorandum. The advocate is instructed to contact the client within 48 hours. If the advocate is unsuccessful after 48 hours, the application is rejected and the file is identified as "R" within LegalFiles.

If the application for legal assistance is referred to the VLP, the applicant will receive a letter informing them that their case has been accepted and will be referred to a private attorney. The letter contains a retainer agreement, Part 1626 documentation, and a Part 1636 statement. The applicant is instructed to execute the documents and return them to the Motown office. Applicants failing to return the documents are not referred.

Florist Office

Most ABC intake applications are processed at one of its four call centers (Hunt, Brighton, Motown and Lockerbie, Atlantis). The supervisory attorney in the Florist office estimated that more than 90% of all the intake applications are received from the call centers and then forwarded to the Florist office. A few phone and walk-in intake applications are also processed at the Florist office. Intake is performed at the office throughout the week (Monday through Friday) and typically involves a telephone or an in-person interview between the applicant and an office paralegal. A paralegal in the Florist office processes most of the intake applications that are not processed by the CC. No applications are taken at off-site locations nor are any completed by non-ABC personnel.

All the applicants are screened for financial eligibility and United States citizenship or eligible alien status. The intake process in the office begins by either completing an application form or then entering the information into Legal Files or by entering the application information directly into Legal Files. The practice in the Florist office is to have the applicant sign and date an attestation of U.S. citizenship when the applicant comes to the office for the first appointment or by mail in the case of a phone intake application. In the case of non-U.S. citizens, ABC has a form that is completed documenting the eligible alien status.

A conflicts check and duplicate case check is performed at the very beginning of the intake process at the CC. There appear to be no defaults in the LegalFiles version used by ABC with respect to citizenship, income and asset information.

In the version of LegalFiles that ABC utilizes, food stamps are one of the possible choices of income sources listed in a drop down box. It was explained that it is ABC's practice not to include food stamps when calculating an applicant's income.

Income eligibility screening for applicants whose income exceeds 125% of the FPG involves a consideration of the authorized exemptions. With respect to assets, staff is familiar with ABC's assets limitations. Applicants are screened for liquid and non-liquid assets. It appears that the equity of non-liquid assets is recorded.

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 3: ABC maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.⁹ *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable FPG and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

⁹ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2001 Ed.), ¶ 5.3 and CSR Handbook (2008 Ed.), § 5.3.

ABC's revised Income Guidelines were adopted by its Board on March 10, 2006. In addition, ABC maintains Eligibility Standards and Guidelines that are included in the program's Client Service and Compliance Manual. ABC's Financial Standards indicate that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC. It is the Director of Advocacy's responsibility to ensure that each supervising attorney, Regional Director and Advocacy Director is provided with a copy of the most recent income eligibility guidelines showing 125% of the FPG and 200% of maximum income.

All sampled cases reviewed evidenced that the applicants were screened for income eligibility. Sampled case files reviewed for applicants whose income exceeded 125% of the FPG evidenced that the applicant had authorized exceptions pursuant to the ABC's over-income authorized exceptions and the exceptions were identified in the LegalFiles ACMS. Review of case files and interviews with Brighton office staff indicated that the office maintains grants with HUD which allows the program to provide advice and counsel to clients with housing problems whose income exceeds 125% of the FPG. If the client's income exceeds the income guidelines without exceptions, staff are instructed to designate the case as "Not LSC Reportable" and indicate the reason why. In addition, the Brighton office maintains an Aging Grant which prohibits program staff from asking clients questions pertaining to their income. Staff advised that since the Aging Grant clients are not screened for income, these cases are always identified in the ACMS as "Not LSC Reportable" and are not reported to LSC in CSR submission.

ABC's group eligibility policy complies with the requirements of 45 CFR Part 1611. In addition, the program has developed an intake form and procedures to ensure that groups are eligible for services in compliance with 45 CFR §§ 1611.7(a)(2), (b), and (c). ABC's Community Economic Development Advocacy Group provides services to groups that are currently non profit organizations or want to become a nonprofit organization which focuses on activities or services that benefit 1) low income persons or communities or otherwise benefit the public interest; and 2) the organization must be unable to pay for legal services without significant impairment of program resources. The ABC attorneys provide free legal representation on a variety of legal issues related to starting a non-profit organization including 1) incorporation, 2) application for tax exempt (501)(c)(3) status, and 3) contract, real estate, tax, employment and other areas of the law.

In addition, it was noted that the ABC policy pertaining to Over-Income Authorized Exceptions indicates consideration of authorized exceptions which does not involve subtracting any expense from income, but rather considering factors that could prevent an applicant from obtaining private legal assistance. However, during the review of LegalFiles it was noted that the system automatically subtracts the applicant's income when factors are entered into the ACMS contrary to the noted policy.

Sampled cases evidenced that ABC is in substantial compliance with 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the FPG. However, there was one exception. See closed 2006 Case No. 06E-20017528. The file was opened on January 2006 and involved a household of one with a monthly income of \$1,039.00. The file contained no documentation of ABC's consideration of any of the authorized exceptions.

ABC should review its ACMS procedures as they pertain to subtracting authorized exceptions for applicants whose income exceeds 125% of the FPG in light of its current Over Income-Authorized Exceptions policy contained in Section 1106 of the Client Service and Compliance Manual. In addition, ABC must ensure that advocates screen for income prospects pursuant to 45 CFR § 1611.7(a)(1).

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that LSC noted that there was one file in the sample that was accepted without any notation of factors even though the client's income was above 125% of the FPG and ABC continues to remind all staff of the need to be diligent in making income eligibility determinations and to consider all income and income prospects and, for prospective clients above the 125% threshold, all factors. The supervising attorneys re-check eligibility information in all cases, and the Director for Advocacy samples this information, too, and any case found not to meet income eligibility standards will not be reported to LSC, according to comments to the DR.

Further comments to the DR stated that LSC also noted that a significant number of staff believed that a person above 125% of the FPG could be eligible only if deductions brought the person below 125% (spend down). The Director for Advocacy addressed this issue with local office supervising attorneys and one of the Call Center Supervising Attorneys and made sure that everyone in the organization understands the policy as set out in the Client Service and Compliance Manual, according to comments to the DR.

Finding 4: ABC maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.¹⁰ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient's governing body to establish, "specific and reasonable asset ceilings, including both liquid and non-liquid assets," to "reasonable asset ceilings for individuals and households." *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR §

¹⁰ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

The policy approved by the ABC Board of Directors on November 4, 2006 establishes the asset ceiling at \$5,000. Exempt from consideration is the applicant's home and surrounding land; all household goods and personal effects of the applicant's household; property that must be liquidated to defray an existing debt or obligation; property that produces income upon which the applicant depends; property directly related to the special need of an elderly, institutionalized or handicapped applicant; one car or truck; any IRA, TDA, stock bonus, pension, profit-sharing, annuity, or similar plan or contract for which the right to receive payment is on account of illness, disability, death, age, or length of service; resources belonging to a household family member or members who receive Family Assistance, SSI or Food Stamps; trusts designated for education and medical expenses; cash value of life insurance; burial plots; and assets that a domestic violence victim holds jointly with an abuser.

Sampled case files reviewed revealed that ABC maintains asset eligibility documentation as was required by 45 CFR § 1611.6 and as is required by the revised 45 CFR §§ 1611.3(c) and (d),¹¹ CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4. However, there were four exceptions. *See* closed 2005 Case Nos. 02E-12003375, 05E-20015897, 05E-20016525, and 05E-20015634 (each lacking asset eligibility determinations). The above identified case files, and those similar to them, are not CSR reportable.

[FOR FINAL REPORTS] Additional comments to the DR stated that ABC concurs with this general finding and with LSC's finding that four files lacked proper asset eligibility documentation. The Director for Advocacy has reminded supervising attorneys of the proper means of documenting asset eligibility and has included this in a section of the LegalFiles How To manual, according to comments to the DR. Further comments to the DR stated that the Director for Advocacy and the supervising attorneys sample cases and check asset eligibility and any case found not to meet asset eligibility standards will not be reported to LSC.

Finding 5: ABC is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry

¹¹ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.¹² Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

ABC is in non-compliance with 45 CFR § 1626.6, as there were two case files that were not in compliance. *See* closed 2005 Case No. 04E-12004411 and closed 2007 Case No. 05E-12004680 (each case lacked evidence of a written citizenship attestation). The above identified case files, and those similar to them, are not CSR reportable. Moreover, ABC is admonished that Part 1626 is regarded as a substantive regulatory requirement, and continued non-compliance could result in the imposition of sanctions.

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that LSC noted two instances where the file lacked citizenship documentation and ABC has made those two files not reportable. ABC has also stressed again the importance of making certain that files contain necessary citizenship documentation, according to comments to the DR. Further comments to the DR stated that VLP referral procedures have been changed to eliminate those instances where problems arose.

