



LEGAL SERVICES CORPORATION

Office of Program Performance

Final Report

for

Program Quality Visit

to

LEGAL SERVICES OF NORTH DAKOTA

Recipient Number: 535007

October 6-10, 2014

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INTRODUCTION

The Legal Services Corporation's (LSC) Office of Program Performance (OPP) conducted a Program Quality Visit (PQV) to Legal Services of North Dakota (LSND) from October 6-10, 2014. Team members included OPP Program Counsel Grayce Wiggins (team leader), OPP Program Counsel Ronké Hughes, and LSC temporary employees Doug German and Tim Watson.

Program Quality Visits are designed to evaluate the extent to which LSC grantees are providing the highest quality legal services to eligible clients. In conducting these evaluations, OPP relies on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation is organized to follow the four Performance Areas of the LSC Performance Criteria, which cover: 1) needs assessment and priority setting, strategic planning, and evaluation; 2) engagement with the low-income community; 3) legal work, including private attorney involvement; and, 4) program management, including board governance, leadership, resource development, and coordination within the delivery system.

Prior to the visit, the OPP visit team reviewed documents routinely provided to LSC, including applications for funding and renewal, technology and PAI plans, workforce analysis charts, and case service and other services reports. The team also reviewed materials requested from the program in advance of the visit, including documents relating to needs assessment and strategic planning, intake, legal work, case management policies and systems, board governance and administration, as well as responses to a confidential online staff survey. While on site, the team visited the Bismarck, Fargo, Minot, and New Town program offices. Time and distance did not allow the team to visit offices in Belcourt and Grand Forks. Therefore, LSND arranged for staff in Belcourt and Grand Forks to be interviewed either in person or by telephone. The team interviewed program leadership and administration, along with most attorneys, paralegals, and administrative and support staff. The team also interviewed several members of the board of directors, and a sample of local judges, bar leaders, community partner representatives, and other members of the state justice community, including representatives of the State Bar Association of North Dakota (SBAND).

DESCRIPTION OF SERVICE AREA AND PROGRAM OVERVIEW

Located in the geographical center of North America and named for the Dakota Indian tribes, North Dakota covers roughly 69,000 square miles, consisting of rolling plains that slope upward toward the Rocky Mountains. Two major rivers flow through the state: the Red River and the Missouri River. The Red River Valley, located in the northern region of the state, is significant for its fertile and productive farmland which has historically supported the growth of agriculture--still one of the state's largest industries.

The western region of North Dakota contains mountains, buttes, and the Bakken Formation - one of the largest contiguous deposits of oil and gas in the United States, which spans two states (North Dakota and Montana) and two adjoining Canadian provinces and holds some 4.3 billion barrels of oil ready to be tapped for drilling. Oil companies have been drilling in the Bakken for

several decades but, with the introduction of improved hydraulic fracturing technologies, they have been able to greatly increase oil production, establishing North Dakota as the second highest crude-oil producing state (after Texas) in the nation. Oil has now supplanted agriculture as the state's top economic driver, and in 2013, North Dakota's mining industry totaled \$8.5 billion followed by \$7.3 billion for agriculture.

For the past 100 years, the number of people in North Dakota has remained virtually stagnant. However, recently, given the population growth in the western part of the state and some parts of oil country, the population of the state has reached an all-time high. Today, the estimated population is nearly 740,000 people, with nearly half living in rural communities. The unemployment rate is the lowest in the country. The increase in the state's population from 2010 to 2013 (50,802) nearly matched population growth in the state during the prior 60 year period from 1950-2010 (52,995).

Along with unprecedented economic growth and low unemployment rates, the rural and tribal communities near the Bakken have encountered increased incidents of prostitution, human trafficking, domestic abuse, family law issues, and a significant shortage of housing. Housing that was once considered worthless - and, consequently, occupied by low-income households - is being bought and rented at inflated prices that rival those in major American cities in order to house workers. The resulting effect is the displacement of poor people. LSND, the only major provider of legal services in the state, is faced with addressing these and other civil legal needs.

LSND serves 53 counties and three Indian reservations in North Dakota.¹ The program operates with a staff of 21 (composed of eight attorneys, seven paralegals, and six administrative staff). Estimates from the 2008-2012 American Community Survey (ACS) show there are 104,650² people living below the poverty level within the service area. This is a 42% increase over the 2000 census figures. The ACS also estimates 74% of the low-income population to be White, 18% Native American and Alaskan Native, 4% Hispanic, and 3% African American.

LSND maintains branch offices in Bismarck, Fargo, Minot, and New Town. The program also operates a small office on Turtle Mountain Reservation, runs a bi-monthly outreach on the Spirit Lake Indian Reservation, and partners with the Red River Valley Community Action Center in Grand Forks as an outreach site.

LSND represents clients in LSC's statewide basic field and Native American service areas. The program was formed in 2003 through the consolidation of two prior LSC legal providers, North Dakota Legal Services (NDLS) and Legal Assistance of North Dakota (LAND). NDLS served the Fort Berthold Reservation and surrounding region out of the New Town office. LAND served the remainder of the state and was, effectively, a statewide program. In 2003, LSC combined both service areas to form a single statewide basic field service area and a single

¹ Two other LSC-funded programs also have offices in North Dakota. Dakota Plains Legal Services provides legal services to the Standing Rock Sioux Indian Reservation out of their Fort Yates office, which straddles North Dakota's southern border. Southern Minnesota Regional Legal Services provides civil legal services to the migrant community in the Red River Valley on the eastern border of North Dakota and maintains an office in Fargo.

² This number represents the population below 125% poverty level for the service area.

statewide Native American service area. The boards of directors and staff of the two organizations combined, effective January 1, 2004, to form LSND.

In 2014, LSND received \$702,435 in LSC funding, including \$438,266 for basic field services and \$264,169 for services to Native Americans. This was a 5% decrease in funding over the previous year (\$735,920) and a 26.7% decrease in LSC funding since 2010. LSC funding for 2014 comprised approximately 41% of LSND's overall budget of \$1,697,223. There was also a corresponding decrease in non-LSC funding of 46.8% from 2010 to 2013. The program's non-LSC funding sources include: IOLTA; state appropriations and funding from other federal and state agencies; foundations and community organizations. Declining funding has also resulted in a 16% reduction in the program's workforce from 2010-2014.

SUMMARY OF FINDINGS

North Dakota has become the fastest-growing state in the country and in 2014 reached an all-time high with an estimated 740,000 residents, an increase of 94,000 people. There has been a corresponding increase in the number of individuals living in poverty. In an effort to prepare for the challenges in planning for service delivery in the coming years, LSND has created a three-year strategic plan that was formally adopted by its board of directors in December 2013.

The strategic plan was developed to identify key organizational priorities, focusing on four core areas: workforce challenges, funding, public relations, and continuity planning. All priorities, goals, and strategies developed during the planning process were aligned with LSND's mission to serve the legal needs of low-income North Dakotans.

While LSND moves forward with the implementation of its 2013 strategic plan, it has not yet determined when it will conduct its next comprehensive needs assessment. The last needs assessment study was conducted in 2007, co-sponsored with the University of North Dakota Law Clinic and the State Bar Association of North Dakota (SBAND). An updated comprehensive legal needs assessment will help the program identify the most pressing needs for the client-eligible community, how to prioritize them, and how resources for legal services should be allocated equitably across the state. As a stop-gap measure, LSND has relied on its own internal case management data, as well as information from community partners, the courts, and advocates in order to identify needs across the state.

