



December 28, 2009

William J. Hawkes, Executive Director
Neighborhood Legal Services, Inc
237 Main Street, 4th Floor
Buffalo, NY 14203

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Buffalo, NY

Sarah M. Singleton
Santa Fe, NM

Re: Follow-Up to CSR/CMS Review, Recipient No. 233047

Dear Mr. Hawkes:

I would first like to thank you and the Neighborhood Legal Services, Inc. (NLS) staff for the courtesy and cooperation extended to the Legal Services Corporation's (LSC) Office of Compliance and Enforcement (OCE) Follow-up team of October 26-29, 2009. Second, I write to inform you that based on the information provided by the Follow-up team, OCE has determined that NLS' actions taken in response to LSC's Final Report, issued on August 17, 2007, sufficiently address the majority of the concerns expressed therein, with a few exceptions as discussed in this letter.

As you will recall, OCE conducted an on-site Case Service Report/Case Management System (CSR/CMS) Review of NLS on May 8-11, 2006. OCE identified several issues and required corrective actions designed to assist NLS in complying with the LSC Act, regulations, and applicable instructions. In the August 17, 2007 Final Report (hereinafter Report), there were 12 items slated for corrective action. During the on-site Follow-Up Review, OCE reviewed 197 case files. The Follow-Up Review team found that NLS has substantially addressed the corrective action items, with a few exceptions.

Corrective Action Items From 2007 Final Report

1. Ensure that cases handled are closed in a timely manner to avoid dormancy and not report those case files identified as dormant to LSC in the CSR data submission; where appropriate, ensure that case files being held open for an extended period of time include notations in the file or the ACMS as to the reason the files are open so as to demonstrate that the file is not dormant. As part of this, a review of all open files is warranted.

During the 2006 CSR/CMS review, OCE noted that NLS was not in compliance with the requirements of the CSR Handbook (2001 Ed.), ¶ 3.3. The case file review indicated that there was a pattern of untimely closed case files and dormant files. There were several dormant case files dating back to the year 1997.

As part of the corrective action, NLS was to ensure that cases handled are closed in a timely manner to avoid dormancy and not report those case files identified as dormant to LSC in the CSR data submission; and where appropriate, ensure that case files being held open for an extended period of time include notations in the file or the ACMS as to the reason the files are open so as to demonstrate that the file is not dormant. As part of this, a review of all open files was warranted.

Comments to the Draft Report (DR)¹ stated that to ensure that cases are closed in a timely fashion for CSR purposes, NLS is implementing a new procedure which will involve the routine periodic distribution of open file case lists and the case lists will be distributed twice per year. The case lists will identify all open cases per case handler and the date of last activity, according to comments to the DR. The case lists will be distributed to each staff member and to the Unit Supervisors on May 1 and December 1 of each year and the Executive Director will issue a memo to staff advising them of the need to close all cases which can be closed within a sixty day period following the case list distribution, according to comments to the DR. Further comments to the DR stated that each year staff will be retrained on the CSRs. Staff will also have the CSR Handbook and FAQs posted on the computer network and accessible via a mandatory desktop link to the CSR folder, according to comments to the DR. Additional comments to the DR stated that Supervising Attorneys will be responsible for ensuring the CSR compliance for their unit's staff.

During the on-site Follow-Up Review, sampled case files reviewed indicate there was a pattern of untimely closed cases and cases that remained open and dormant dating back to 2001. These cases fell into four (4) main categories: (1) SSI cases where the program was keeping the file open until it obtained a retroactive benefit calculation from the Social Security Administration (SSA) or waiting for a decision from SSA; see open Case Nos. 06-10-11000052 and 05-10-06003468 and closed Case Nos. 00-10-11002048, 00-10-11001658, 02-10-11003558, 02-10-11001209, and 00-10-11003581; (2) Divorce cases in which the Judgment of Divorce had been obtained but the file remained opened because a Qualified Domestic Relations Order (QDRO) had not been drafted; see open Case Nos. 04-30-00000676, 03-30-00000594, 01-30-CV26425, 02-30-CV27117, 05-30-00000801, and 01-30-CV25875; (3) Family law cases in which the files remained open because the program could not complete service, execute a warrant or determine whether to proceed; see open Case Nos. 04-30-00000740 (no demonstrated legal action taken since Answer filed in 2004), 05-30-00000592 (no demonstrated legal action taken since 2006), 04-30-00000685 (8-12-09 case handler notes "case still pending but dormant"), 04-30-00000657

¹ A Draft Report was issued to NLS on September 5, 2006 and the program was afforded 30 days to submit comments. Those comments were received on December 15, 2006 and incorporated as necessary into the Final Report prior to its issuance.