Finding 6: ABC is in substantial compliance with the retainer requirements of 45 CFR § 1611.9.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The

¹² *See* Kennedy Amendment at 45 CFR § 1626.4.

lack of a retainer does not preclude CSR reporting eligibility.¹³ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

ABC is in substantial compliance with the requirements of 45 CFR § 1611.9. However, the retainer agreements found in closed 2006 Case Nos. 05-1632-0, 06-3121-A, and 06E-20018164 and open Case No. 06-0003157 lacked a description of the legal services to be provided to the client. *See also*, open Case Nos. 06-0003461 (a case pending litigation lacking an executed retainer agreement) and 06-0002419 (lacking an executed retainer), and closed 2005 Case No. 05E-10010412 (which closed with a closing code of "court decision" lacking an executed retainer agreement).

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that the Director for Advocacy has stressed the need for specific retainers that are completed by the advocate rather than the client and this has also been stressed during peer review evaluations. None of the closed cases lacking a needed retainer are marked reportable and the case that was open remains open, and the Director for Advocacy reminded the advocate of the need for a proper retainer, according to comments to the DR.

The lack of a retainer does not preclude CSR reporting eligibility. Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Finding 7: ABC is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a) (1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Case files reviewed indicated that ABC is in compliance with the requirements of 45 CFR Part 1636.

[FOR FINAL REPORTS] ABC concurs with this finding.

¹³ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

Prior to the visit, ABC provided LSC with a list of its priorities. The priorities are stated as “supporting families, preserving the home, promoting economic stability, achieving safety, stability and health and serving populations with special vulnerabilities.”

ABC is in compliance with 45 CFR Part 1620. None of the sampled files reviewed revealed cases that were outside of ABC’s priorities.

[FOR FINAL REPORTS] ABC concurs with this finding.

Finding 9: ABC is not in compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were several staff case files which contained no description of the legal assistance provided.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a “case”, reportable in the CSR data, depends, to some extent on whether the case is within the recipient’s priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

If the applicant’s legal problem is outside the recipient’s priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

ABC is not in compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6 as there were several staff case files reviewed which contained no description of the legal assistance provided.

See closed 2005 Case Nos. 04-2001-A, 05E-20016247, 05E-20015897, 05E-20015932, 05E-20016525, 05E-20016722, and 05E-20015684 and closed 2006 Case Nos. 01-2067-A, 04-

1000829-A, 03-0280-A, 05E-20017462, 06E-20018614, 06E-20018496, 06E-40013159, 06E-40012598, 06E-40013224, 06E-40012631, 06E-40013235, 02E-20010821, 06E-20017719, and 06E-40012809. These files, and others like them, are not CSR reportable.

[FOR FINAL REPORTS] Comments to the DR stated that ABC concurs with this finding and will work to more closely monitor files to ensure that they contain a description of the legal assistance provided. Correction of this deficiency will be a responsibility of the Director for Advocacy, according to comments to the DR.

Finding 10: ABC's application of the CSR case closure categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.),

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

The files reviewed demonstrated that ABC's application of the CSR case closing categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). There were numerous instances of case closing code errors.

See closed 2004 Case No. 03E-20013609 (closed with a closing code of "counsel and advice" and containing no documented legal assistance). *See also*, closed 2005 Case Nos. 04-2001-A (closed with a closing code of "other" and no legal assistance provided to the client), 06-3252-R (closed with a closing code of "other" and no legal assistance provided to the client), 05-1282-A (closed with a closing code of "client withdrew and did not return" when the more appropriate closing code would have been "counsel and advice"), 05E-20015897 (closed with a closing code of "counsel and advice" when the applicant failed to keep their appointment with the attorney), 05E-20016525 (closed with a closing code of "counsel and advice" containing no documented legal assistance), 05E-20016401 (closed with a closing code of "brief service" when the more appropriate closing code would have been "counsel and advice"), 05E-20016914 (closed with a closing code of "brief service" when the more appropriate closing code would have been "counsel and advice"), 04E-10009555 (closed with a closing code of "other" when the more appropriate closing code would have been "client withdrew or did not return"), 05E-10010428 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "client withdrew or did not return"), and 05-51006972 (closed with a closing code of "insufficient merit to proceed" when the more appropriate closing code would have been "counsel and advice").

See also, closed 2006 Case Nos. 06-3010-0 (closed with a closing code of "client withdrew or did not return" when the more appropriate closing code would have been "counsel and advice"), 05-1062-A (closed with a closing code of "referred after legal assessment." This case was transferred to one of ABC's branch offices and the case should have remained opened until services were completed by that branch office), 06-0720-A (PAI case closed with a closing code

of “referred after legal assessment.” This case was transferred to one of ABC’s branch offices and the case should have remained opened until services were completed by that branch office; 03-0814-0 closed with a closing code of “court decision” when the more appropriate closing code would have been “client withdrew or did not return”), 06-000378 (closed with a closing code of “counsel and advice.” The attorney filed a petition on behalf of the client. The client then obtained new counsel and the PAI attorney filed a motion to withdraw, which was granted. The more appropriate closing code would have been “court decision”), 06E-20018635 (closed with a closing code of “brief service” when the more appropriate closing code would have been “negotiated settlement without litigation”), 06E-20018894 (closed with a closing code of “brief service” when the more appropriate closing code would have been “counsel and advice”), 05E-12004658 (closed with a closing code of “negotiated settlement without litigation” when the more appropriate closing code would have been “court decision”), 05E-10010601 (closed with a closing code of “insufficient merit to proceed” when the more appropriate closing code would have been “counsel and advice”), 06E-10010929 (closed with a closing code of “referred after legal assessment” when the most appropriate closing code would have been “court decision” reflecting the order of protection obtained by the attorney), 05E-10010500 (closed with a closing code of “change eligibility status” when the more appropriate closing code would have been “court decision” reflecting the order of protection obtained by the attorney), and 06-51008166 (closed with a closing code of “insufficient merit to proceed” when the more appropriate closing code would have been “counsel and advice”). Finally, *see also*, closed 2007 Case No. 06-0002444 (closed with a closing code of “client withdrew or did not return” when the more appropriate closing code would have been “counsel and advice”).

[FOR FINAL REPORTS] Comments to the DR stated that ABC availed itself of the CSR training provided by LSC's Office of Compliance and Enforcement in the Fall of 2007, and sent representatives or nine of its 10 local offices to one of the training sessions offered, and only the Dothan office was not able not send at least one representative. Those staff members who were trained along with the Director for Advocacy trained all staff that was unable to attend the OCE training in person, according to comments to the DR. Further comments to the DR stated that the new closing codes have been integrated into ABC's ACMS so ABC management will be able to hold the case closure category inconsistencies to a minimum.

Finding 11: ABC in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as numerous staff case files were untimely closed.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).¹⁴ There is, however,

¹⁴ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties.

an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

ABC is not compliance regarding the requirements of the CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a) and staff case files were not closed in a timely manner.

The following case files, and those similar to them, should not be reported to LSC in ABC's CSR data submission and should be closed administratively. Examples include: Case Nos. 97-10-06014731 (which was opened on August 22, 1997 and remains open. This case notes indicate that all activity ceased in the year 2002 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 02-10-03000451 (which was opened on January 25 2002, and remains open. All activity ceased in this case file in the year 2002 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 05-10-01001448 (which was opened on March 8, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 04-10-03001864 (which was opened on December 28, 2004 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 05-10-02003276 (which was opened May 31, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 05-10-02003195 (which was opened on May 25, 2005 and remains open. All activity ceased in this case file in the year 2005 with no recent legal activity and no documented activity in the file regarding future legal assistance pending or needed), 99-1003005432 (which was opened on September 24, 1999 and remains open. Case notes indicate file should be closed), 98-10-06004297 (which was opened on June 4, 1998 and remains open. The case notes indicate that the file was closed after it was selected for review by LSC and was labeled dormant), 99-10-11003202 (which was opened on June 4, 1998 and remains open. The case notes indicate that the file was closed after it was selected for review by LSC and was labeled dormant), and 03-10-03001094 (which was opened March 19, 2003 and remains open. The case notes indicate that the advocate had closed the file in the year 2003, but it had not been closed in the ACMS).

ABC should take corrective action and review all open cases to identify those that cannot be timely closed. Those cases identified as dormant should be closed in such a manner that they and not reported to LSC in the CSR submission.

More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that Supervising Attorneys use periodic Case File Reviews to monitor cases to make sure that only active cases remain open. The Director for Advocacy provided all Supervising Attorneys with access to a report that identifies stale cases, which will further aid in making sure that ABC continues to close cases timely, according to comments to the DR.

Finding 12: Sample cases evidenced non-compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4. and CSR Handbook (2008 Ed.), § 6.4.

ABC is not in compliance with the requirements of the CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases and there were 15 duplicate case files noted. *See* closed 2004 Case No. 04-1534, closed 2005 Case Nos. 05-0072, Z05E-20016958, and 05E-20016544, closed 2006 Case Nos. 06-0720-A, 06-3227-A, 06-0003703, 06-60017430, 06-0272-A, 06-1876-A, 06-1877-A, 05E-20016542, 05E-20017246, and 06E-20019285 and 2007 closed Case Nos. 06-0003002 and 07-0004137.