In engaging and serving its client population, LSND's statewide intake system has functioned as a valuable component, enhancing access and delivery of services to low-income communities. Applicants are able to contact LSND in a variety of ways: over its centralized telephone intake system, through its online application, during outreach activities, by mail, or by walking into one of its branch offices across the state. The vast majority of applicant intakes - roughly three-quarters - continue to be handled by telephone utilizing the centralized intake system.

Once through the intake process, however, applicants are not consistently provided with advice at the first point of contact, and wait times can vary for a determination regarding case acceptance. This determination often does not occur until the case is reviewed by an attorney. The current intake system does not provide clarity to intake staff and applicants about the level

of service they can expect to receive, nor does it inform them of the program's case acceptance priorities. LSND could benefit from having: 1) documented case acceptance priorities to further refine the level of service, and 2) a dedicated intake attorney for the centralized intake unit.

Technology has been a key factor in LSND's ability to deliver highly effective legal services. LSND was one of the first legal services programs in the country to launch an online intake system. It has subsequently witnessed an increased utilization of this system, helping to remove some of the barriers that previously prevented applicants from accessing program services. However, this system is no longer in the forefront of current technology and should be upgraded, along with LSND's outdated telephone system, to add meaningful triage to the intake process.

LSND's advocacy staff have a good reputation throughout the state. They have a solid presence in the courts and are viewed by judges, community organizations, and the bar as assets to the state. The visit team found that the advocates have a high degree of expertise and commitment to the mission of the program. Still, there is a need for more focused and strategic advocacy to address systemic problems across the state. Additionally, there is a need for more dedicated time for advocates to convene on a regular basis to discuss significant legal issues and strategies with each other.

LSND's board members have played a valuable role in the program and several members actively participated in the strategic planning process. The board's ability to govern the program would be more effective with the adoption of formal orientation and training materials for its members, a written leadership succession plan for key staff within the program, and the implementation of a formal process for evaluating its executive director.

LSND is led by a strong and respected executive director and dedicated management team that, combined, bring valuable experience and commitment to the organization. Over the past several years, the entire staff has taken on additional responsibilities to fill the gap left by a reduction in both local, state, and federal funding – and mostly all non-attorney staff are working part-time hours. The management structure is thin and there is a need to fill existing gaps left by funding cuts, including a deputy director, resource development director, and dedicated IT director.

LSND also has a strong and experienced fiscal and human resources staff. The program would benefit from developing more current and specific job descriptions, as well as conducting annual performance evaluations, in order to promote professional growth and leadership development.

Legal Services of North Dakota is a valued organization in the state and in the justice community. The findings and recommendations in this report are designed to assist LSND in achieving its goals and objectives as outlined in its strategic plan and assist the program as it strives to provide the highest quality legal services for the client-eligible population in its service area.

FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

PERFORMANCE AREA ONE. Effectiveness in identifying the most pressing civil legal needs of low-income people in the service area and targeting resources to address those needs.

Finding 1: LSND recently engaged in a collaborative strategic planning process, and the board has adopted a three-year strategic plan.

LSND's *Strategic Plan 2014-2016* is the product of a development and engagement process with the participation of a sample of staff and board members. The planning process was facilitated by a strategic planning consultant. LSND's chief fiscal officer was appointed by the board to coordinate the planning and implementation. The board adopted the proposed strategic plan in December 2013. Prior to this work, LSND's last significant strategic plan effort was in 2004, shortly after the merger. The current strategic plan was designed using a consensus-driven process to establish and measure progress toward common goals. The core of the 2014-2016 strategic plan focuses on four priorities: workforce challenges, funding, public relations, and continuity planning. The strengths and weaknesses identified during the planning process were used to identify these four priorities.

The first priority of the 2013 strategic plan addresses the difficulty in retaining qualified staff. The goal is twofold: 1) creating a positive work environment that fosters open communication, and 2) providing staff with access to additional training opportunities. The second priority emphasizes the need to increase existing funding, and the specific goal is to identify alternative (non-LSC) funding sources to reach an operating budget of \$2 million by January 2016. The third priority concerns public relations—the program wants to raise public awareness of LSND's services and to use the increased visibility to aid the program in its previously identified fundraising goals. The last priority of the plan is for the program to implement a continuity plan that addresses staff safety in each office, client services, preserving files and equipment, and a technology plan. This priority also addresses short-term and long-term continuity measures for workloads among staff and management and the effective cross-training of staff members.

The strategic plan includes a three-year time line for accomplishing the plan activities and a corresponding responsibility matrix for each priority area. The plan was implemented by LSND, beginning in January 2014. Updates on progress are reported to the program's board of directors on a quarterly basis, and minutes from board meetings alluded to the program being slightly behind in meeting all of its first-year deadlines.

It does not appear that completion of activities under the plan were being tracked. Similarly, there did not appear to be organization-wide knowledge about the staff members' roles and responsibilities in meeting the strategic plan's priorities.

RECOMMENDATIONS :

I.1.1.1:*³ LSND should continue implementing the priorities under its 2014-2016 strategic plan, making adjustments and modifications as necessary. More than one point person should be responsible for tracking and updating the status of all tasks.

I.1.1.2:* An updated version of the strategic plan and responsibility matrix should be available and presented to staff, managers, and board members. Managers should also solicit ongoing feedback from staff about the plan.

Finding 2. : LSND has not performed a comprehensive legal needs assessment since 2007.

LSND's last comprehensive needs assessment was conducted in 2007 and was led by the University of North Dakota Law School Clinic, with funding and cooperation provided by LSND and the State Bar Association of North Dakota (SBAND). The assessment was focused on the client community served by LSND's Basic Field and Native American grants. The findings and recommendations were contained in a written report that was published in January 2008.⁴

The primary tool used in the study was a survey instrument, consisting of 94 questions identifying potential legal issues within 12 substantive categories. The assessment also included focus groups in rural communities that were asked to prioritize legal needs. Based on the responses received, the needs assessment identified five priority areas: wills and estate issues, housing, consumer, education, and family/domestic violence.

Since the 2007 needs assessment, LSND has engaged in a continuous assessment process with community organizations, advocates, the courts, the bar association, and clients to evaluate new and compelling legal issues. The program also relies heavily on data from its case management system and its relationships with community partners in order to evaluate the current legal needs of its client population across the state.

RECOMMENDATION:

I.1.2.1:* As resources permit, LSND should engage in a new, updated comprehensive needs assessment, for both the basic field and Native American grants. The assessment should involve a variety of tools that may include GIS mapping, focus groups, surveys, and other

³ Recommendations in this report will be identified by a Roman Numeral cross-referenced to the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding, and a number designating whether it is the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, Finding 14, third recommendation under finding 14. There are two tiers (levels) of recommendations in this report. Recommendations marked with an asterisk* are Tier One Recommendations and are intended to have a direct and major impact on program quality and/or program performance. In your next grant renewal application or competitive grant application, instead of submitting a full narrative, your program will be required to report what it has done in response to Tier One Recommendations.

