



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Community Legal Services of Mid-Florida, Inc.
Case Service Report/Case Management System Review

May 3-7, 2010

Recipient No. 610010

I. EXECUTIVE SUMMARY

Finding 1: Sampled cases evidenced that CLSMF's automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Finding 2: CLSMF's intake procedures and case management system generally support the program's compliance related requirements.

Finding 3: Sampled cases evidenced that CLSMF maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG).

Finding 4: Sampled cases evidenced that CLSMF maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

Finding 5: Sampled cases evidenced substantial compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements). However, improvement in completing the scope of representation to be provided must be made.

Finding 7: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided).

Finding 10: Sampled cases evidenced that CLSMF's application of the CSR case closure categories are consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). However, improvement is warranted.

Finding 11: Sampled cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.) § 3.3 as all case files reviewed were closed in a timely manner.

Finding 12: Sampled cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 15: Additional information is needed to assess CLSMF's compliance with 45 CFR § 1610.8 regarding program integrity from entities engaging in LSC restricted activities.

Finding 16: CLSMF is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases. The review of the 2009 PAI schedule in the audited financial statements revealed that there was substantial compliance with 45 CFR § 1614; however, there were minor deficiencies in the allocation of administrative staff salaries, non personnel indirect costs and the direct costs to the Sanford office.

Finding 17: CLSMF is in general compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 18: CLSMF is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees)¹.

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

¹ On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was, therefore, only for the period prior to December 16, 2009.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 29: OCE's review of CLSMF's internal control policies and procedures found the program's policies and procedures compare favorably to LSC's Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System. (Chapter 3 - Accounting Guide for LSC Recipients).

II. BACKGROUND OF REVIEW

On May 3-7, 2010, the Legal Services Corporation's (LSC) Office of Compliance and Enforcement (OCE) conducted a Case Service Report/Case Management System (CSR/CMS) review on-site visit at Community Legal Services of Mid-Florida, Inc. (CLSMF). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable laws. The visit was conducted by a team of two (2) LSC attorneys, three (3) LSC consultants, and two (2) LSC fiscal analysts.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that CLSMF has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed CLSMF for compliance with regulatory requirements of: 45 CFR Part 1611 (Financial Eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);² 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees);³ 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of CLSMF's upper and middle management, staff attorneys and support staff. CLSMF's case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, a case file review was conducted. The sample case review period was from January 1, 2008 through March 15, 2010. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed approximately 645 case files which included 145 targeted files.

CLSMF is an LSC recipient that operates eight (8) offices. The main office is located in Daytona Beach, FL with the branch offices located in Orlando, Ocala, Kissimmee, Sanford,

² In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

³ On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was, therefore, only for the period prior to December 16, 2009.

Inverness, Tavares, and Palatka. CLSMF's executive staff consists of an Executive Director and Advocacy Director. CLSMF received a grant award from LSC in the amount of \$3,022,928 for 2008; and \$3,340,907 for 2009.

For 2008, CLSMF reported 7,783 closed cases in its CSR data. CLSMF's 2008 self-inspection report indicated a 0.01% error rate with exceptions noted in two (2) files out of 216 reviewed. CLSMF's 2009 self-inspection report indicated a 0.02% error rate with exceptions noted in four (4) files out of the 220 cases reviewed.

By letter dated March 1, 2010, OCE requested that CLSMF provide a list of all cases reported to LSC in its 2008 CSR data submission ("closed 2008 cases"), a list of all cases reported in its 2009 CSR data submission ("closed 2009 cases"), a list of all cases closed between January 1, 2010 and March 15, 2010 ("closed 2010 cases"), and a list of all cases which remained open as of March 15, 2010 ("open cases"). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by CLSMF staff and the other for cases handled through CLSMF's PAI component. CLSMF was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12 and the LSC *Access to Records* (January 5, 2004) protocol. CLSMF was requested to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, an effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was created proportionately among 2008, 2009, and 2010 closed cases and open cases, as well as a proportionate distribution of cases from CLSMF's offices. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and CLSMF agreement of April 16, 2010, CLSMF staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.⁴ CLSMF's management and staff cooperated fully in the course of the review process. As discussed more fully below, CLSMF was made aware of any compliance issues during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review; as well as Managing Attorneys in the branch offices and the Executive Director in the main office.