[FOR FINAL REPORTS] Comments to the DR stated that ABC reviewed the cases identified as duplicates and generally agree with OCE's findings. In five of the instances of possible duplicates, ABC believes there are appropriate reasons for the existence of two files for the same client, including different problem codes and different adverse parties, according to comments to the DR. ABC supervisors will continue to monitor files for duplication and the Director for Advocacy has also developed a report, using ABC's ACMS, that will aid in uncovering potential duplicate files, according to comments to the DR.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Sampled files reviewed, and interviews with staff indicate, that ABC is not involved in such activity. Discussions with the Executive Director also confirmed that ABC is not involved in these prohibited activities.

[FOR FINAL REPORTS] ABC concurs with this finding.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

None of the sampled files reviewed involved legal assistance with respect to a fee-generating case. Discussions with the Executive Director also confirmed that ABC is not involved in any fee-generating case.

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual explains the procedures for fee-generating cases, and Director for Advocacy continues to remind Supervising Attorneys of those procedures. The

Director for Advocacy has written a Crystal Report that helps identify cases where the LegalFiles file does not include documentation of the proper acceptance of fee-generating cases, such as SSI cases, that fall within the exception, according to comments to the DR.

Finding 15: A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engage in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use its resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) the extent to which signs and other forms of identification distinguish the recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. Particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds

subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

A review of ABC's accounting and financial records indicate compliance with 45 CFR Part 1610.

[FOR FINAL REPORTS] ABC concurs with this finding.

Finding 16: ABC is in non-compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. ABC has been granted a partial waiver of their required 12.5% PAI expenditures for the year 2007. In addition, ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

ABC's PAI plan is designed to ensure that ABC involves private attorneys in the delivery of legal assistance to eligible clients through both pro bono and compensated mechanisms, via subgrant agreements and contracts with private attorneys and law firms on a reduced fee plan.

The Audited Financial Statement ("AFS") for Fiscal Year Ending ("FYE") December 31, 2005 reported in the "Statement of Private Attorney Involvement Expenses", expenditures dedicated to the PAI effort in the amount of \$576,713 which translates to 9.9% of the total basic field grant (\$5,849,856). This amount is short of the 12.5% PAI requirement. In 2004, ABC received a partial waiver of \$73,171 which added to the requirement of 2005 totaling \$804,403, leaving a shortage for 2005 of \$227,690 for which a partial waiver was requested, granted and added to the requirements of 2006.

The review of the AFS for the FYE December 31, 2005 of the "Statement of Private Attorney Involvement Expenses" for PAI disclosed that ABC correctly allocates the salaries of attorneys and paralegals in actual time as reported in their timekeeping records and as required by 45 CFR § 1614.3(e)(1)(i). ABC has a cost allocation basis in their Consolidated Reference Manual under Tab-4 Private Attorney Involvement Program.

In a review in excess of 25 contracts and payments to private attorneys or law firms for 2005 and 2006, no exceptions were noted. Case files were well documented with corresponding approvals, including contracts and documents were canceled to avoid duplicate payments. ABC maintains reduced fee PAI referrals in each of its offices. In addition, it maintains subgrants for VLP referrals in its Maddingly County, Motown and Brighton offices. The program also maintains a subgrant agreement with the Atlantis State Bar VLP in Lockerbie. The program refers to pro bono as the four bar VLP programs and PAI as the reduced fee component.

ABC is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight of the PAI case files. As a result, there were numerous PAI case files reviewed that were dormant and numerous PAI case files which did not contain a description of the legal assistance provided in most offices visited.

Lockerbie Office

The Atlantis State Bar Volunteer Lawyers Project ("VLP") provides referral services for 64 out of the 67 counties in Atlantis that do not have county sponsored bar referral services. The VLP is staffed by the Director and an administrative assistant. Each of the ABC offices conducts eligibility screening prior to cases being referred to the State Bar VLP. In addition, the Bar does not accept cases that have not been previously screened by ABC. On a quarterly basis, the State Bar VLP forwards to ABC charts for each county in the program's service area which include the type of cases as well as the number of referrals that the VLP estimates they will be able to refer to private attorneys for that quarter. The types of cases that are referred to the VLP include cases that ABC typically does not handle, such as uncontested divorces. The VLP also is available to accept the overflow cases that ABC is unable to handle due to limited staff.

Cases referred to the State Bar VLP by the local offices are typically mailed by ABC along with the completed Client Statement of Facts and Release of Information/Citizenship Attestation or Legal Residency Form, the Legal Files Intake Form and relevant case documents. In addition, a Referral Authorization and Information Release Form is forwarded to the VLP as well as the applicant. A copy of the form is also maintained by the ABC local office within the client's case

file. Per form letters provided by the VLP, the client is 1) advised by VLP that their case has been referred in an effort to locate a private attorney and to call the VLP offices immediately; 2) advised that VLP is in the process of trying to locate an attorney; 3) notified that VLP is having difficulty locating an attorney to accept the case; and 4) advised that VLP was unable to locate an attorney willing to accept the case.¹⁵ If the VLP is able to locate an attorney for the applicant, the applicant is advised to call the attorney to make an appointment. If the applicant fails to follow-up with the attorney, the applicant is advised by letter that VLP will close their file and that they should contact ABC to make another application for services.

When an attorney accepts a case from ABC, they are forwarded a Case Referral Agreement, a copy of VLP's letter to the applicant and any referral information received from ABC. The attorney is requested to conduct a conflicts check and to return the signed and executed case referral agreement. Thirty days after the case is initially referred, the attorney is forwarded a case status form and requested to return it to VLP. The attorneys are requested to provide status updates every 90 days thereafter. At the completion of a case, the attorney is requested to forward a Time Sheet/Final Disposition form that includes a checklist of the disposition of the case. The VLP, however, does not require pro bono attorneys to forward court documents relative to the case. VLP is able to obtain the status of court cases through the Atlantis Judicial Court System web site and VLP will convert its Kemp's Clients for Windows ACMS to LegalFiles so that information regarding referred cases can be dropped into ABC's ACMS.

The VLP Director advised that recruitment of VLP attorneys is performed at the beginning of the year by forwarding information concerning the program to new bar admittees and by including VLP enrollment information in the State Bar's monthly publication. The VLP Director indicated that the VLP case closures have declined due to the decline in case closures for ABC.¹⁶

There were numerous dormant PAI Files in the Lockerbie office. *See* open Case Nos. 04E-10009669 (which opened on November 9, 2004 and remains open with no anticipated further legal services needed or documented in the file), 03E-10008722 (opened on December 12, 2003 and remains open with no anticipated further legal services needed or documented in the file), 01E-10004701 (opened on July 12, 2001 and remains open with no anticipated further legal services needed or documented in the file), 02E-10007363 (which was opened on December 6, 2002 and remains open with no anticipated further legal services needed or documented in the file), 05E-10010271 (which opened on July 20, 2005 and remains open with no anticipated further legal services needed or documented in the file), 03E-10007904 (which opened on May 8, 2003 and remains open with no anticipated further legal services needed or documented in the file) 01E-1000393 (which opened on February 1, 2001 and remains open with no anticipated further legal services needed or documented in the file), and 00E-60002800 (which opened on February 21, 2000 and could not be located). These case files, and others similarly situated, are not CSR reportable.

¹⁵The Atlantis State Bar VLP Director advised that at least 3-4 attempts are made before notifying the applicant of their inability to locate an attorney willing to accept the case.

¹⁶Based on information provided solely by the State Bar VLP.

There were two closed PAI case files that were reviewed during the visit that did not contain a description of the legal assistance provided. See closed 2006 Case Nos.03E-10007739 and 06E-10010909. These case files, and others similarly situated, are not CSR reportable.

Brighton Office

The Brighton office maintains a subgrant with the county bar association for pro bono cases. The Brighton Volunteer Lawyers Program ("BVLP") is staffed by a Director and an administrative assistant. The procedures for referral to the BVLP by the Brighton office staff are similar to those used by the Atlantis State Bar VLP.

The BVLP provides the local office staff with a list of the types of cases that ABC can refer for placement on a quarterly basis. The Brighton office staff mail cases to BVLP along with the ABC intake forms, Statement of Facts and Citizenship Form and the Referral Authorization Form. All applicants are screened for eligibility by ABC staff. The applicant is advised by ABC that their case is being referred to the BVLP for referral to a private attorney, that an effort is being made to contact an attorney to provide assistance and advised if they are having difficulty locating an attorney. The applicant is also advised by letter when an attorney has been located and willing to handle their case and to call the attorney to schedule an appointment; and the applicant is also advised that their case will be closed if they do not contact the attorney within 14 days.

The attorney is forwarded a cover letter that includes the applicant's name, adverse party information and the type of case. The attorney is requested to conduct a conflicts check. The attorney is also advised to sign a retainer agreement with the applicant and obtain a signed statement of facts from the plaintiff prior to engaging in pre-compliant negotiations or file a verified complaint. The attorney is also forwarded an Initial Disposition Form and Case Referral Agreement subsequent to agreeing to accept the case for assistance. The attorney is requested to advise ABC within two weeks whether he/she will accept a referred case. A status update form is forwarded to the attorney within 30 days of the initial referral and every 90 days thereafter. At the completion of a case, the attorney is requested to forward a closing form which includes the total pro bono hours, the date service ended, whether the client has been informed of the case closure and the case disposition.