⁴ <http://law.und.edu/files/docs/other/ndlna-final-report-08.pdf>

methods available to assess the need of its client population. It should also seek input from clients, community partners, the judiciary, bar, and other legal services providers. LSND should consider posting a needs assessment input form on its heavily trafficked website.

Finding 3: LSND sets priorities annually and develops approaches to achieve them based on available resources; however, there are no case acceptance guidelines associated with those priorities.

The LSND board of directors annually reviews the program's priorities. The board relies on recommendations made by the program's executive director and litigation director. The priorities are sufficiently broad to address the most pressing legal needs of the low-income population of the service area and are reflected in the case closure statistics. Furthermore, program staff members are aware of the case priorities.

LSND's 2014 program priorities included family law and children (juvenile court cases, custody, divorce); housing (landlord/tenant evictions, access to subsidized housing, FEMA-related issues); health and safety (domestic violence protection orders); income maintenance (Medicaid appeals, children's SSI; food stamps); consumer (bankruptcy, mortgage foreclosure, collection defense); elder (wills, elder protection); and access to justice systems for Native Americans (AIPRA wills⁵, tribal court cases, cultural name changes). LSND's resources appear to be reasonably allocated to meet current priorities. Resources are considered on statewide and regional levels.

LSND's current case acceptance guidelines do not identify the level of service LSND will provide for their priority cases. The program has established projected numerical goals for cases in priority areas that could range from advice to full representation. For example, in 2014, the program decreased the maximum number of divorce/custody cases it would accept at any given time. However, there are no guidelines that explain the factors that the program will use to evaluate which cases will receive advice versus full representation and those to be referred to other providers.

RECOMMENDATIONS:

1.2.3.1: LSND should adopt program priorities that are consistent with the results of the needs assessment.

1.2.3.2:* LSND should establish written case acceptance guidelines for its core priority work and disseminate those guidelines to all intake and case-handling staff.

PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.

Finding 4: LSND branch offices are clean and professional; however, some offices could benefit from improved signage and separate, private interview spaces.

⁵ AIPRA is an acronym for the American Indian Probate Reform Act of 2004 and is legislation that reformed American Indian Probate rules and helps to facilitate the consolidation of Indian land ownership across the nation.

LSND provides broad access to its services. The program has offices located in three distinct geographic areas of the North Dakota: Northwest, South and the Red River Valley (which is in the northern region). The program has also established a weekly outreach site in Grand Forks and has long standing locations on the two largest Indian reservations in North Dakota. Members of the OPP visit team visited four of the program's five branch offices, located in Bismarck, Minot, New Town, and Fargo.⁶ The visit team experienced challenges finding the entrances to the Fargo and Minot offices. At both locations, the street signage was highly visible but it was difficult to locate the office entrances.

Overall, the visit team found that reception areas at branch offices were clean and professional in appearance with adequate seating and an abundance of educational brochures. In the Minot office, educational brochures were available after-hours outside of the office doors. Parking is readily available. All offices are accessible to persons with physical access challenges. The Minot office lacked a separate room or area for staff to conduct in-person interviews. This has resulted in receptionists conducting interviews in open areas that do not provide clients privacy or preserve confidentiality.

Interviews with stakeholders revealed that the LSND staff treats clients with dignity, sensitivity and respect. The staff was described as professional and caring.

RECOMMENDATIONS:

II.1.4.1: LSND should consider improving its signage in Fargo and Minot to ensure that applicants and clients can easily access the program's offices.

II.1.4.2:* LSND should address the issue of separate and private interview rooms in the Minot office to aid in privacy and confidentiality.

Finding 5: The statewide intake system is a valuable component of LSND's services and has enhanced access and delivery of legal services to low-income persons.

Telephone Intake

LSND has a designated intake unit located in its Minot office, which provides intake screenings program wide, known as the Central Intake Office (CIO). The program has operated the CIO since 1998. LSND publishes two toll-free telephone numbers, one for general intake, and the other for applicants 60 years and older.⁷ General telephone intake is available between 9 a.m. to 3 p.m. on Monday, Tuesday, and Thursday, supplemented by intakes for applicants who walk in during office hours.⁸ For applicants age 60 and older, LSND maintains a dedicated intake line that operates Monday through Thursday between 8 a.m.-5 p.m. and Friday between 8 a.m.-2 p.m. Nearly 75% of all intakes are handled by telephone utilizing the centralized intake system.

⁶ The Bismarck and Fargo offices relocated at the end of 2013.

⁷ The program receives special funding to support its senior telephone line.

⁸ The majority of the walk-in applicants are in the New Town office which is located on an Indian reservation. Staff report that walk-in applicants are rare in their basic field offices.

The OPP visit team was provided with data reports for intake calls received from January 1, 2014 through October 9, 2014. The data reports indicate that the average wait time in the intake queue was 7.5 minutes and, upon exiting the queue, the interview with intake liaisons lasted, on average, 10 minutes. The average time when calls were abandoned was five minutes on the general intake queue and four minutes on the senior telephone line. LSND reported in its 2014 annual report that in 2013 they received 7,756 applications for legal help and provided some legal help in 67% of those requests.

Prior to entering the intake queue, callers can choose to hear recorded information about the program and general legal topics. Callers are not provided the option to place themselves in automatic rotation for a system call back when a line is available or to leave a message when lines are busy or when calling outside of office hours.⁹

The use of a new scanner/copier allows the CIO to alert staff to a new case much more efficiently, reducing the wait for clients from five days to a few minutes to get documents to branch offices.

Staffing and Capacity

At the time of our visit, the CIO staff included the litigation director, who supervises the intake unit, an intake coordinator, three part-time intake paralegals,¹⁰ a part-time secretary/screener, and a rotating “attorney of the day.” All intake staff have been trained to screen applicants for financial eligibility, conflicts, and citizenship. Staff have also been trained to determine whether applicant inquiries fall within the program’s general priorities. Intake paralegals are responsible for handling all incoming calls, walk-ins, online intakes,¹¹ and applications received through the mail. Applicants are also screened for eligibility for the State Bar Association of North Dakota’s (SBAND) Volunteer Lawyer Program and Reduced Fee Program.¹² On average, the intake unit receives approximately 135 intake calls per week, 25 intake applications from the online site, and 5 mail intake applications.

The CIO is staffed with experienced advocates and managers who skillfully manage both the intake and technology needs of the program. The litigation director is responsible for supervising the CIO. He also rotates as an “attorney of the day”, serves as back up for both intake and IT, and manages the Minot office. He is supported by the CIO intake coordinator, who oversees the daily intake and technology operations statewide, decides staffing patterns, monitors call volume, supports the intake paralegals, and is a case-handling paralegal. She is also responsible for the creation and development of LSND’s online intake system that was launched in 2001.

⁹ The senior telephone line allows callers to leave a message if they call the program outside of normal intake hours.

¹⁰ As a result of funding cuts, all non-attorney staff work a part-time schedule with the exception of the intake coordinator and the chief fiscal officer

¹¹ The online application has been redesigned and is now accessible both by computer and smartphone. Also, the program is now beginning to capture email addresses for applicants that are included in the intake application.

¹² Those applications that meet the requirements of the State Bar Association of North Dakota volunteer lawyer program or reduced fee program are transferred electronically on a daily basis.