⁴ In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

On May 7, 2010, OCE conducted an exit conference during which CLSMF was provided with OCE's initial findings. CLSMF was advised that they would receive a Draft Report that would include all of OCE's findings and they would have 30 days to submit comments.

By letter dated July 21, 2010, OCE issued a Draft Report (DR) detailing its findings, recommendations, and required corrective actions regarding the May 3-7, 2010 CSR/CMS visit. CLSMF was asked to review the DR and provide written comments. By letter dated August 18, 2010, CLSMF submitted its comments to the DR. OCE has carefully considered CLSMF's comments and made such revisions as it deems warranted. CLSMF's comments are reflected in this Final Report and have been attached as an appendix hereto.

III. FINDINGS

Finding 1: Sampled cases evidenced that CLSMF’s automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Recipients are required to utilize automated case management system (ACMS) and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

Since 1999 CLSMF has utilized Kemp’s Prime as its ACMS. No defaults in critical compliance fields were identified. The ACMS has the capability to deselect cases from reporting to LSC by leaving blank the “CSR Eligible” field on page 3 of the Intake screen. If the box is not checked, users must click on the “Reason Why” box and select a reason from the drop-down box. Such reasons include conflict, over-income, duplicate case, prohibited case, etc. Interviews reveal that staff has been adequately trained on the use of the ACMS and the procedures used to deselect cases from CSRs. CLSMF has written ACMS procedures, contained in the Legal Helpline Procedure Manual for Intake Assistants and the Red Book distributed to all staff.

CLSMF further has implemented a multitier system of review of closed files to ensure proper CSR coding. The Office Manager and the Information Technology (IT)/Administrative Compliance Manager reviews each closed case. Further, at the end of the year the IT/Administrative Compliance Manager generates a number of error reports to ensure that accurate data is submitted to LSC.

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, CLSMF’s ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were three (3) cases reviewed from the sample where the information in the file was inconsistent with that in the ACMS. *See* Case Nos. 09E-4057024, a closed 2010 Daytona Beach case in which there was an inconsistency between the closing date in the case file to the date reported in the ACMS, and 10E-9060076, a closed 2010 Tavares case which was reported as a staff case when in fact it was a PAI case.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 2: CLSMF’s intake procedures and case management system generally support the program’s compliance related requirements.

Applicants may apply for legal services at CLSMF by telephone, in-person at local offices, at regularly scheduled clinics and outreach intake locations. The majority of CLSMF’s intake is conducted via the Helpline, a centralized toll-free telephone screening and advice line.

Applicants appearing in-person at a local office are generally provided a telephone to contact the Helpline and are asked to sign compliance documents. Limited intake is conducted by local offices; intake is only conducted for specific issues at each local office based upon the substantive law unit staff based in the office.

Intake staff was interviewed at all the branch offices and the Helpline and compliance related forms and letters were collected and reviewed.

Interviews reveal that the majority of CLSMF's intake is conducted by the Helpline. Staff is well-trained and has access to written program policies and intake procedures. Screening of essential eligibility requirements is consistent and thorough. Color-coded compliance forms used in the offices are uniform.

Interviews reveal that eligibility screeners utilize the same procedures to assess financial eligibility. Screeners inquire of all income and asset sources listed in the respective drop-down boxes. If an applicant's income is between 125%-200% of the Federal Poverty Guidelines (FPG), staff subtracts expenses, which are consistent with regulatory factors, from the gross annual income to obtain an adjusted income. The adjusted income must be at or below 125% of FPG for the applicant to qualify for LSC-funded assistance. Some offices receive funding from other sources which permit assistance in excess of the LSC guidelines. While there is no dedicated field on the ACMS to record income prospects, interviews reveal that it is listed in the income source drop-down box and that all screeners select it and record either an amount or input zero. Screening of citizenship is also consistent. If an applicant is a non-citizen, screeners complete a form that is used program-wide. Screeners indicate on the form if the screening was conducted by telephone or in-person and, and for those applicants seen in-person, the document demonstrating eligibility is copied and the copy placed in the file. The form is later scanned into the ACMS case record.