Reduced Fee PAI

Each ABC office refers cases to private attorneys on a reduced fee basis. The procedures and accompanying forms for the reduced fee panel referral are set forth in the ABC's PAI Plan. Attorneys are paid according to a PAI fee schedule. In addition, the PAI plan advises that attorney's fees paid may not exceed 50% of the local prevailing market rate for that type of service. When a PAI case is referred to a private attorney, the supervising attorney of the referring office forwards the form entitled Notice of Referral/Fund Encumbrance to the central office. The notice provides the following information: client's county, case number, type of case, attorney's name, client's name, estimated cost, case referral date, estimated completion date, supervising attorney's signature and date signed.

At the completion of a case, the attorney forwards to the local office the Closing Memo/Request for Payment form along with relevant court documents. The supervising attorney of each office is responsible for tracking the status of open cases. Within 90 days of the initial referral, the supervising attorney of the referring office is required to check the State Judicial Information Services website to see whether any action has been taken. If the supervising attorney is unable to determine whether any action has been taken on the case, a letter is forwarded to the PAI attorney to assess whether representation is ongoing. If the supervising attorney determines that the legal work has ceased in the case, the PAI attorney is requested to submit a final bill.

ABC does not maintain PAI coordinators within the local offices. Each office has designated an administrative assistant to conduct the follow-up activities for either the VLP referrals, the reduced fee PAI referrals, or both.

There were numerous closed PAI case files in the Brighton office that were reviewed during the visit that did not contain a description of the legal assistance provided. *See* closed 2005 Case Nos. 01-1011853, 01-1012722, 04-1019059, 01-1011916, 98-1006708, and 04-1018238 and closed 2006 Case Nos. 06-1021553, 06-1021558, 05-1020897, and 04-108485.

There were also dormant PAI case files. *See* open Case Nos. 03-1017064 (which was opened on September 29, 2003 and remains open with no anticipated further legal services needed or documented in the file), 02-1014858 (which was opened on July 10, 2002 and remains open with no anticipated further legal services needed or documented in the file), and Z05-1020688 (which opened on September 26, 2005 and remains open with no anticipated further legal services needed or documented in the file).

The above identified case files, and others similarly situated, are not CSR reportable.

Hunt Office

The majority of Hunt's PAI cases are referred to the Maddingly County Volunteer Lawyer's Project ("MCVLP"). Cases outside of Maddingly County are referred to the Atlantis State Bar's Volunteer Lawyer's Program. In the past the supervising attorney referred cases to a panel of private attorneys which were left over from the pre-merged program; however she stated she has not referred any such cases in at least two years.

The MCVLP, a 501(c)(3), was formed in 1982, at which time the current Director was hired.¹⁷ The MCVLP is solely funded by a subgrant from ABC in the amount of \$44,538.00 (2006). Since the sub-grant is the only source of funds, all cases handled by VLP must be LSC eligible. The MCVLP is staffed by a part-time Director (25 hours) and a part-time secretary (20 hours).

The Hunt ABC office refers two types of cases to the MCVLP: (1) uncontested divorces which are handled by the MCVLP Director who is an attorney, and (2) other cases to a pro bono panel of approximately 50 attorneys in Maddingly County. These attorneys agree to handle two cases

¹⁷ The official name of the entity is registered as the Lawyer's Referral and Information Service of Maddingly County, Inc., though it is currently doing business as the MCVLP.

per year or 20 hours of work, whichever comes first. Attorneys can sign up to receive cases in 18 legal areas.

Intake is conducted through the normal channels at the Hunt office. If a case is deemed appropriate for referral to the VLP by a Hunt attorney and approved by the supervising attorney, staff walks the case (intake sheet and copies of any other paperwork) to the Director of MCVLP.

Most cases referred to MCVLP are uncontested divorces which are placed on a waitlist. Due to the significant demand, at the time of the on-site review, the waitlist was about six months and MCVLP had asked the Hunt office not to refer any additional divorces, instead the Hunt office was sending such applicants a pro-se packet with instructions. When a name comes up, the Director calls the applicant and sets an appointment. However, a significant number of applicants drop off the wait list and receive no assistance from MCVLP.

For cases other than uncontested divorces, the MCVLP Director contacts an attorney who has agreed to accept cases within the appropriate legal area and sets an appointment for the applicant. The applicant is then notified of the referral and appointment time by telephone or letter.

The MCVLP Director stated that attorneys are required to respond within 30 days to report whether the attorney made contact with the applicant. Subsequently, files are tickled for 90 days.

A very small number of cases are referred to the Atlantis State Bar Volunteer Lawyer's Program ("ASBVLP") which receives a \$38,100.50 (2006) subgrant from ABC. In these instances, the local office receives a citizenship attestation and referral authorization.

MCVLP does not utilize a case management system; accordingly tracking, oversight and reporting is conducted by hand. Monthly reports of closed cases are compiled manually by the MCVLP or the ASBVLP and sent to the Hunt office. Hunt administrative staff closes the cases in LegalFiles and run the computerized reports.

A review of open and closed 2006 case lists reveal that very few cases are actually referred to the MCVLP panel of private attorneys or the Atlantis State Bar. The overwhelming majority of the cases are uncontested divorces handled by the MCVLP Director.

At the time of the on-site review, MCVLP had 20 active cases open, two of which were referrals to private attorneys and the remaining 18 uncontested divorces. A case list of all open cases as of 2/14/06 revealed that 103 cases are open to MCVLP. Accordingly, approximately 83 cases are on the wait list.

Case review revealed significant issues with the MCVLP. Of the 11 sampled closed 2005 cases, only two were eligible for PAI CSRs and of the 19 sampled closed 2006, none were eligible PAI CSRs. Further, interviews and a review of the case list of all 147 closed cases in 2006 reveals that less than 20 will be eligible. The non-compliance is related to two problems: reporting cases that lack legal assistance and a failure to obtain written citizenship attestations.

The primary compliance issue with the MCVLP cases is that the overwhelming majority are closed without MCVLP providing legal assistance. Uncontested divorce cases are referred to MCVLP by the Hunt office and placed on a wait list which ranges from three to 12 months. Many if not most individuals do not stay on the wait list and these cases are closed with the closing code of "client withdrew or did not return", and reported to LSC in the CSR submission. See closed 2005 Case Nos. 05-0159-A, 04-1884-A, and 04-1813-A. See also, closed 2006 Case Nos. 03-0215-A, 05-0394-A, 04-0186-A, 06-1700-A, 05-0520-A, 05-2096-A, 05-0506-A, 03-1872-A, 03-0927-A, 06-0027-A, 05-0545-A, 05-1874-A, 06-0124-A, 06-0019-A, 06-0206-A, 06-0322-A, and 06-0200-A.

Of the 147 closed 2006 MCVLP cases, 116 were closed with the closing code of "client withdrew and did not return" and therefore must be removed from MCVLP CSR submission. The Regional Director instructed the Hunt supervising attorney to review all the cases closed by MCVLP with a closing code of "client withdrew or did not return" to determine if there was documented legal assistance provided by staff and if so, to change the case in LegalFiles to a staff advice case. If not, the cases will be coded in a manner to exclude them from the CSR submission.

The second compliance problem with the MCVLP cases is that the MCVLP does not obtain written citizenship attestations. If the case originated with an in-person intake, the local office obtained a citizenship attestation thereby satisfying the requirement. However, as intake in the Hunt office continues its transition from in-person to telephonic intake, fewer cases contain executed citizenship attestation prior to referral to MCVLP unless the case originated at an outreach intake site. During an interview, the MCVLP Director stated that she assumed the Hunt office obtained the required documentation and the local office believed it satisfied its requirement by telephonic screening since its only contact with the client was telephonic advice.

Two closed 2005 cases and three closed 2006 cases were closed with the closing code of "court decision", lacking citizenship attestations. See closed 2005 Case Nos. 04-1347-A and 05-0106-A and closed 2006 Case Nos. 05-0364-A, 05-2132-A, and 05-0588-A. This pattern extends to all MCVLP cases in which decrees were obtained. In 2006, there were 21 decrees obtained by MCVLP which are not CSR reportable because the citizenship attestations were not obtained.

The Regional Director for Hunt instructed the MCVLP Director to write letters to the 21 clients for whom she obtained decrees in 2006 in an effort to obtain citizenship attestations.¹⁸ She stated that this must be accomplished by February 23, 2007 so that LegalFiles could be changed in time for the Director of Advocacy to run the CSR report. Subsequent to February 23rd, the Regional Director instructed the MCVLP Director to review all open active cases and closed 2007 cases and attempt to obtain citizenship attestations for those cases.