Attorney staffing for the CIO is provided through a rotating “attorney of the day” system. Through this system one of three assigned LSND attorneys reviews all incoming cases, in addition to their regular assigned duties. During intake hours, the “attorney of the day” provides feedback on intakes to ensure appropriate, consistent legal service and the proper assignment of cases.

The intake paralegals and intake secretary bring extensive experience to LSND. They have been formally trained and use a comprehensive intake manual, last updated in August 2014. The manual clearly and effectively communicates the program’s intake procedures. The program holds quarterly intake meetings to confirm procedures, review the intake manual, and provide feedback.

All intakes are completed using LSND’s case management system, Kemp’s Prime Case Management System (“KEMPS”). Once eligibility is established, the intake paralegals confer with the “attorney of the day” for review and to seek direction on how the case will be assigned. While advice is typically provided for cases in which only limited representation is provided, that does not occur in cases assigned for extended representation. Limited action and/or referral assistance is generally provided in four hours for cases in which extended service will not be provided. However, it may take two days for the client to receive notice that the case was assigned to an advocate for extended representation or further investigation and evaluation.¹³

As mentioned earlier, LSND does not have documented case acceptance guidelines to further refine the level of service to be provided to eligible clients. The “attorney of the day” evaluates case acceptance for advice and the local office later evaluates whether to provide extended representation. Interviews conducted on site by the OPP visit team indicate that intake staff are not aware of the case acceptance guidelines and often rely on past practices to gauge the level of assistance that may be provided.

Online Intake

Over the past several years, the program has seen an increased utilization of the online intake system, which was created in 2001. LSND was one of the first programs in the country to launch an online intake system providing applicants access to legal services.

The program offers access to its online application 24 hours per day. When an online application is submitted, it is stored in a database on a server located in the CIO. This database is separate from the program’s general client management system database. The intake data is scanned for viruses and conflicts of interest before being transferred into KEMPS. When an application is submitted, an email is sent to three staff members in CIO. Each online applicant is contacted to confirm the information provided. These applications are handled by staff after the general intake telephone lines are closed. The intake coordinator and litigation attorney refer over-income cases and those with conflicts.

¹³ For cases originating through the online intake process, it can take 5 days to receive limited action and/or referral assistance, and up to seven days to receive notice that the case was assigned to an advocate for extended representation or further investigation and evaluation.

The online application is a basic form that gathers personal and financial information as well as a description of the applicant's problem. The notice to applicants states that LSND is only able to help people if their problem exists in North Dakota. It does not identify the legal problems the program is able to assist with. The online application also does not provide any resources or referral information.

This system lacks the complexity of more modern online systems that provide applicants with an interactive experience and guides them through the site using logic models. The newer systems are also able to assist applicants with non-legal resources or referrals for applicants who are over income for the program's services.

Branch Offices

Applicants for services may also walk in to any of the branch offices to complete an intake. Branch office staff evaluate applicants to determine whether there are factors that warrant branch staff completing an application or if the matter should be transferred to CIO. Factors that are considered include: emergencies, impending deadlines, access issues, staff availability, hardship suffered by the client, or weather-related issues. If none of those factors are present, applicants are provided space in the branch office to call the CIO.

Intake System Technology

The CIO telephone system is nearly ten (10) years old and is in need of replacement. Most critical functions still work, but LSND has challenges in accessing call data. The intake coordinator is the only person with access to the reporting module, call center, and its dashboards because the current configuration lacks the ability to provide the dashboard to other users and getting information from the reporting module is quite cumbersome. Still, the current system can provide some data about call traffic, average talk time, the number of calls, average hold times, and the percentage of calls abandoned.

LSND uses a patchwork of VOIP and analog telephone lines to meet its needs. Some calls can be routed from CIO to other offices, but the number of VOIP telephones is limited in some locations. The current system supports 14 lines, and there are five shared lines between Minot and Fargo for outgoing calls. Fargo is the only branch office that uses all VOIP handsets, six lines are dedicated to the toll-free central intake office, two lines are designated for the senior hotline, and an analog fax line can also be used as a regular telephone line. The program has considered using electronic faxing, or e-fax, but would need a T1 line, which they presently do not have.

The executive director, litigation director and intake coordinator all identified the need for a new telephone system during the visit. The program has started investigating the cost for replacing the telephone system.

RECOMMENDATIONS:

II.1.5.1:* As resources permit, LSND should consider adding a dedicated attorney to supervise the intake staff and to review cases for staff assignments.

II.1.5.2:* LSND should upgrade its online application to include the types of cases that will be accepted and referral resources that will allow the program to efficiently use its limited resources to serve the client community.

II.1.5.3:* As resources permit, LSND should purchase a new telephone system equipped with a virtual call center, advanced reporting software, and the option of automated call-back features that will enable the program to better serve the client community and to examine intake calls to further refine its service delivery and staffing.

Finding 6: LSND is actively engaged with the client population.

LSND spends a considerable amount of time ensuring that information about their services is widely published. In addition to the information contained on the program's website, www.legalassist.org, and available at local branch offices, there are posters and brochures in every county in the state on various legal topics. The program also provides educational outreach through presentations at community service events, before tribal organizations, and at fairs and seminars across the state. LSND produces a biannual newsletter that is forwarded to judges, attorneys, social service programs, and clients. Finally, the program produces a half-hour television promotional segment that has been televised on public television.

LSND maintains an active year-round outreach schedule that is published in its biannual newsletter and online. These activities often involve LSND partnering across the state with community organizations that also serve the needs of the low-income population in North Dakota, including homeless and domestic violence shelters, mental health providers, community colleges, the University of North Dakota School of Law, senior centers, community action centers, the State Bar Association, and the state court system.

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

Legal Representation

Staffing and Expertise

Finding 7: LSND is comprised of a core group of new and experienced advocates as well as experienced practitioners new to legal services who provide quality services to their clients.

The program has a committed and highly dedicated staff that provides quality legal services. This is due in part to the program's ability to attract and retain both very experienced and newly admitted attorneys. Some advocates previously worked in the private bar and have decided to dedicate their careers to public interest law.

At the time of the visit, the attorney staff consisted of two senior attorneys, two newer attorneys (3-5 years of experience), two experienced attorneys new to legal services, and the executive director, who has 37 of experience and the litigation director, who has 25 years of experience. Both the executive director and the litigation director actively handle cases. The average level of experience for attorneys is 20 years and the range of experience spans from two to 37 years. The program plans to expand in 2015 to add another attorney position. The non-attorney, advocate staff also represent a combination of experience levels, and the team was impressed to learn that at least three staff members had been with the program for over 27 years.

Given the limited advocate staff size, all advocates are considered generalists. It was, however, evident to the visit team that both attorneys and paralegals have developed expertise that brings a depth to LSND's work. The program has perhaps the most experienced practitioners in the state in areas of housing, employment, consumer, family, elder, and Indian law. The visit team's interviews with the attorneys about their cases indicated that they are knowledgeable of the areas of practice, show sound case planning, and make use of available research tools and expertise.

Finding 8: LSND attorneys have the capacity to produce high quality legal work and have engaged in extensive advocacy on behalf of the client community; however, the program is not maximizing the legal skills of its highly experienced advocates.