(no legal action taken since 2005), 03-30-00000225 (no demonstrated legal action taken since 2007); and (4) Other cases in which work on the file was complete but the file nevertheless remained open. *see* open Case Nos. 06-10-02003914 and 04-30-00000583.

Additionally, of concern were three dormant open case files currently assigned to a former employee. *See* open Case Nos. 04-30-00000583, 04-30-00000657 and, 03-30-00000225. The case handler identified in the ACMS and in case files has retired and is no longer employed by NLS.

In many of these open and untimely closed cases, NLS had not provided legal assistance on behalf of the client for many years and/or the files or ACMS contain any notations explaining why the file remained open for this extended period. *See* open Case Nos. 06-10-0200391 (NLS staff advised OCE that this case is dormant and should have been closed after the last legal assistance was provided on 7-25-06), 10-10-11002373, (SSI case remains open, however, file contains both a current and retroactive ALJ benefit award, and no further legal work or assistance is needed or has been provided since 12-14-01), 04-30-00000583 (tax case remains open, however, no legal action taken since 6-1-05 and case handler no longer employed by NLS). *See also* closed Case Nos. 02-10-11003558 (SSI case closed on 10-21-09, however, no legal action provided since 5-26-04) and 02-10-11001209 (SSI case closed on 10-6-09, however, no legal work or assistance provided since 8-24-06).

Several case files did contain sporadic notations explaining the reasons they were open, for example, *see* open Case Nos. 04-30-00000676 (no legal work or assistance taken since 3-14-05 when Decree of Dissolution obtained and only activity in file is notation on --11-08 "need to do QDRO"), 03-30-00000594 (no legal work or assistance taken since 2004 when Stipulation obtained and only activity in file is 2-10-09 notation "cannot close because still need QDRO"), 01-30-CV26425 (no demonstrated legal work or assistance taken since 3-15-02 and only activity in file is 10-2-08 notation "need to do QDRO"), 02-30-CV27117 (no legal work or assistance taken since 3-4-03 and only activity in file is 2005, 2007 and 2009 notations "keep open QDRO not complete"), 05-30-00000801 (no legal work or assistance taken since 4-24-06 when Decree obtained and only activity in file is 2007, 2008 and 2009 notations "QDRO!!"), 01-30-CV25875 (no legal work or assistance taken since 5-5-04 and only activity in file is 2007, 2008 and 2009 notations "QDRO"); and "Awaiting arrest of father,"). *See also* open Case Nos. 04-30-00000657 (no legal work or assistance taken since 2005 as there has been no execution of civil arrest warrant and file contains no evidence of NLS staff efforts to have warrant served) and a notation of "Trying to locate husband to serve." Case No. 03-30-00000225 (no demonstrated legal work or assistance taken since 2007 as service cannot be completed, and file contains no evidence of NLS staff efforts to locate whereabouts of opposing party for service and a notation of "waiting for a retroactive benefits determination," case No. 06-10-11000052 (SSI case remains open, however, no legal work or assistance taken since 10-31-07) and 05-10-06003468 (legal assistance ceased on 3-13-06 and only activity contained in file is yearly notation that case handler is waiting for retroactive benefit award notice and no legal work or assistance taken to obtain such notice). However, there were no documented efforts made by staff to actually draft

these legal instruments or obtain copies of these decisions for years on end. Thus, the files demonstrated that, although legal work may allegedly have been outstanding, the work on the file had in fact ceased and these files should have been closed the grant year after the last legal assistance on behalf of the client was actually provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b).

The 2009 Follow-Up Review evidenced that NLS has taken some corrective action with regard to dormant case files, however further staff training and/or policy development needs to be implemented to ensure program-wide elimination of dormant and untimely closed case files. The Follow-Up Review further evidenced that NLS has taken corrective action with regard to the reporting of untimely closed cases as the untimely closed cases reviewed contained staff designations that they were not CSR reportable.