For new cases, the MCVLP Director will obtain citizenship attestations from all referrals. She was provided a copy of the Hunt Office Statement of Facts/Certification of Citizenship during the visit. Further, the Hunt case handlers will document the advice provided to the clients prior

¹⁸ Even if ABC is successful in obtaining these citizenship attestations, these case files still would not be CSR reportable. A recipient shall require all applicants for legal assistance who claim to be citizens attest in writing. See 45 CFR § 1626.6(a).

to the referral to the MCVLP. Before the end of the visit, the Hunt Supervising Attorney revised the letter sent to clients advising them of the referral to the VLP to reiterate the divorce advice previously provided to them. Accordingly, future MCVLP cases that fall off the wait list can be reverted to staff advice cases and reported to LSC as such in the CSR submission.

Motown Office

ABC has a PAI subgrant with the Motown Bar Association, Volunteer Lawyers Program (VLP). The Motown office VLP Director stated that over 600 volunteer attorneys are enrolled and that about 200 are active on an annual basis.

The VLP takes referrals from the MCC and employs its own intake specialist. The intake specialist has access to LegalFiles and conducts intake in the same manner as the MCC and the Motown office administrative assistants. The VLP uses the Kemp's Caseworks, but applies the same eligibility criteria as the ABC Motown office.

VLP has a slightly different set of priorities, all of which fit within the Motown office's "core" case priorities. The Motown office supervising attorney explained that it tries to use the VLP as a compliment to the services it offers. The VLP Director added that it works closely with the Motown office to avoid duplication of service. Nonetheless, they both agreed that for any number of reasons the types of cases routinely handled by staff may also be referred to the VLP. The supervising attorney also indicated that an effort is made to refer only those cases that are likely to result in extended representation.

The VLP requests that participating attorneys submit quarterly status reports. At the conclusion of the case, attorneys are requested to submit their hours and any closing documents. Copies of the intake, quarterly reports, and closing materials are forwarded to the ABC Motown office.

In addition to the cases that are referred out, on Tuesdays and Thursdays participating VLP attorneys see clients in the VLP office and provide counsel and advice. In addition to the VLP, the Motown office has two attorneys that handle bankruptcies on a reduced fee basis. Written contracts are maintained and are renewed each year. The attorneys are paid according to the schedule set forth in the PAI plan, which, according to the Motown office, is less than 50% of the prevailing market rate.

The ABC Motown office screens for eligibility and case acceptance, and places the client with one of the participating attorneys. The participating attorneys are requested to provide an update every six months. The attorneys are paid at the conclusion of the case and upon submission of an invoice and any closing documents.

Annton Office

The Annton office maintains both pro bono and reduced fee PAI components. The pro bono cases are referred to the Atlantis State Bar Volunteer Lawyers Program for referral and placement with a pro bono attorney. Pro bono clients are initially screened for eligibility by the intake screeners in the Annton office. The supervising attorney makes the determination with

regard to which cases to refer to pro bono for placement by the VLP based on the caseloads of the staff attorneys as well as the list of cases that pro bono attorneys will accept that is provided by the State Bar VLP. Applicant and case information is mailed to the State Bar VLP. The applicant is forwarded an Atlantis Volunteer Lawyers Program Referral Authorization and Information Release and the citizenship attestation to complete. The completed copies of the forms are also forwarded to the VLP.

The Annton office staff relies on the State Bar VLP staff to provide them with information regarding the status of referred cases. The VLP sends closing information to the Annton office staff either by mail or e-mail once the case is completed. However, most of the sampled cases reviewed that were VLP referrals in the Annton office did not reflect oversight and follow-up after the cases were referred. In addition, many of the closed cases did not reflect legal work provided to the client. During interviews with staff at both the VLP and the Annton office staff, case status information can be obtained through access to the Atlantis Court website.

Applicants that are referred to attorneys on the reduced fee panel are advised by letter and instructed to complete and return a PAI Referral Authorization form and citizenship attestation as well as make an appointment with their assigned attorney. The PAI reduced fee attorney receives a cover letter, Referral Form and Fee Schedule, Timesheet and a copy of the client's signed Referral Authorization. Attorneys are paid a flat rate based on the type of case. For example, a bankruptcy case pays \$600; an uncontested divorce is \$350. Attorneys are paid at a rate of \$50.00 per hour for incomplete cases or cases in which the client withdraws or terminate representation.

There were numerous closed PAI case files in the Annton office that were reviewed during the visit that did not contain a description of the legal assistance provided. *See* closed 2005 Case Nos. 05-51007126, 03-51004883, and 04-51006268 and closed 2006 Case Nos. 06-51008181, 06-51008000, 04-51005745, and 06-0001087 (a lost file). The above identified case files, and others similarly situated, are not CSR reportable.

Tusca Office

The Tusca office also maintains both pro bono and reduced fee PAI components. Pro bono cases are referred to the State Bar Volunteer Lawyers Program. The supervising attorney determines which cases are appropriate for pro bono referral. Applicants sign an Authorization and Release and also sign the citizenship attestation. The Pro Bono Coordinator for the Tusca office monitors the status a cases that are referred to the VLP every 3-4 months. She forwards a list of open referred cases to the Executive Director of the State Bar VLP and requests that a status update be provided. In addition, she checks the status of the cases through the Atlantis Court website.

Tusca office staff refers applicants to its reduced fee panel utilizing the same schedule as the one used in the Annton office. In addition, the procedures for referral are the same for both offices. The Tusca office maintains two forms that are submitted to the central office in Lockerbie when the PAI attorney agrees to accept a case which includes the referral date and estimated completed dated and a request for payment.

Dothan, Telma, and Opeka Offices

The Dothan, Telma, and Opeka offices operate two PAI components, pro bono referrals to the Atlantis State Bar Volunteer Lawyer's Program ("VLP") and compensated referrals to a panel of attorneys.

The VLP, located in Lockerbie, periodically sends lists to the offices with the number of attorneys that have agreed to accept pro bono cases in each of the offices' counties, separated by legal problem, mostly uncontested divorces, bankruptcies, wills and adoptions. The names of the attorneys are not provided to the offices, but the lists assist the program in determining the number of available attorneys and the likelihood of a successful placement by the VLP.

Once the case is determined to be appropriate for referral, the above-mentioned compliance forms for staff cases are sent, along with a Referral Authorization permitting ABC to refer the case to VLP. When returned, the office's senior administrative assistant sends VLP a referral letter and copies of the printed intake sheet, Referral Authorization, Statement of Facts, questionnaires, and any other documents provided by the applicant. The applicant is sent a referral letter informing them that they will receive a letter from the VLP which will ask them to contact the office, after which the applicant will receive the name of an attorney. In Dothan, the client also receives an advice letter from the supervising attorney which provides information concerning divorce in Atlantis. In Telma and Opeka, the advice is provided verbally and documented in LegalFiles.

Once the referral is made, VLP sends the local office copies of correspondence sent to and from private attorneys. When the case is concluded, the attorneys send the VLP a letter stating the outcome and a closing memo; final orders are not sent but referenced in the memo. The administrative assistants close the case in LegalFiles.

If the applicant never makes contact with VLP, the case is closed by the ABC local office based upon the advice from staff provided prior to the referral. It is noted that since week one of the review, to facilitate the generation of PAI case lists, a new field has been added to LegalFiles set up to designate whether the case is staff or PAI. It is also noted that when a case is returned to ABC without assistance by VLP, this designation is not changed from PAI to staff.¹⁹

Compensated Panel

Dothan maintains a panel of 22 attorneys in the service area's seven counties who have signed up for fixed-fee cases; Telma has recruited approximately 18 attorneys and Opeka has approximately 13 participants. Once a case is designated for referral to the compensated panel, the above-mentioned compliance paper work and a Referral Authorization are sent to the applicant. When the paper work is completed and returned, as discussed above, one of the administrative assistants will call attorneys on the list to determine whether they will accept the referral. Attorneys are called in rotating order according to the county and legal problem.

¹⁹ Prior to the recent addition of this field, other field used to determine whether the case was staff or PAI were also not changed, for example, in Kemps, the Case Type field was not changed from S to P.

Once a referral is accepted, a file is created and an encumbrance form is sent to the Lockerbie office. The attorney and the applicant receive a referral letter. The Dothan and Telma referral forms indicate the fixed amount that the program will pay for the case, for example, \$750 for spouse abuse and \$600 for bankruptcy.

After the attorneys meet with the applicant, they must return the bottom portion of the referral form (in Dothan and Telma) indicating whether the case was accepted, declined, resolved with advice or if the applicant failed to keep the appointment. In Opeka, the attorney returns a separate form similar to the one used in Dothan and Telma.

When the case is closed, the attorney returns the Closing Memo and Request for Payment indicating the outcome, and the final order. The administrative assistants review the closures, and complete the pink Request for Payment to Private Attorney form which is signed by the office's supervising attorney.

In March 2007, after the first week of the review, ABC staff was told to conduct quarterly follow-up of VLP cases, if they had not received interim updates or copies of attorney correspondence from VLP. With respect to compensated cases, staff was told to contact attorneys with open cases every three months.