Quantity and Quality of Legal Work

LSND generates a relatively high number of cases. For 2013, the program closed a total of 3,896 cases of which 3,400 were limited service and 496 were extended services. For 2013, the program closed 423 cases per 10,000 poor persons as compared to the national median of 211. Extended cases were 59 per 10,000 poor persons as compared to 47, and contested cases were 32 per 10,000 poor persons as compared to the national median of 26. The three substantive areas with the highest case closures were family law (31%), employment (24.6%), and housing (10.6%). The staff caseloads are between 20-30 cases each.

The program and its work are respected by the judiciary, community organizations and agencies throughout its service area. A review of writing samples indicated a demonstrated capacity to engage in complex litigation. The documents were sufficient to meet the purpose for which they were intended and were full of examples of significant individual advocacy including; motions for summary judgment, request for sanctions against a long-term care facility seeking to terminate its contract with an elderly senior, and a memorandum of law in support of a motion for temporary restraints, filed in federal district court against the state Department of Transportation and the owner of a mobile home park. LSND advocates also filed an amicus brief with the state Supreme Court on behalf of a victim of domestic violence. Since the formation of LSND in 2004, the program has been involved in representing nearly 40 low-income clients in appeals before the North Dakota Supreme Court. Some of the more significant cases have challenged whether a tenant materially breached her public housing lease; and the denial of unemployment benefits on behalf of a client who claimed wrongful discharge by the employer.

LSND advocacy staff engages in a high volume of limited service cases and the cases that involved extended representation often involved individual representation that covered routine issues and were not cutting edge or novel legal theories. Interviews with staff also revealed an eagerness to engage in more strategic advocacy to address more systemic issues across the state. There was a sentiment that due to the limited size of the advocacy staff and the multiple responsibilities of managers, the program has not identified significant issues that could be addressed by the advocacy staff. Management shared that they too want to pursue impact and strategic litigation and planned to file housing cases in the federal court shortly after our visit that would begin to address the issues expressed by staff.

Over the past two years, the program has hired several very experienced attorneys who have come to LSND with expertise in both employment and consumer law. While the program has allowed these practitioners to expand their legal work to those specialty areas, their experience is not being used to support the advocacy efforts program wide.

RECOMMENDATION:

III.1.8.1:* *The program should determine how to best utilize the skills of its experienced attorneys to bolster advocacy across the state through the internal training and mentoring of staff.*

Finding 9: There is no formal orientation and or ongoing mentoring for less experienced advocates.

Interviews with staff indicated that new advocates are not provided with a formal orientation. The program places a high value on attracting and retaining new staff, and has identified this as a goal under its strategic plan; however, there is no formal orientation and ongoing training to support professional growth and development. It could be particularly valuable for the program to engage in a process to formalize and articulate their development plan for newer advocates.

RECOMMENDATION:

III.1.9.1:* *LSND should establish a formal orientation for new advocates and create a professional development plan to advance advocacy skills.*

Legal Work Management and Supervision

Finding 10: The legal work management and supervision at LSND is loosely organized and informal.

The advocacy efforts at LSND are led by its litigation director who serves in multiple positions within the organization. The litigation unit operates with a case management manual that was recently updated in August 2014. The manual contains LSND 2014 priorities and outlines procedures for basic case management. The document lacks methods to assure goal achievement and the means of oversight.

Interviews conducted with staff indicated that supervision is informal and is generally initiated

by staff when they are seeking advice from a colleague. Cases accepted at intake are reviewed by the litigation director and then assigned to staff based on existing caseloads, the nature of the case, and other organizational priorities. Case acceptance meetings are conducted on a regular basis in branch offices. While most advocates are highly experienced, there was a concern from some staff that there were not regularly scheduled meetings of advocates to discuss trends, cases of significance, and strategic advocacy efforts – a practice that had been instituted by the litigation director but eventually became unstructured and staff lost interest.

RECOMMENDATIONS:

III.1.10.1: The litigation director should reinstitute regular meetings of advocates and delegate some responsibilities to an experienced attorney to lead the meetings

III.1.10.2: LSND should develop a case supervision and management manual that provides detailed protocols for case work and oversight.

Staff Training

Finding 11: The program dedicates resources to training and provides training opportunities for staff, but does not have a comprehensive online tool for advocates.

LSND's advocates and support staff appear to have access to sufficient training resources and opportunities to enable them to carry out their responsibilities knowledgeably. The program has a good training culture. All staff have access to online materials and research tools, including Lexis/Nexis and state based research services.

LSND's website contains a password protected portal for staff that is called the *Advocate's Corner* and includes a limited number of online training modules, a brief and form bank, and electronic versions of the program's administrative, intake, and case management manuals and forms. The site provides links to poverty related sites including HUD, the Center for Medicare and Medicaid Services, and the Shriver Center. Interviews with staff indicate that it is often difficult to access pleadings from the brief bank and other internal sites because they are not categorized for the ease of the user and thus are too time intensive to access.

The program has developed and hosts two continuing legal education seminars a year for members of the private bar, which are also open to LSND staff, providing an ongoing source of local and regional training opportunities for program advocates. The topics covered at the seminars include: fair housing, child support, human trafficking, guardianship, and an employment focused presentation on a topic impacting low-wage workers.

Although the program has faced financial constraints that have limited the training budget, staff report attending statewide conferences on aging and disability, national juvenile training events, and advocacy training sponsored by the National Institute for Trial Advocacy. In addition, LSND advocates have served as trainers at events addressing Indian law, elder law issues, housing rights, and domestic violence.

RECOMMENDATION:

III.1.11.1:* LSND has a wealth of information in “Advocate’s Corner” and the brief bank but should compile the content into one location using a centralized knowledge management system.

Native American Unit

Finding 12: The program engages in high-quality advocacy on behalf of the Native American community, has an impressive record of representation, and is respected by the tribal courts and community.

The Native American Unit (NAU) serves three reservations across the state with offices located in New Town, Belcourt, and an outreach site in Fort Totten.¹⁴ These offices serve the Fort Berthold Indian Reservation, home of the Mandan, Hidatsa, and Arikara Nation, also known as the Three Affiliated Tribes; Turtle Mountain Indian Reservation, home of the Turtle Mountain Band of Chippewa Indians; and the Spirit Lake Indian Reservation, home of the Spirit Lake Sioux Tribe.

LSND has assembled a small but proficient staff of highly trained and committed professionals to address the distinctive needs of this low-income population. The NAU is managed by the executive director who has extensive experience handling Native American issues. The executive director is supported by two senior attorneys and three paralegals. The on-reservation staff is split between the three above-mentioned locations. All paralegals are Native American, and along with the attorneys, are highly experienced in Native American law. LSND has a strong relationship with the Native American Rights Fund (NARF) and is a member of the National Association of Indian Legal Services (NAILS).