2. Ensure that all cases that are referred to the PAI component include effective oversight and follow-up in an effort to ensure compliance with the requirements of 45 CFR § 1614.3(d)(3). In addition, NLS must cease closing case files that are referred to their PAI component as “referred after legal assessment;” NLS must also reevaluate and reassess its relationship with VLP to ensure compliance with 45 CFR Part 1614.

During the 2006 CSR/CMS review, OCE found no evidence of any NLS oversight of subgrantee Volunteer Lawyers Program (VLP). This lack of oversight was markedly apparent in view of the inadequacies of VLP’s TIME automated case management system for open cases. Although the NLS headquarters office is located within a few blocks of the VLP, there was minimal evidence of any NLS monitoring or evaluation. In addition, although the subgrant agreements clearly articulate that LSC shall have the same oversight rights with respect to the VLP, the VLP raised multiple objections to LSC case file access and requested an access protocol different from the one requested by NLS explain that access issue wasn’t raised until LSC on-site.

As part of the corrective action, NLS was to ensure that all cases that are referred to the PAI component include effective oversight and follow-up in an effort to ensure compliance with the requirements of 45 CFR § 1614.3(d)(3)². In addition, NLS was directed to cease closing case files that are referred to their PAI component as “referred after legal assessment” and to reevaluate and reassess its relationship with VLP to ensure compliance with 45 CFR Part 1614.

In its comments to the DR NLS proposed using a “Chinese wall” approach to CSR review of the case files in conflict. NLS and VLP will hire a third party law firm to review the CSR data and to have the firm provide NLS with a list of cases where there are duplicate client names. NLS will then determine that certain VLP cases should be made non-LSC eligible for CSR reporting

² The CSR Handbook (2008 Edition) eliminated the closing code of “referred after legal assessment.” The review of case files for 2007 did not evidence any case closure errors with this closing code.

purposes based on the fact that they are duplicates to cases to be submitted to LSC by NLS, according to comments to the DR.

Further comments to the DR stated that NLS proposed hiring the Western New York Law Center (WNYLC), a law firm, for the sole purpose of reviewing the CSR data samples against the full VLP and NLS databases. The WNYLC is particularly qualified to conduct this analysis because, not only is it a law firm, but it is the author and proprietor of the TIME case management system which both NLS and VLP use to capture and report the CSR data, according to comments to the DR. Further comments to the DR stated that WNYLC's technical qualifications allow them to manage the data by allowing a computer to conduct the duplicate testing and produce the reports. In addition, WNYLC is a local organization which does no direct client service work so there is virtually no risk of a conflict of interest with a client of either NLS or VLP, according to comments to the DR.

Additional comments to the DR stated that in January of each year, NLS and VLP will each retain the WNYLC as counsel for the limited purposes of analyzing the CSR data for the preceding year and reporting back duplicate cases or other anomalies in the data. Both NLS and VLP will have the same confidential relationship with the WNYLC, according to comments to the DR. NLS and VLP will provide copies of the self inspection samples as well as their entire databases to WNYLC for purposes of the CSR analysis. WNYLC will report back separately to NLS and to VLP the cases identified as duplicates, according to comments to the DR.

Further comments to the DR stated that NLS will then communicate to VLP the cases it must make non-LSC eligible for reporting of the CSR information and NLS will submit CSR data to LSC containing no cases duplicated by VLP.

Further comments to the DR stated that twice per year, during two of NLS' quarterly meetings, NLS will request that VLP produce a random sample of twenty-five (25) cases from their closed case list and NLS will conduct a CSR audit on those cases using the OCE CSR checklist form. NLS will use the CSR review as an ongoing oversight function to improve the quality of CSR reporting and to determine more effectively the case performance of the VLP cases reported under the sub-grant agreement, according to comments to the DR.

Further comments to the DR stated that the results of this review will be used to improve the performance of both programs with regard to the CSR reporting.

During the on-site Follow-Up Review, the PAI cases reviewed included effective oversight and follow up. The closing code "referred after legal assessment has been eliminated from CSR Handbook. (2008 Ed.)