Interviews and case review reveal that actual follow-up is inconsistent. The administrative assistant in Dothan responsible for PAI is relatively new to the position and had not been conducting follow-up for either type of case. The administrative assistant in Telma is experienced and stated that before the new procedures, she followed-up with VLP regarding open cases twice per year and periodically, depending upon the case type. The Opeka administrative assistant stated that she will occasionally contact VLP or judicare attorneys depending upon the type of case and length of time between contacts.

There were dormant case files, lost case files and untimely closed case files in Dothan, Telma, and Opeka offices.

See open Case Nos. 05E-40011223 (a Dothan case which opened on January 10, 2005 and remains open with no anticipated further legal services needed or documented in the file), 01E-30003058 (a Telma case which opened on December 3, 2001 and remains open with no anticipated further legal services needed or documented in the file), 05-12004676 (an Opeka case which opened on June 2, 2005 and remains open with no anticipated further legal services needed or documented in the file), 02E-400006581 (a closed 2004 file in Dothan which the office could not locate), and 05E-12004664 (an open file in the Opeka which could not be located).

See also, closed 2004 Case No. 03E-30004539 (a Telma case which opened on March 10, 2003 and services were completed on the same day, with a closing code of "court decision." According to the file, the case was concluded on March 10, 2003, but the case was not closed until April 27, 2004), and closed 2007 Case Nos. 03E-12004032 (an Opeka case which opened on November 6, 2003 and closed on April 20, 2007, with a closing code of "court decision." The court executed the order on August 5, 2004, and the case was not closed until April 20, 2007),

01E-12002712 (an Opeka case which opened on November 29, 2001 and closed on February 8, 2007, with a closing code of "client withdrew or did not return." The PAI attorney provided documentation closing the file in the year 2003), and 03E-40008969 (a Dothan case which opened on August 4, 2004 and closed on February 14, 2007 with a closing code of "client withdrew or did not return." Services were completed on August 4, 2004, yet the file did not close until the year 2007). The above identified case files, and others similarly situated, are not CSR reportable.

[FOR FINAL REPORTS]Comments to the DR stated that ABC has recognized and continues to recognize that serious compliance issues are present in its PAI delivery system and in June 2007, a peer review of ABC and its four subgrantees was conducted by the ABA Center for Pro Bono. In July 2007, ABC appointed a PAI Coordinator and assigned him the responsibility of creating a PAI plan for ABC that leveraged all available resources for the benefit of ABC's client base, according to comments to the DR. Further comments to the DR stated that regular meetings have been held with the four subgrantee directors, and the Director for Advocacy has been conducting monthly audits of cases assigned to pro bono attorneys. ABC's 2008 PAI plan was presented to the ABC's Board of Directors for their review and information and work is continuing on converting the VLP subgrantee ACMS' to the same system as used by ABC to enhance data collection and file reviews, according to comments to the DR. Work also continues on increasing ABC's direct oversight of reduced fee attorneys and the extent to which the VLP subgrantees monitor cases they refer to pro bono attorneys, and the way they share with ABC the results of their monitoring, according to comments to the DR. Additional comments to the DR stated that during 2007 a closer working relationship was established between ABC's call center and the four VLP subgrantees thereby increasing the number of cases referred to pro bono attorneys. Monthly reviews are conducted by the Executive Director of all subcontractor expenditures and a monthly report is generated using the ABC ACMS identifying all reduced fee encumbrances, according to comments to the DR. Comments to the DR stated that by comparing the two reports (payments and encumbrances) on a monthly basis, ABC will more effectively use its 12.5% PAI allocation.

Finding 17: ABC is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. However, ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.00.

LSC regulation 45 CFR § 1627.4(a) requires that:

- a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

The review of accounting records and detailed general ledger for the calendar year ending 2005 through December 31, 2006 disclosed that ABC is in compliance with 45 CFR § 1627.4(a).

ABC is not in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval for payments to attorneys in excess of \$25,000.00. ABC paid two private contract attorneys, Barry Dogooder and Peggy Reducefee, \$26,120 and \$34,662.43 respectively in 2006, without the LSC subgrant agreement and approval as required by 45 CFR § 1627.2(b)(1). ABC was not aware of this requirement. ABC should take corrective action to discontinue this practice and set up a system to red flag payments reaching the \$25,000.00 limit and/or provide managing attorneys at each office with a regularly scheduled report of total payments by attorney and office. It is recommended that contracts involving private attorneys should contain language that will certify compliance with the requirements of 45 CFR § 1627.2(b)(1). The language should state:

This contract is on the condition that if payments exceed \$25,000 in a year, attorneys or law firms shall execute a subgrant agreement which will require LSC's approval. See 45 CFR § 1627.2(b)(1).

Subgrant payments reviewed for 2005 and 2006 for the Atlantis State Bar Volunteer Lawyer's Program, Brighton Volunteer Lawyer's Program, Motown Bar Association Volunteer Lawyer's Program, and the Referral and Information Service of Maddingly County disclosed that documentation and approvals required were adequate.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that ABC concurs that it made payments in excess of \$25,000 to a single attorney in 2006 without getting LSC approval. It notes, however, that the deficiency noted in this finding was discovered by ABC's Director of Operations in January 2007, prior to OCE's review, as a result of training she attended on program oversight and compliance. Further comments to the DR stated that the problem has been corrected, and was the subject of a corrective action plan previously submitted to OCE in May 2007, for which a six-month status report was also submitted to OCE in November 2007. ABC is confident that payments and encumbrances to reduced fee attorneys are now tracked in such a way as to avoid this deficiency in the future, according to comments to the DR.

Finding 18: ABC is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

The timekeeping requirement, 45 CFR Part 1635 is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. See 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must

satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

The review of 17 advocates timekeeping records (selected from all of the ABC offices) for the first pay period in February 2007 disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter or supporting activity is recorded in substantial compliance with 45 CFR §§ 1635.3(b) and (c).

Thirteen advocate timesheets were compared against the time recorded in case files to determine if the time reported on the case appeared reasonable. The results of the review disclosed no exceptions.

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Except as provided by LSC regulations, recipients may not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3. The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

None of the sampled files reviewed contained a prayer for attorney fees. Discussions with the Executive Director and fiscal review also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS] ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual explains the prohibition against seeking or accepting fees, and all staff understand and comply with this policy. Where any advocate has a question concerning such matters as fees as sanctions imposed by a court for violations of court rules or practices, that advocate seeks and gets guidance from the Director for Advocacy.

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that no lawyer in ABC has provided representation in a class action in more than 12 years or provided any assistance to a lawyer representing a class. The Director for Advocacy has ensured that Supervising Attorneys and Advocacy Directors understand that in their work on coalitions with members of the private bar, ABC cannot prepare an amicus brief or otherwise assist private lawyers who are involved in class actions, according to comments to the DR.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a

court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).²⁰

None of the sampled files reviewed involved initiation or participation in a class action. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds , personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

None of the sampled files reviewed revealed participation in litigation related to redistricting. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

None of the sampled files reviewed involved defense of any such eviction proceeding. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual is clear about what kinds of cases ABC can take, what

²⁰ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

kinds of cases require completion of a form and what kinds of cases they cannot take. When advocates are unsure, they can and do obtain appropriate guidance from their supervising attorneys, according to comments to the DR. Further comments to the DR stated that when supervising attorneys are unsure, they call the Director for Advocacy, who reinforces the distinctions.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual broadly excludes representation of prisoners, and all staff understand and comply with this policy. In 2006, an advocate did not understand the need to file a motion to withdraw, which he knew the court would deny and the Director for Advocacy used this as a teaching opportunity to remind that advocate, his supervising attorney and others of the precise requirements of the policy, according to comments to the DR.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.²¹ This restriction has been contained in all subsequent appropriations acts.²² This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation, such as community education materials and program literature indicated program involvement in such activity. Discussions with the Executive Director also confirmed that ABC is not involved in this prohibited activity.

²¹ *See* Section 504(a)(18).

²² *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

[FOR FINAL REPORTS]ABC concurs with this finding.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Discussions with the Executive Director also confirmed that ABC is not involved in these prohibited activities.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual sets out this prohibition and no ABC advocate has had any involvement whatsoever in redistricting cases.

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

Section 1007(b) (9) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities.

Section 1007(b) (10) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that

he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews conducted further evidenced and confirmed that ABC was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

[FOR FINAL REPORTS]ABC concurs with this finding. Comments to the DR stated that the Client Service and Compliance Manual describes the various other LSC statutory prohibitions and no ABC advocate has had any involvement whatsoever in prohibited cases.

IV. RECOMMENDATIONS²³

Consistent with the findings of this report, it is recommended that ABC:

1. Review all PAI forms and letters to ensure consistency;
2. Run periodic case management reports in order to ensure the accuracy of the CSR reporting information prior to submission to LSC;
3. *Hire Pro Bono Coordinators to assist in organizing the various PAI components in each office and to ensure that the PAI components are conducting its activities in compliance with the requirements of 45 CFR § 1614.3; and
4. Standardize its manual intake forms in all offices in an effort to ensure that all applicants are being screened consistently for eligibility.