Intake is done mostly in person at the LSND offices or otherwise at outreach sites; however, when necessary, NAU staff also make home visits especially for elderly clients. In order to accommodate non-English speakers, the program has developed a very effective system using volunteer interpreters – and also has a paralegal in Fort Berthold who speaks fluent Hidatsa.¹⁵ The NAU assists with custody and paternity cases, powers of attorney, Bureau of Indian Affairs (BIA) trust wills, probate and advanced directives, and tribal name changes. Practitioners and tribal advocates regularly appear in tribal court. LSND also operated a very successful volunteer income tax assistance program and low-income taxpayer’s clinics (LITC) on all three reservations.¹⁶ Through its LITC, LSND assisted low-income taxpayers with tax problems and controversies with the IRS. In 2013, LSND staff and volunteers prepared 745 federal income tax returns that generated roughly \$1.4 million in tax refunds and earned income tax credits.

LSND places an emphasis on outreach activities and initiatives, maintaining a very robust schedule throughout the year. Over the past year, for example, the NAU staff have taught Indian

¹⁴ The outreach site is located at Cankdeska Cikana Community College in Fort Totten.

¹⁵ Hidatsa is an endangered Siouan language and is spoken by the Hidatsa tribe primarily in North and South Dakota.

¹⁶ LSND ended its participation in the LITC in 2014.

and consumer law classes at community colleges at Fort Berthold and Standing Rock, made presentations at Elder Day celebrations at Fort Berthold and at Fort Totten, assisted with AIPRA wills in multiple visits to Twin Buttes and Parshall, worked with youth at Turtle Mountain Reservation in tribal court,¹⁷ and addressed the needs of the low-income Native Americans living on Fort Berthold and Spirit Lake Reservations, with a major focus on serving the elderly.¹⁸

The OPP visit team learned that some of the potential undesirable effects of the oil boom involve land use issues and domestic violence on the reservation, although there have not been many cases thus far. Staff noted that they have seen more consumer and collection cases in the Fort Berthold and Spirit Lake offices, as clients now have more disposable income.

Tribal court judges interviewed during the visit praised LSND paralegals and attorneys for their assistance to the tribal court and the greater community. The NAU represents clients in a spectrum of legal venues, including tribal courts, appeals to the U.S. Department of Interior, and federal court law suits. In 2013, the NAU closed 1,285 cases, a 16% increase over 2012. Family, employment, and income maintenance cases represented nearly half of the cases. The number of extended and contested cases also increased over the 2012 numbers.

RECOMMENDATION:

III.1.12.1: Given its expanded work in the Bakken region, LSND should explore opportunities for strategic advocacy to address needs on the reservations in this region.

Private Attorney Involvement

Finding 13: The North Dakota bar lacks a strong culture for pro bono service and the effect of the oil boom has severely affected the pool of attorneys available and willing to accept pro bono, PAI, or reduced fee cases.

PAI is managed by the executive director and a part-time PAI coordinator. LSND's PAI Plan provides for using private attorneys to conduct case work on a reduced fee contract basis, to support and advise helpline staff on a reduced fee basis, for staff training, for mentoring staff, and in community education events. LSND is active with bar committees and has a strong relationship with the State Bar Association of North Dakota (SBAND), the integrated, mandatory bar association of North Dakota. North Dakota Rules of Professional Responsibility do not require mandatory pro bono and there has not historically been a strong culture supporting pro bono efforts. SBAND reports that in 2013, there were 2,731 lawyers licensed in the state.

SBAND works closely with LSND and LSND provides screening for PAI and reduced fee cases through its centralized intake unit. As discussed above, once screened by LSND, cases are forwarded to SBAND electronically for review. Applicants then receive follow up from the

¹⁷ Funding for this work is provided by the Native American Rights Fund (NARF).

¹⁸ Fort Berthold is located in the center of the Bakken oil activity.

staff at SBAND about placement. Cases closed by SBAND are not included in LSND's case closing reports.

LSND strives to develop a PAI program that does not duplicate the State Bar's pro bono/reduced fee panel's efforts and provides legal help in gap areas. LSND's executive director serves on the State Bar Volunteer Lawyer Committee that oversees SBAND's pro bono program. LSND recently increased the contract hourly fee to \$85 per hour due to the competition generated by the oil boom and the lawyers working on cases related to more lucrative matters. The state bar has also faced similar challenges with recruitment and has attempted to attract attorneys through cases involving limited representation. The majority of the cases referred for assistance are family law matters.

LSND's executive director participated in the 2012 state pro bono task force to address the ongoing need for the profession to provide pro bono services and the need to address the growing population and funding concerns for existing programs. In addition to meeting a professional responsibility, attorneys may also receive CLE credit for performing uncompensated legal services for clients unable to afford counsel.

There have been other efforts to encourage private attorney participation in pro bono activities. In 2009, the North Dakota Supreme Court approved a new practice rule that authorizes a licensed lawyer to volunteer at an approved legal services organization.¹⁹ In exchange for working pro bono, the volunteer attorney is exempt from the state's continuing legal education requirements. The rule is geared toward retired attorneys. In September 2013, the first lawyer was authorized to practice under this rule and was sponsored by LSND. At the time of the visit, there were no other participants.

In 2013, LSND closed four PAI cases per 10,000 poor persons as compared to the national median of 21. Extended cases were two per 10,000 poor persons as compared to seven, and contested cases were one per 10,000 poor persons as compared with two. The program closed 25 PAI cases representing a mix of family, housing, and consumer issues; 19 were compensated cases and six were in-house pro bono.

RECOMMENDATION:

III.2.13.1:* LSND should continue working with the bar and judiciary to stimulate more participation in PAI, and develop more varied opportunities for private attorneys such as participation in clinics, provision of advice as part of the CIO, or transactional assistance .

¹⁹ A lawyer seeking authorization to practice under the rule must file an application with the State Bar of Board Examiners, certifying that the lawyer is either presently licensed to practice law in any jurisdiction or has been licensed for at least five of the 10 years preceding the application. There must also be an accompanying certification from the legal services organization stating that the attorney is an unpaid volunteer. Authorization to practice under the rule expires when a lawyer ceases to be supervised by the legal services organization.

PERFORMANCE AREA FOUR. Effectiveness of Governance, Leadership, Administration.

Board Governance

Finding 14: The LSND board of directors is extremely committed to the program and its mission.

The LSND board of directors, as a whole, is engaged, active, and generally well-informed about the issues currently facing the program. The board consists of 12 members, each serving three-year renewable terms. The bylaws provide for the appointment of eight (8) attorney members by the State Bar Association of North Dakota (SBAND) and of four (4) client-eligible members by appropriate and diverse non-profit organizations. The bylaws also require that the board have at least two members who are Native American and at least one member who is 60 years of age or older. The appointment process is designed to secure nominations of persons with a demonstrated commitment to civil legal services and who reflect the diversity of the population of the service area. The board includes at least two attorneys who hold an undergraduate degree in accounting.

Board members' dedicated commitment to serve has resulted in very little turnover. The majority of the members have served on the board for at least 10 years. The longest-serving member was on the board of one of the merged programs and had served as president of that board for four years. Interviews with board members and a review of board meeting minutes reflect a high level of engagement in quarterly meetings. Board members expressed respect for the leadership and staff of LSND and the opinions of their board colleagues. This respect extends to client-eligible members who have been involved in various committees and welcomed by attorney members. Currently, the board vice president is a client-eligible member.

Board officers include the president, vice president, and secretary/treasurer. Officers are elected by the full board and serve for one year. The board also has two standing committees: executive and audit and finance. The bylaws allow for other committees to be established, based on necessity, including bylaws, nominating, fundraising, and planning committees. All committees are required to have client-eligible member participation.