As stated in the NLS' response to the 2006 Draft report, NLS has established a "Chinese wall" approach to CSR review of the case files in conflict. NLS and VLP hired a third party law firm to review the CSR data and the firm provides NLS with a list of cases where there are duplicate

client names. NLS then determines whether certain VLP cases should be made non-LSC eligible for CSR reporting purposes based on the fact that they are duplicates to cases to be submitted to LSC by NLS.

Additionally, during NLS' quarterly meetings, NLS requests that VLP produce a random sample of twenty-five (25) cases from their closed case list and NLS conducts a CSR audit on those cases using the OCE CSR checklist form.

VLP case review revealed that the new oversight procedures are effective and NLS has taken corrective action to comply with the requirements of 45 CFR § 1614.3(d)(3).

3. Ensure compliance with 45 CFR § 1611.3(a) by having the Board of Directors adopt new policies for determining the financial eligibility of applicants.

During the 2006 CSR/CMS Review, OCE found that NLS' Board of Directors had not adopted new policies for determining the financial eligibility of applicants as required by 45 CFR § 1611.3(a).

As part of the corrective action, NLS was required to ensure compliance with 45 CFR § 1611.3(a) by having the Board of Directors adopt new policies for determining the financial eligibility of applicants.

In its comments to the DR, NLS stated that the NLS Board adopted a new financial eligibility policy at the Board meeting on September 20, 2006. That policy establishes a single approach to determining the financial eligibility in every division in the program, according to comments to the DR.

During the on-site Follow-Up Review, OCE found that NLS' Board adopted a new financial eligibility policy at the Board meeting on September 20, 2006. That policy established a single approach to determining the financial eligibility in every division in the program. Further, during the Follow-Up Review, OCE was informed that an updated financial eligibility policy would be presented to the Board at their upcoming November Board meeting. A copy of the new policy was reviewed and found to be compliant with the requirements of 45 CFR Part 1611. Accordingly, NLS has taken corrective action to address this matter.

During the on-site Follow-Up Review, the VLP's compliance with 45 CFR § 1611.3(a) and 45 CFR § 1611.3 (d)(1) was assessed and found to be non compliant.

The subgrant agreement between NLS and VLP states that "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." As such, VLP's governing body must adopt policies consistent with 45 CFR Part 1611 for determining the

financial eligibility of applicants and groups. This policy must be reviewed by the governing body at least once every three years and make adjustments as necessary. *See* 45 CFR § 1611.3

A copy of VLP's current financial eligibility policy was reviewed and found to be non compliant with the requirements of 45 CFR § 1611.3. Some of the deficiencies are as follows:

(1) As written, VLP's financial eligibility policy has not established reasonable asset ceilings for individuals and households pursuant to the requirements of 45 CFR §1611.3 d (1). The assets listed in section III of VLP's financial eligibility policy does not include all assets as defined by 45 CFR § 1611.2 (d), and is therefore narrower than that which is required. Assets are defined as cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant. Additionally, VLP has failed to set an asset limit in its policy; (2) Section I A (1) of the financial eligibility policy states that gross income shall not include "any money received in lump sum unless it is compensation for employment" (although such money may count as an asset). This definition is broader than that allowed by the regulation. *See* 45 CFR § 1611.2 (i); and (3) The financial eligibility policy does not specify that in assessing the income of an applicant who is a victim of domestic violence, the recipient shall consider only the assets and income of the applicant and members of the applicant's household other than those of the alleged perpetrator of the domestic violence and shall not include any assets held by the alleged perpetrator of the domestic violence, jointly held by the applicant with the alleged perpetrator of the domestic violence, or assets jointly held by any member of the applicant's household with the alleged perpetrator of domestic violence. *See* 45 CFR § 1611.3 (e).

The above listed findings were discussed in detail with VLP's Executive Director on November 12, 2009. He stated that he would take them under advisement and provide LSC with a new policy.

4. Ensure compliance with LSC regulation 45 CFR § 1610.5 and provide written notification to its non-LSC donors of the restrictions and conditions imposed by the LSC Act, regulations, and Section 504.