²³ Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

*In the report submitted by the Office of Program Performance (OPP), it was recommended that ABC create a PAI Coordinator position that would oversee referrals to the contract attorneys and to the VLPs, plan trainings for the private attorneys, facilitate case follow-up, oversight and reporting requirements and generally work with the VLPs to improve coordination between ABC and the VLPs.

ABC has seven offices that are involved with the PAI effort, namely, Lockerbie, Brighton, Hunt, Annton, Dothan, Opeka and Telma. In OCE's review of PAI case files in each of these offices, numerous case files were non-compliant with LSC Regulations and were not CSR reportable. Over 175 case files were problematic and not reportable. Accordingly, both OPP and OCE recommend some overt action to be taken regarding oversight and follow-up of the PAI case files. Since these are recommendations, ABC is free to choose the recommendation which will adequately address these concerns or develop their own plan.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, ABC is required to take the following corrective actions:

1. Ensure that the automated case management system is sufficient to record accurate and timely information regarding the case files;

Comments to the DR stated that ABC believes that its system, to the extent that it is defined as the hardware and software used to help create a repository of case information, is in fact sufficient, but also recognize that input by staff has been inconsistent and insufficient. Since the OCE review, ABC has emphasized the importance of ensuring that the ACMS is used to enter information in a timely, complete and accurate manner, according to comments to the DR. Further comments to the DR stated that the responsibility for ensuring that the ACMS ensures accurate information for the effective management of cases has been specifically given to the Director for Advocacy, and he now has direct line supervision over the ten field office supervisors, who also are responsible for the ACMS' entries of their respective staffs. Additionally, in November 2007, ABC applied for and was awarded a grant for \$50,000 to fund training of all staff in the correct and accurate use of its ACMS. The training will take place the first quarter of 2008, and will result in staff being "certified" in the use of the ACMS, thereby by ensuring that staff is aware of the ACMS' basics, according to comments to the DR. Additional comments to the DR stated that regular system audits by the Director for Advocacy will identify and correct deficiencies in the system.

OCE is not persuaded that ABC's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded as evidenced by the numerous instances of inconsistent information in the ACMS and the case files as noted in the DR, which were not all inclusive.

2. Ensure that all cases that are referred to *pro bono* attorneys and PAI attorneys include effective oversight and follow-up subsequent to referral in an effort to ensure compliance with the requirements of 45 CFR § 1614.3(d)(3);

Comments to the DR stated that ABC has recognized and continues to recognize that serious compliance issues are present in its PAI delivery system and in June 2007, a peer review of ABC and its four subgrantees was conducted by the ABA Center for Pro Bono. In July 2007, ABC appointed a PAI Coordinator and assigned him the responsibility of create a PAI plan for ABC that leveraged all available resources for the benefit of ABC's client base, according to comments to the DR. Further comments to the DR stated that regular meetings have been held with the four subgrantee directors, and the Director for Advocacy has been conducting monthly audits of cases assigned to pro bono attorneys. ABC's 2008 PAI plan was presented to the ABC's Board of Directors for their review and information and work is continuing on converting the VLP subgrantee ACMS' to the same system as used by ABC to enhance data collection and file reviews. Work also continues on increasing ABC's direct oversight of reduced fee attorneys and the extent to which the VLP subgrantees monitor cases they refer to pro bono attorneys, and the way they share with ABC the results of their monitoring, according to comments to the DR.

Additional comments to the DR stated that during 2007 a closer working relationship was established between ABC's call center and the four VLP subgrantees thereby increasing the number of cases referred to pro bono attorneys. Monthly reviews are conducted by the Executive Director of all subcontractor expenditures and a monthly report is generated using the ABC ACMS identifying all reduced fee encumbrances, according to comments to the DR. Comments to the DR stated that by comparing the two reports (payments and encumbrances) on a monthly basis, ABC will more effectively use its 12.5% PAI allocation.

3. Ensure that PAI case files are not dormant by providing effective follow-up and oversight;

Comments to the DR stated that ABC has recognized and continues to recognize that serious compliance issues are present in its PAI delivery system and in June 2007, a peer review of ABC and its four subgrantees was conducted by the ABA Center for Pro Bono. In July 2007, ABC appointed a PAI Coordinator and assigned him the responsibility of creating a PAI plan for ABC that leveraged all available resources for the benefit of ABC's client base, according to comments to the DR. Further comments to the DR stated that regular meetings have been held with the four subgrantee directors, and the Director for Advocacy has been conducting monthly audits of cases assigned to pro bono attorneys. ABC's 2008 PAI plan was presented to the ABC's Board of Directors for their review and information and work is continuing on converting the VLP subgrantee ACMS's to the same system as used by ABC to enhance data collection and file reviews, according to comments to the DR. Work also continues on increasing ABC's direct oversight of reduced fee attorneys and the extent to which the VLP subgrantees monitor cases they refer to pro bono attorneys, and the way they share with ABC the results of their monitoring, according to comments to the DR. Additional comments to the DR stated that during 2007 a closer working relationship was established between ABC's call center and the four VLP subgrantees thereby increasing the number of cases referred to pro bono attorneys. Monthly reviews are conducted by the Executive Director of all subcontractor expenditures and a monthly report is generated using the ABC ACMS identifying all reduced fee encumbrances, according to comments to the DR. Comments to the DR stated that by comparing the two reports (payments and encumbrances) on a monthly basis, ABC will more effectively use its 12.5% PAI allocation.

4. Ensure that all PAI case files contain citizenship attestations pursuant to 45 CFR Part 1626 where appropriate;

ABC has stressed again the importance of making certain that files contain necessary citizenship documentation, according to comments to the DR. Further comments to the DR stated that VLP referral procedures have been changed to eliminate those instances where problems arose.

5. Ensure that the legal assistance provided is documented in the case file and that those case files identified in this report lacking documented legal assistance are not reported to LSC in the CSR data submission. As part of this corrective action, a review of all files at the time of closing is necessary;

Comments to the DR stated that ABC concurs with this finding and will work to more

closely monitor files to ensure that they contain a description of the legal assistance provided. Correction of this deficiency will be a responsibility of the Director for Advocacy, according to comments to the DR.

6. Ensure that the scope of representation portion of retainer agreement is provided by the attorney or paralegal and not the clients;

Comments to the DR stated that the Director for Advocacy has stressed the need for specific retainers that are completed by the advocate rather than the client and this has also been stressed during peer review evaluations. None of the closed cases lacking a needed retainer are marked reportable and the case that was open remains open, and the Director for Advocacy reminded the advocate of the need for a proper retainer, according to comments to the DR.

The lack of a retainer does not preclude CSR reporting eligibility. Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

7. Ensure that staff is trained on the proper closing codes categories to comply with CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1;

Comments to the DR stated that ABC availed itself of the CSR training provided by LSC's Office of Compliance and Enforcement in the Fall of 2007, and sent representatives from nine of its 10 local offices to one of the training sessions offered, and only the Dothan office was not able not send at least one representative. Those staff members who were trained along with the Director for Advocacy trained all staff that was unable to attend the OCE training in person, according to comments to the DR. Further comments to the DR stated that the new closing codes have been integrated into ABC's ACMS so ABC management will be able to hold the case closure category inconsistencies to a minimum.

8. Ensure that duplicate files are not reported LSC in the CSRs and provide a methodology to eliminate duplicate case files;

Comments to the DR stated that ABC reviewed the cases identified as duplicates and generally agrees with OCE's findings. In five of the instances of possible duplicates, ABC believes there are appropriate reasons for the existence of two files for the same client, including different problem codes and different adverse parties, according to comments to the DR. ABC supervisors will continue to monitor files for duplication and the Director for Advocacy has also developed a report, using ABC's ACMS, that will aid in uncovering potential duplicate files.

9. Ensure that all offices apply the over-income exception policy in a similar manner. As part of this, training should be provided to staff as to when and how to apply expenses and factors to applicants whose income falls between 125%-200% of the FPG;

Comments to the DR stated that LSC noted that there was one file in the sample that was accepted without any notation of factors even though the client's income was above 125% of the FPG and ABC continues to remind all staff of the need to be diligent in making income eligibility determinations and to consider all income and income prospects and, for prospective

clients above the 125% threshold, all factors. The supervising attorneys re-check eligibility information in all cases, and the Director for Advocacy samples this information, too, and any case found not to meet income eligibility standards will not be reported to LSC, according to comments to the DR.

Further comments to the DR stated that LSC also noted that a significant number of staff believed that a person above 125% of the FPG could be eligible only if deductions brought the person below 125% (spend down). The Director for Advocacy addressed this issue with local office supervising attorneys and one of the Call Center supervising attorneys and made sure that everyone in the organization understands the policy as set out in the Client Service and Compliance Manual, according to comments to the DR.