The board meets quarterly. Two meetings are in-person, and two occur via videoconference. Board packets are available either in hardcopy or electronically through a password-protected portal on LSND's website. LSND reimburses members for travel, meals, and lodging. Carpooling to board meetings is highly encouraged. Meeting agendas and minutes are also available on the program's website. Full board meetings may include oral and written reports by the litigation director, staff, and the executive director. The audit and finance committee meets at each board meeting, reviews the budget, and discusses any deviations. The board approves the budget and program priorities annually.

There is no formal, written orientation or training of board members, and long-serving members interviewed could not recall ever participating in any such orientation or training. The visit team was provided with sample letters given to newly appointed board members. Included is a form

letter authored by the executive director, which acknowledges the board appointment and provides information about travel reimbursements, board meeting dates, and information about accessing the website board materials. The introductory packet also included two one-page documents—the first providing the history of LSND, and the second listing the responsibilities of board members.

The board and the executive director have an excellent working relationship. Several board members worked in partnership with staff, management, and a consultant to develop the strategic plan. The board adopted the plan in September 2013. The plan was developed to identify key priorities for the program that promote growth and collaboration. The new strategic plan was necessary after several years of funding cuts that had resulted in the reduction of staff hours, community education, and outreach.

Board members interviewed spoke highly of the executive director's leadership and commitment to the program. However, the board has not formally evaluated the executive director in several years, nor have they planned for executive leadership succession other than discussing the continuation of operations. Interviews with board members indicate that there was no clear consensus about how to move forward with succession planning. Board members interviewed understood the importance of the planning process and were supportive of the endeavor.

RECOMMENDATIONS:

IV.1.14.1:* The board of directors should develop written board orientation and training materials. Examples are available on LSC's Resource Information website, lri.lsc.gov.

IV.1.14.2:* The board of directors should develop a written leadership succession policy and plan for the executive director position, and other key leadership positions. This should be coupled with enhanced leadership development of current LSND staff. Examples are available on LSC's Resource Information website, lri.lsc.gov.

IV.1.14.3:* The board of directors should conduct a formal performance evaluation of the executive director at least every two years and, ideally, on an annual basis. There should be input from staff, board members, external partners, community stakeholders, and others.

Leadership, Management and Administration

Finding 15: LSND's leadership includes a strong and respected executive director and management team.

For nearly 40 years, the executive director of LSND has served the needs of low-income North Dakotans. In 2004, he was hired to lead the newly-formed legal services program LSND, following the smoothly executed merger of Legal Assistance of North Dakota (LAND) and North Dakota Legal Services (NDLS). Over the past 10 years, the executive director has remained a stalwart for promoting access to justice and has served on multiple bar committees, North Dakota Supreme Court committees, and community taskforces. He is held in high esteem by the board of directors, judges, community agencies, and other key stakeholders. Interviewed

staff members see the executive director as approachable and attentive to the needs of the staff and the client community.

With ongoing funding reductions and staff attrition, the executive director has gradually taken on additional responsibilities, including being the manager of two of the program's offices, director of the Native American and Title III Aging Services work, deputy director for fundraising and grant writing, and part-time human resources director. These efforts have been important in maintaining continuity of services across the state and averting further funding losses. They also demonstrate the need to fill existing gaps left by funding cuts including: a deputy director, resource development director, and dedicated IT director. The strategic plan attempts to address this issue through continuity planning which identifies key roles within the organization that require a significant amount of cross-training and sharing of institutional knowledge. This goal, however, is not currently attached to a timeline or milestones.

LSND's leadership currently rests with a team who are recognized by staff and others as key to the organization. The team includes the executive director, litigation director, and fiscal officer. The distribution of all program management responsibilities falls under these three positions. The litigation director, based in the Minot office, also manages the centralized intake unit and the Minot, Fargo, and Grand Forks branch offices, and serves as the deputy director of training, litigation support for all offices, and IT backup. The chief fiscal officer is responsible for payroll, human resources, grants writing and management, and oversees the implementation of the strategic plan. Given that multiple, critical functions are handled by only a few key individuals, the program has started cross-training other staff in these duties and responsibilities, in accordance with its strategic plan.

RECOMMENDATIONS:

IV.3.15.1: LSND should continue cross-training staff on duties and processes currently managed by senior leadership, managers, and directors. Where possible, such duties and processes should be written in sufficient detail to preserve institutional knowledge.*

IV.3.15.2: As resources permit, LSND should consider hiring a deputy director who can manage some of the responsibilities currently handled by existing managers and directors.*

Technology

Finding 16: LSND has an adequate technology infrastructure and experienced and capable technology staff, although there are some areas where modernization would be appropriate.

LSND's technology team consists of the litigation director and intake coordinator, who are both capable IT professionals. The technology team received high marks from colleagues for their knowledge and responsiveness. They both operate out of the Minot office. All offices are connected with a wide area network (WAN). The WAN is set up using servers, routers and firewalls providing a local area network in each office that is linked to a central server, forming the WAN. The intake coordinator is responsible for the hardware support. She adds and updates

users to the domain, adds extensions, and handles some of the maintenance issues with the telephone system. She is also responsible for maintaining a complete technology inventory.

As a part of the strategic planning process, LSND identified goals and corresponding future enhancements to its current technology plan. Many of the goals involve the ongoing study of services available across the state to improve their current systems for staff and applicants.

The internet access equipment ranges across offices from DSL lines to cable internet service. The program reports that there are no consistent options across the state and hopes to study this issue to determine what combination of services will be more effective. This is a goal that has been identified in LSND's strategic plan.

The Minot office houses the central server and CIO. All files are stored on the network, which is backed up every day. The SQL server²⁰ is backed up twice a day. There is replication on each server.

Each office has a Computer Responsible Person (CRP) who serves as a local point-of-contact and provides assistance to the intake coordinator. When staff experience technology-related problems, they are instructed to contact their office CRP first and, then, if the problem is not resolved on the local level, the intake coordinator can diagnose the problem. These resources are supplemented by outside vendors, including one primary and several secondary available resources.

All workstations operate with WordPerfect Office X4, Microsoft Office Professional Plus 2007, and Microsoft Exchange for email. LSND uses KEMPS Prime for case management. The program maintains its own web/mail server and software, providing each staff member with their own email address and individual access to the Internet. Real Popup IM is available on every workstation so it can be used to instant message anyone in the program. LSND recently purchased *GoToMeeting* and they are planning to use it for meeting and training opportunities.

However, LSND is facing some technology challenges. As discussed above, the telephone system is nearly 10 years old and in need of replacement. The components of LSND's technology are not yet integrated and the telephone, fax lines and computers are not networked.

RECOMMENDATIONS:

IV.3.16.1: As resources permit, LSND should hire a full time IT director to address the short and long term technology needs of the program.

IV.3.16.2:* LSND should secure free or low cost helpdesk software to increase efficiency in addressing program helpdesk needs.

²⁰ SQL is an acronym for *Structured Query Language*. SQL is used to communicate with a database.

Technology Training

Finding 17: LSND has unmet program wide technology training needs and needs a method for tracking helpdesk requests.