During the 2006 CSR/CMS Review, OCE discovered that NLS did not provide written notification to its non-LSC donors of the restrictions and conditions imposed by the LSC Act, regulations, and Section 504 of the 1996 LSC appropriation. While on-site, a copy of Program Letter 96-3 was provided to the Director of Administration and an oral recommendation made for NLS to send its non-LSC donors notification of LSC grant conditions and restriction that apply to their funds and donations.

As part of the corrective action, NLS was to ensure compliance with LSC regulation 45 CFR § 1610.5 and provide written notification to its non-LSC donors of the restrictions and conditions imposed by the LSC Act, regulations, and Section 504.

Comments to the DR stated that NLS has adopted and put into place new procedures requiring notification to all donors of the LSC restrictions placed on the use of their donations.

During the on-site Follow-Up Review, OCE found that NLS is in compliance with 45 CFR §1610.5 in that it notifies its donors and contributors of the application of LSC restrictions and conditions imposed by the LSC Act, regulations, and Section 504. OCE's review of the program's donor notification and acknowledgement letters found that the sample letters advise the donors that NLS is funded in part by LSC and as a condition of the funding that NLS is restricted from engaging in certain activities in all of its legal work-including work supported by other funding sources. The letters further note that NLS may not expend any funds for any activity prohibited by the LSC Act or Public Law 104-134, the latter of which requires that notice of these restrictions be give to all funders of programs funded by LSC. Accordingly, NLS has taken corrective action to address this matter.

5. Ensure compliance with 45 CFR § 1611.3 (d)(1) by having the Board of Directors adopt new policies for determining asset ceilings.

During the 2006 CSR/CMS Review, OCE found that the NLS Board of Directors had not adopted new policies for determining asset ceilings since undergoing a merger in 2004.

As part of the corrective action, NLS was required to ensure compliance with 45 CFR § 1611.3 (d)(1) by having the Board of Directors adopt new policies for determining asset ceilings.

Comments to the DR stated that NLS believes this OCE finding is incorrect and may have been the product of a mis-communication on the part of the NLS staff and the audit team inquiring regarding the asset policies of the program. At the time of the May 8, 2006 OCE review, the NLS Board of Directors had a policy of indexing the annual NLS asset eligibility levels to the federal Medicaid resource levels each year. That policy began in 2002 and continued after the merger in 2004, according to comments to the DR. Further comments to the DR stated that the policy was in effect in 2006 and the Board passed a motion on November 16, 2005 adopting the 2006 Medicaid Resource levels as the NLS asset guidelines for 2006.

During the on-site Follow-Up Review, OCE found that NLS' Board adopted a new financial eligibility policy including an asset ceiling, at the Board meeting on September 20, 2006. That policy established a single approach to determining the financial eligibility in every division in the program and establishes an asset ceiling. Further, during the Follow-Up Review, OCE was informed that an updated financial eligibility policy and asset ceiling would be presented to the Board at their up coming November Board meeting. A copy of the new policy was reviewed after this Follow-Up Review and found to be compliant with the requirements of 45 CFR Part 1611. Accordingly, NLS has taken corrective action to address this matter.

6. Ensure compliance with 45 CFR § 1614.3(e) by capturing all non common PAI costs based on actual time/costs and not based on a percentage basis, and develop a system to capture such costs.

The 2006 CSR/CMS Review revealed that NLS was not capturing all non-common PAI costs based on actual cost and such was based on a percentage basis and not in compliance with 45 CFR § 1614.3(e). The review of the Audited Financial Statements (AFS) for the Fiscal year Ending (FYE) December 31, 2005, of PAI and conversations with the Financial Officer and Manager disclosed that NLS allocates non common costs based on a percentage basis instead of actual cost.

As part of the corrective action, NLS was to ensure compliance with 45 CFR § 1614.3(e) by capturing all non common PAI costs based on actual time/costs and not based on a percentage basis, and develop a system to capture such costs.

Comments to the DR stated that NLS will capture all non common PAI costs based on actual time and not based on a percentage basis. Non common costs include travel and training related to PAI activities and these costs will be coded as a PAI expenditure at the time an item is entered to be paid in the accounting system, according to comments to the DR. A report this can then be generated indicating direct PAI expenditures, according to comments to the DR.