10. Ensure that advocates screen for income prospects pursuant to 45 CFR § 1611.7(a)(1);

Comments to the DR stated that LSC noted that there was one file in the sample that was accepted without any notation of factors even though the client's income was above 125% of the Federal Poverty Guidelines and ABC continues to remind all staff of the need to be diligent in making income eligibility determinations and to consider all income and income prospects and, for prospective clients above the 125% threshold, all factors. The Supervising Attorneys re-check eligibility information in all cases, and the Director for Advocacy samples this information, too, and any case found not to meet income eligibility standards will not be reported to LSC, according to comments to the DR.

11. Ensure that 45 CFR Part 1614 is complied with, in that at least 12.5% of the basic field award should be dedicated to the PAI involvement;

Comments to the DR stated that ABC's 2008 PAI plan was presented to the ABC's Board of Directors for their review and information and work is continuing on converting the VLP subgrantee ACMS' to the same system as used by ABC to enhance data collection and file reviews. Work also continues on increasing ABC's direct oversight of reduced fee attorneys and the extent to which the VLP subgrantees monitor cases they refer to pro bono attorneys, and the way they share with ABC the results of their monitoring, according to comments to the DR. Additional comments to the DR stated that during 2007 a closer working relationship was established between ABC's call center and the four VLP subgrantees thereby increasing the number of cases referred to pro bono attorneys. Monthly reviews are conducted by the Executive Director of all subcontractor expenditures and a monthly report is generated using the ABC ACMS identifying all reduced fee encumbrances, according to comments to the DR. Comments to the DR stated that by comparing the two reports (payments and encumbrances) on a monthly basis, ABC will more effectively use its 12.5% PAI allocation.

12. Ensure that rejected cases are identified and not reported to LSC in the CSRs and to comply with the CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1;

Comments to the DR stated that ABC availed itself of the CSR training provided by LSC's Office of Compliance and Enforcement in the Fall of 2007, and sent representatives from nine of its 10 local offices to one of the training sessions offered, and only the Dothan office was

not able not send at least one representative. Those staff members who were trained along with the Director for Advocacy trained all staff that was unable to attend the OCE training in person, according to comments to the DR. Further comments to the DR stated that the new closing codes have been integrated into ABC's ACMS so ABC management will be able to hold the case closure category inconsistencies to a minimum.

13. Ensure compliance with 45 CFR § 1627.2(b)(1) and add the language to PAI contracts as suggested in Finding 17 of the Draft Report; and

Comments to the DR stated that the problem has been corrected, and was the subject of a corrective action plan previously submitted to OCE in May 2007, for which a six-month status report was also submitted to OCE in November 2007. ABC is confident that payments and encumbrances to reduced fee attorneys are now tracked in such a way *as* to avoid this deficiency in the future, according to comments to the DR.

14. Ensure that the language in the Authorization & Release form in use in the Telma office be modified or removed.

Comments to the DR stated that this corrective action has been complied with.

APPENDIX Z



BY US MAIL

March 3, 2008

President
Helaine M. Barnett

Board of Directors
Frank B. Strickland
Atlanta, GA
Chairman

Lillian R. BeVier
Charlottesville, VA
Vice Chairman

Jonann C. Chiles
Little Rock, AR

Thomas A. Fuentes
Lake Forest, CA

Herbert S. Garten
Baltimore, MD

David Hall
Boston, MA

Michael D. McKay
Seattle, WA

Thomas R. Meites
Chicago, IL

Bernice Phillips
Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Mary M. Director
Executive Director
Direct Legal Services Corporation
99 Main Avenue, Suite 400
Local City, XX 56789

RE: Draft Report, Recipient No. 123456

Dear Ms Director:

Enclosed is the Legal Services Corporation's ("LSC") Draft Report for the June 4-8, 2007 on-site Case Service Report/Case Management System ("CSR/CMS") review of Direct Legal Services Corporation ("DLSC").

I ask that you carefully review the report and provide any comments to LSC, to my attention, within thirty (30) days of your receipt of this letter. If additional time for response is needed, please contact me at (202) 295-1520.

I would like to extend an offer, through the Office of Compliance and Enforcement, to be available to you as a resource regarding the subjects addressed in this report or any other compliance-related matters.

I appreciate the courtesies you extended to the team during the visit and I hope that your staff has received some benefit. Thank you for your time and consideration.

Sincerely,

Danilo A. Cardona, Director
Office of Compliance and Enforcement

Enclosure

Legal Services Corporation SEGREGATION OF FINANCIAL DUTIES WORKSHEET

Program: _____

Reviewer: _____

Grantee No: _____

Segregation of financial duties is necessary to establish an effective system of internal control. List employee(s) assignment to perform the following financial duties within the program.

EMPLOYEE

A. Cash (check) Receipts – WHO?

1. open the mail
2. lists cash receipts in Cash receipts Log
3. prepares pre-numbered receipts
4. signs the Cash Receipts Log
5. restrictively endorses checks received
6. receives cash receipts from person opening mail
7. prepares the bank deposit ticket
8. makes the deposit to the bank
9. posts receipts to the Cash Receipts Journal
10. posts receipts to Accounts Receivable and General Ledger
11. receives duplicate deposit ticket stamped by bank
12. compares bank-stamped duplicate deposit ticket with Cash Receipts Log
13. opens bank statement mail
14. prepares monthly bank statement reconciliations
15. reviews monthly bank statement reconciliations
16. reconciles bank statement balances to General Ledger
17. processes and safeguards incoming cash receipts
18. protects cash by using safes or locks kept in areas of limited access

B. Check Disbursements (Except Payroll) – WHO?

1. controls blank checks
2. approves payment of billing invoices
3. prepares checks for payment
4. manually signs the checks
5. distributes or mails the checks
6. stamps and dates invoices paid
7. posts entries to Check Disbursements Journal
8. protects blank checks by using safes or locks kept in areas of limited access
9. keeps signature die under adequate control

C. Petty Cash – WHO?

1. has custody of the Petty Cash Funds
2. maintains the Petty Cash Fund records
3. conducts surprise counts and internal audits of Petty Cash
4. keeps adequate controls of petty cash funds

CONTINUE ON PAGE 2

EMPLOYEE

Legal Services Corporation
SEGREGATION OF FINANCIAL DUTIES WORKSHEET
(CONTINUED)

D. Procurement (Recurring Purchases) – WHO?

- | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| 1. is responsible for purchasing | | | | | | | | | |
| 2. approves purchase orders | | | | | | | | | |
| 3. receives shipments from vendors | | | | | | | | | |
| 4. compares purchase order to vendor invoice | | | | | | | | | |
| 5. verifies the accuracy of the vendors invoice | | | | | | | | | |
| 6. maintains control of unpaid vendor invoices | | | | | | | | | |
| 7. maintains control of office supplies | | | | | | | | | |
| 8. keeps adequate control of office supplies | | | | | | | | | |

E. PROPERTY (Capital Assets) – WHO?

- | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| 1. maintains the property inventory records | | | | | | | | | |
| 2. takes the annual property inventory | | | | | | | | | |
| 3. reconciles the property record to the General Ledger | | | | | | | | | |

F. Payroll – WHO?

- | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| 1. calculates and prepares the payroll | | | | | | | | | |
| 2. maintains the Payroll Journal | | | | | | | | | |
| 3. signs the payroll checks | | | | | | | | | |
| 4. opens the payroll checks | | | | | | | | | |
| 5. prepares monthly payroll bank statement reconciliations | | | | | | | | | |
| 6. reviews monthly payroll bank statement reconciliations | | | | | | | | | |
| 7. prepares the Federal and State Payroll Returns | | | | | | | | | |
| 8. protects blank checks by using safes or locks kept in areas of limited access | | | | | | | | | |
| 9. keeps a signature die under adequate control | | | | | | | | | |

G. Client Trust Accounting – WHO?

- | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| 1. maintains Client Trust Account records | | | | | | | | | |
| 2. issues receipts for monies received from clients | | | | | | | | | |
| 3. signs Client Trust Account checks | | | | | | | | | |
| 4. opens Client Trust bank statement mail | | | | | | | | | |
| 5. prepares monthly Client Trust bank statement reconciliations | | | | | | | | | |
| 6. reviews monthly Client Trust bank statement reconciliations | | | | | | | | | |
| 7. reconciles Client Trust Account balances to General Ledger | | | | | | | | | |

H. General Journal – WHO?

- | | | | | | | | | | |
|---|--|--|--|--|--|--|--|--|--|
| 1. makes entries to the General Journal | | | | | | | | | |
| 2. reviews and approves General Journal | | | | | | | | | |
| 3. posts the General Ledger | | | | | | | | | |
| 4. prepares the monthly Trial Balance of the General Ledger | | | | | | | | | |
| 5. reviews the monthly Trial Balance of the General Ledger | | | | | | | | | |
| 6. prepares the financial statements and reports | | | | | | | | | |

I. General – WHO?

- | | | | | | | | | | |
|--|--|--|--|--|--|--|--|--|--|
| 1. maintains the accounting and procedures manual | | | | | | | | | |
| 2. is covered by bond insurance for handling assets or performing significant financial duties | | | | | | | | | |
| 3. protects against a loss of important files, accounting records or equipment | | | | | | | | | |