Interviews on site indicated that some staff were uncomfortable with the program's technology and needed additional training on the computer's functionality. Interviews also revealed that, in prior years, the program engaged in a more systematic technology training approach, but this practice has not been followed recently. Although each office is equipped with a CRP to trouble shoot technology related issues in the office, this does not appear enough to address ongoing training needs for the staff. If the CRP is unable to resolve the issue, the matter is forwarded to the intake coordinator. Interviews with staff revealed that there is no systematized method for tracking these requests and categorizing them as a way to identify potential training or technology needs.

RECOMMENDATION:

IV.3.17.1:* LSND should provide comprehensive and ongoing technology training for its entire staff. This should include training modules for staff in various positions throughout the program.

Financial Administration²¹ and Human Resources Administration

Finding 18: LSND has an experienced fiscal and human resources staff.

The chief fiscal officer (CFO), with the support of two part-time administrative employees, leads LSND's finance and human resources team. The CFO has been with the program for two years and brings experience in both fiscal management and human resources administration. LSND utilizes commercial accounting software, Abila MIP, and KEMPS, to record employees' time and run payroll. The program's accounting manual has been updated to comport with the 2010 *LSC Accounting Guide* and other federal and LSC requirements. The CFO prepares a proposed budget annually, which is reviewed and discussed with the executive director and the audit and finance committee.

Due to the current uncertainty in funding, LSND engages in budgeting and financial planning over a one-year period. The fiscal staff administers 14 grants and contracts and they report quarterly to the board of directors. The program utilizes a statewide accounting firm to perform its annual audit and to prepare its financial reports. LSND has used this accounting firm for several years and states that past audits and outside reports have not revealed any material findings. The program also indicates that the accounting firm has specialized experience working with non-profits, which is not readily available in the state.

²¹ This visit was conducted by the LSC Office of Program Performance (OPP) for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

LSND does not employ a dedicated human resources professional. The CFO, executive director, and part-time administrative staff share the responsibility for human resources. The program has a complete set of benefits to support staff retention. This includes individual health, dental, vision, and life insurance, a flexible benefit plan, and a 403(b) retirement plan with an employer contribution. Full-time employees have 100% of their health insurance premiums paid, while part-time employees have a pro-rated amount. LSND provides its attorneys with paid CLE and bar dues, family leave, access to several loan forgiveness programs, participation on state bar committees, flex time, and the opportunity for teaching positions at the local community colleges.

LSND's strategic plan includes strategies for addressing workforce challenges, including the need to assess the training of staff. However, the program does not conduct regular staff performance evaluations and the job descriptions are not fully developed. The visit team was provided with evaluation forms dating back to 2005 and 2007. Staff interviews revealed that job descriptions often did not match job titles and responsibilities. This was especially evident with the non-attorney staff. Interviews also indicated that staff would benefit from updated job descriptions and regular performance evaluations as a means of fostering professional growth and a way to recognize their work.

RECOMMENDATIONS:

IV.4.18.1: Due to the challenges associated with identifying a new audit firm, LSND should consider rotating members of the current audit firm to avoid complacency or the danger of familiarity when performing the annual audit.

IV.5.18.2:* LSND should develop job descriptions for purposes of recruiting, hiring, and completing performance evaluations.

IV.5.18.3:* Written performance evaluations should be conducted on an annual basis for all staff to promote professional growth and leadership development.

Internal Communication

Finding 19: LSND has methods in place for internal communication, yet some staff feel that the systems are inadequate.

LSND uses technology effectively to communicate with staff and has purchased video conference equipment to conduct meetings and trainings. The executive director provides staff with a monthly update on program developments, and the program's website contains a plethora of information about program activities. However, some staff expressed to the visit team that they are not always aware of the work occurring in and between branch offices. Other staff mentioned to the visit team that they would like to have more input on appropriate, significant decisions affecting the program. There was also a concern from staff in remote offices that there is a level of isolation from colleagues across the state and management.

RECOMMENDATION:

IV.6.19.1:* LSND should consider the use of video-conferencing or other communication tools to enhance the opportunity for staff and administration to share relevant and timely information about the work of the program and local offices.

General Resource Development and Maintenance

Finding 20: LSND has done a remarkable job of obtaining new and additional funding but should develop a more aggressive approach to fundraising in order to accomplish the goals in the strategic plan.

Resource development activities are assigned to the executive director, who works with the CFO. LSND has done a remarkable job in developing additional resources from a number of sources to fund its work. The program has also been able to maintain ongoing grants from select funders, including the Bush and Otto Bremer Foundations, for several years. However, LSND has struggled to diversify its funding base. As a result, the program has committed to identifying strategies to increase its operating budget to \$2 million by 2016. The goal and strategies are incorporated in its current strategic plan.

The program has five clear strategies to assist them in achieving this goal: 1) advocating for increased filing fees with increased allocation of dollars, 2) identifying a volunteer development director who will pursue corporate donations, 3) partnering with a partner organization to fund a full-time attorney position, 4) identifying attorneys or firms who want to designate cy pres awards to LSND, and 5) pursuing funding through county United Way branches.

LSND has started to make progress on this front. The program was recently awarded a subgrant to provide legal services to victims of sexual assault, domestic violence, and stalking in the Bakken region. This funding will support a new full-time attorney position. In addition, the program received a monetary award from a foundation in recognition of its work in creating a streamlined intake system and for increasing legal services delivery under challenging conditions. These grants will help LSND to diversify its funding and deepen existing community partnerships. Notwithstanding these significant grants and awards, the program is still operating without a dedicated resource development director, and there was no indication, during the visit, that LSND had identified a candidate to serve in this capacity. Interviews with other LSND funders revealed that LSND may have the opportunity to obtain increased funding, consistent with its organizational priorities.

RECOMMENDATION:

IV.7.20.1:* Consistent with the strategic plan, and as resources permit, LSND is encouraged to retain the services of a development professional that will work with the board and management to develop strategies to identify new funding and maintain existing resources.

Coherent and comprehensive delivery structure and participation in an integrated legal services delivery system

Finding 21: LSND is an active and respected leader in the legal community. The program maintains an open and accessible delivery model that is a key component of the statewide civil legal services delivery system.

Formed in 2003 through the consolidation of two legal providers in the state, LSND emerged in January 2004 as the primary provider of full legal services in the state of North Dakota. The program has worked closely over the past ten years to foster an integrated legal services delivery system through its work with the two other LSC-funded programs that have offices in North Dakota,²² the state bar, and the judicial community. LSND also works closely with the state bar association's pro bono panel and reduced fee panel by providing intakes and referrals of applicants eligible for their services.

LSND has taken the lead in intake, training efforts, and the provision of invaluable and critical information about the availability of legal services across the state. The program sponsors two continuing legal education events each year for members of the bar, judiciary, and advocates. For these events, the program solicits input from outside partners on timely topics and speakers for the presentations. Interviews with LSND board members, staff, and members of the state justice community, indicate that the program is an effective part of this system.

CONCLUSION

LSND has created a framework, through its strategic plan, that has allowed it to look at the long term sustainability of the program's internal operations and staffing. As the statewide provider of legal services in the North Dakota, LSND must continue to assess the needs of its growing low-income population, and identify effective outreach opportunities and delivery methods.

²² Dakota Plains Legal Services and Southern Minnesota Regional Legal Services.