During the on-site Follow-Up Review, OCE found that NLS is in compliance with the accounting requirements of 45 CFR § 1614.3(e) by capturing all non-common PAI costs based on actual expenditures and has develop a system to capture such costs. OCE's review of NLS' PAI accounting policy and procedures and discussion with program management and staff found that the program now captures its PAI expenditures on an actual basis through specific identification of cost instead of a percentage basis. On a quarterly basis, NLS captures and allocates PAI related costs to its PAI cost center. Accordingly, NLS has taken corrective action to address this matter.

7. Ensure compliance with 45 CFR § 1614.3(e) by standardizing the method of determining the basis of allocating non personnel costs.

The 2006 CSR/CMS Review revealed that NLS was not utilizing a standard method of determining the basis of allocating non personnel costs as required by 45 CFR § 1614.3(e). NLS' method of allocating non personnel costs was on the basis of reasonable operating data, but two different sets of data was used for two offices. The review of the methods utilized by NLS to determine the basis of allocating non personnel costs disclosed that two divisions use two different methods, one utilizes actual PAI salaries over the actual total program salaries and the other one uses Full Time Equivalent (FTE) hours of PAI hours over total advocate hours.

As part of the corrective action, NLS was to ensure compliance with 45 CFR § 1614.3(e) by standardizing the method of determining the basis of allocating non personnel costs.

Comments to the DR stated that effective 2006, NLS has standardized the method of determining the basis of allocating non personnel costs throughout the three divisions of its organization. Non personnel costs will be allocated based on the ratio of advocates' actual PAI hours over the actual hours worked, according to comments to the DR.

During the on-site Follow-Up Review, OCE found NLS to be in compliance with the accounting requirements of 45 CFR §1614.3(e) by standardizing its method of determining the basis of allocating non-personnel costs. OCE's review of NLS' PAI accounting policy and procedures and discussion with program management and staff found that the program has developed a standard method for allocating non-personnel costs to its PAI cost center. NLS uses a percentage of PAI casehandlers' hours to total casehandlers' as the basis to allocate non-personnel costs to its PAI cost center. Accordingly, NLS has taken corrective action to address this matter.

8. Ensure compliance with 45 CFR § 1614.3(e) by recording as PAI salary all attorneys and paralegals based on actual time, not on a percentage basis.

The 2006 CSR/CMS Review revealed that NLS was not recording PAI salary of attorneys and paralegals based on the actual time as required by 45 CFR § 1614.3(e). NLS was utilizing a percentage basis. NLS was informed that they must also capture the actual time of the Managing Attorney of the Disability Unit incurred while conducting PAI activities instead of using a percentage basis.

As part of the corrective action, NLS was required to ensure compliance with 45 CFR § 1614.3(e) by recording as PAI salary all attorneys and paralegals based on actual time, not on a percentage basis.

Comments to the DR stated that in accordance with 45 CFR § 1614.3(e), attorney's and paralegal's PAI salary will be based on actual time and the time spent will be captured in the employees' time records.

During the on-site Follow-Up Review, OCE found that NLS is in compliance with the accounting requirements of 45 CFR § 1614.3(e) by recording as PAI salary all attorneys and paralegals based on actual time devoted to PAI. OCE's review of NLS' PAI accounting policy and procedures and discussion with program management and staff found that the program uses actual casehandlers' PAI time as documented on timesheets to charge casehandlers' PAI time to its PAI cost center. NLS uses its timekeeping component to capture and document its casehandlers' PAI and non-PAI time. Accordingly, NLS has taken corrective action to address this matter.

9. Ensure compliance with 45 CFR § 1614.3(e) by documenting all methods of allocating indirect costs in the Accounting Manual.

During the 2006 CSR/CMS Review, OCE found that the NLS Accounting Manual needed to be updated. LSC recommended updating the Accounting Manual to reflect the present program configuration and also include the methodology of allocating indirect and other costs to the PAI effort.

As a part of the corrective action, NLS was to ensure compliance with 45 CFR § 1614.3(e) by documenting all methods of allocating indirect costs in the Accounting Manual.

Comments to the DR stated that the method of allocating indirect costs will be documented in NLS' Accounting Manual as follows for non personnel:

- (1) All overhead costs will be allocated based on the percentage of actual PAI time spent on the project over the hours worked in the period;
- (2) All non common costs such as travel, training and conference expenses are sole purpose expenses and are treated on an item-by-item basis for each employee;
- (3) Litigation is a sole purpose expense; and
- (4) Malpractice insurance and audit expenses are apportioned based on the percentage of actual PAI time spent on the project over the hours worked in the period.

During the on-site Follow-Up Review, OCE found that NLS is in compliance with the accounting requirements of 45 CFR § 1614.3(e) by documenting all methods of allocating indirect costs in its Accounting Manual. OCE's review of NLS' PAI accounting policy and procedures and discussion with program management and staff found that the program has documented its cost allocation methodology in its Accounting Manual. Accordingly, NLS has taken corrective action to address this matter.

10. Ensure that all case files are correctly identified as staff or PAI.

The 2006 CSR/CMS Review evidenced that some staff case files were identified as PAI case files and some PAI case files were identified as staff case files.

As part of the corrective action, NLS was required to ensure that all case files are correctly identified as staff or PAI.

Comments to the DR stated that the staff would be advised in the annual CSR training to ensure that all PAI cases are appropriately coded in the timekeeping system.

During the on-site Follow-Up Review, a review of the case files revealed that case files were correctly identified as staff, where appropriate, and PAI where appropriate. Accordingly, NLS has taken corrective action to address this matter.

11. Ensure compliance with 45 CFR § 1614.1(a) by devoting an amount equal to at least 12.5% of its LSC annualized basic field award to PAI.

During the 2006 CSR/CMS Review revealed that the Audited Financial Statements (AFS) for FYE December 31, 2005 reported, in Schedule 3, expenditures dedicated \$145,487 or 11.9% to the PAI effort of the total basic field grant. This amount did not meet the 12.5% requirement (short by \$7,549). The total basic field grant was \$1,224,288.

As part of the corrective action, NLS was to ensure compliance with 45 CFR § 1614.1(a) by devoting an amount equal to at least 12.5% of its LSC annualized basic field award to PAI.

Comments to the DR stated that at the time of the comments were written, NLS was accounting for the 2006 year-end PAI hours and their preliminary analysis is that NLS was on target to expend at least 12.5% of its LSC annualized basic field award on PAI.

During the on-site Follow-Up Review, OCE found that NLS is in compliance with the accounting requirements of 45 CFR §1614.3(e) by devoting an amount equal to at least 12.5% of its LSC annualized basic field award to PAI. OCE's review of NLS' PAI accounting policy and procedures and discussion with program management and staff found that the program projects that it will meet its PAI expenditure requirement for 2009. Accordingly, NLS has taken corrective action to address this matter.

12. Ensure that staff is trained on the proper closing codes categories to comply with CSR Handbook (2001 Ed.), ¶ 6.1. and amend its training handout to reflect the correct definition and circumstances for utilizing the closing code "other."

The 2006 CSR/CMS Review evidenced that NLS' application of the CSR case closing categories was inconsistent with Section VIII, CSR Handbook (2001 Ed.). There were numerous case files that used the incorrect closing codes. In addition, a review of the NLS material for the February 28, 2006 training indicated that incorrect information was given to staff. According to the handout, a case file that is closed as "other" must be a case in which there is no opposing party.

As part of the corrective action, NLS was to ensure that staff is trained on the proper closing codes categories to comply with CSR Handbook (2001 Ed.), ¶ 6.1. and amend its training handout to reflect the correct definition and circumstances for utilizing the closing code "other."

Comments to the DR stated that NLS will conduct a CSR training twice per year to ensure staff has current training and up-to-date information on the proper CSR case closing procedures. One training will be scheduled in March and the other scheduled for October every year, according to comments to the DR. In addition, Supervising Attorneys will also be required to provide CSR

instruction to all new employees in the first two weeks of their employment and to certify in writing to the director that the training has been conducted, according to comments to the DR. Additional comments to the DR stated that in addition, NLS will correct the training presentation slides to reflect the proper use of the closing code "other" and post those corrected PowerPoint Presentation slides on the NLS Staff intranet, along with the current CSR Handbook and Frequently Asked Questions and any other information provided by LSC on the CSR reporting. NLS will also require all staff to have a "desktop shortcut link" on their computer screens directly into the CSR information page of the NLS Staff Intranet, according to comments to the DR.

During the on-site Follow-Up Review, OCE found that NLS' staff file closing codes were in compliance with the CSR Handbook (2001 Ed. § 6.1) and 2008 Ed. Chapters VIII and IX). However, *see* Closed 2009 Case No. 08-10-03004432 closing with a closing code of "other", when the more appropriate closing code would have been "counsel and advice." The training handout is no longer in use which contained the wrong definition of the circumstance in which closing code "other" should be utilized. No other exceptions were noted and NLS has taken the necessary corrective action to address this matter.

However, some case files closed as "other" contained no documented legal assistance and therefore are not CSR reportable. *See* Closed 2009 Case Nos. 7-10-11002537 which was opened on May 3, 2007 and the attorney provided the client with brief advice and then lost contact with the client. The last date of activity noted in the file was on December 4, 2007. The case was closed on July 20, 2009 with the closing category "other"; 08-10-11001297 was opened on March 25, 2008 and the file did not contain any evidence of legal advice or assistance. The case was closed on July 13, 2009 with the closing category "other"; and 07-10-11006087 which was opened on December 21, 2007. The file did not contain any evidence of legal advice or assistance. The case was closed on July 13, 2009 with the closing category "other."

NLS must establish a method in its case management system that will de-select case files for CSR reporting that were opened as LSC-eligible but are not reportable to LSC as cases. Additional examples of such case files that are not CSR reportable are outlined in the CSR Handbook (2008 Ed.), § 3.5.

During the on-site Follow-Up Review, the VLP's closing code usage was evaluated for compliance with the CSR Handbook (2001 Ed. § 6.1 and 2008 Ed. Chapters VIII and IX). The review revealed that the VLP's application of the CSR case closing code categories is not consistent with CSR Handbook (2001 Ed. § 6.1 and 2008 Ed. Chapters VIII and IX), for a few cases. *See* Closed 2008 Case Nos. 08-02-99000848 closed with the closing code of "other," when the more appropriate closing code would have been "counsel and advice"; 07-02-99001395 closed with a closing code of "other", when the more appropriate closing code would have been "counsel and advice"; 08-02-LT002196 closed with a closing code of "other", when the more appropriate closing code would have been "brief service"; and 08-02-LT001441 closed with a closing code of "other" when the more appropriate closing code would have been "brief service."

William J. Hawkes, ED
Neighborhood Legal Services
December 28, 2009
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There were also a few case files closed as “other” which contained no documented legal assistance and therefore are not CSR reportable. *See* 2008 closed Case Nos. 07-02-99002483 and 07-02-99002494 with no documented legal assistance in the file.

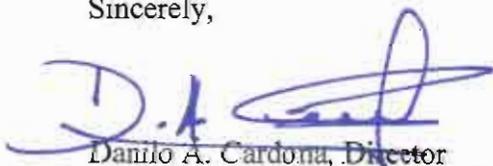
VLP must establish a method in their case management system that will de-select case files for CSR reporting that were opened as LSC-eligible but are not reportable to LSC as cases. Additional examples of such case files that are not CSR reportable are outlined in the CSR Handbook (2008 Ed.), § 3.5.

VLP’s Executive Director stated that the closing code “client withdrew or did not return” errors occurred because they still use the former LSC closing codes in reporting to some of their other Grantees. VLP indicated that they will consider removing them. Additionally, VLP updated their “Preparation for Quarterly Review with NLS Re: LSC Requirements” to include a review of all closed cases with closing codes “referred after legal assessment”, “insufficient merit to proceed,” “client withdrew or did not return,” “change eligibility status” and “other.”

VLP must remove outdated closing codes to be in compliance with the new closing codes as outlined in the CSR Handbook (2008 Ed.) and in compliance with the subgrant agreement executed by VLP. NLS must confirm by January 31, 2010 to OCE that VLP has removed the outdated closing codes.

In summary, NLS has adequately addressed most of the concerns raised by the prior OCE review, with the exceptions as noted in this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Cardona", is written over a light blue rectangular background.

Danilo A. Cardona, Director
Office of Compliance and Enforcement