The case acceptance and case closing procedures, as well as the level of oversight of case work is consistent amongst the offices visited. Each of the substantive law units has its own case acceptance procedures. Case closing on the ACMS is generally accomplished by the attorney, in the larger offices, and by support staff in smaller offices or units. The IT/Administrative Compliance Manager conducts a thorough review of ACMS data to ensure accuracy, completeness and compliance.

Interviewees consistently demonstrated an understanding of LSC compliance requirements. All staff interviewed reported receiving training on the requirements of the CSR Handbook (2008 Ed.). In the fall of 2007, the IT/Administrative Compliance Manager attended LSC training on the new Handbook. Subsequently she visited each branch office and trained all staff. In addition, she conducts annual training in each office to review updates and issues of concern identified in the program's files.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 3: Sampled cases evidenced that CLSMF maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG).

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant’s household and the total income before taxes received by all members of such household in order to determine an applicant’s eligibility to receive legal assistance.⁵ *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (FPG) and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

CLSMF’s Financial Eligibility Policy was most recently adopted by its Board of Directors on October 25, 2007. The policy established a Maximum Income Level at 125% of the FPG. The policy sets forth a detailed description of procedures to be used in determining household size, income, authorized exceptions for persons with income between 125%-200%, authorized exceptions for persons whose income exceeds 200%, screening of income prospects, and group eligibility screening. CLSMF’s income and asset guidelines are programmed into the program’s ACMS.

Interviews and case review reveal consistent practices with respect to qualifying individuals whose income is between 125%-200% of the FPG. Regulatory factors are automatically subtracted through the ACMS from the gross annual income to obtain an adjusted income under 125% to be LSC-eligible. Both the gross annual income and the adjusted income are preserved on the Eligibility screen of the ACMS.

⁵ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2001 Ed.), ¶ 5.3 and CSR Handbook (2008 Ed.), § 5.3.

Consistent with 45 CFR § 1611.7(a) and Advisory Opinion # AO-2009-1006 intake screening staff inquire about income prospects. Staff is instructed to ask each applicant whether they have any reason to believe their income will change in the near future. Staff is further instructed to list income prospects as a source in each file and input the corresponding amount or a zero. File review confirmed that intake screeners comply with the program's instructions.

The sample case files reviewed contained the required documentation to comply with LSC's income and asset eligibility requirements.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 4: Sampled cases evidenced that CLSMF maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁶ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

The revisions to 45 CFR Part 1611 changed the language regarding assets from requiring the recipient's governing body to establish, "specific and reasonable asset ceilings, including both liquid and non-liquid assets," to "reasonable asset ceilings for individuals and households." *See* 45 CFR § 1611.6 in prior version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

The Financial Eligibility Standards approved by the CLSMF Board of Directors on October 25, 2007, establishes an asset ceiling of \$5,000 for an individual 59 years of age or younger, plus \$1,000 for each family member, and \$8,000 for an individual at least 60 years of age, plus \$1,000 for each additional family member. Exempt from consideration is the applicant or household's principal residence, value of farmland essential to employment or self-employment, work related equipment essential to employment or self-employment, all household furniture and appliances excluding luxury items, any property or assets where the applicant does not have

⁶ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

access or ready access to the asset, and the first \$15,000 of any retirement plan or account which is exempt from taxation. In addition, in the case of elderly, institutionalized and handicapped applicants, all professionally prescribed health aids associated with the medical conditions are also exempt.

Interviews reveal that staff is sufficiently versed with the program asset ceilings and exclusions. It is further noted that assets are thoroughly screened and documented by Helpline and other intake screeners.

All sample case files reviewed contained the required documentation to comply with LSC's income and asset eligibility requirements.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 5: Sampled cases evidenced substantial compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

⁷ *See* Kennedy Amendment at 45 CFR § 1626.4.

Sampled cases evidenced three (3) case files that were not compliant with the requirements of 45 CFR § 1626.6. Case No. 03E-1026963-C is a closed 2008 Daytona Beach case which was opened on November 24, 2003, however, a signed citizen attestation was not obtained until March 9, 2006. According to CLSMF, the client was advised by a domestic violence organization not to go to CLSMF offices or reveal her address as a safety precaution. The program remained in constant contact with the client by phone and worked extensively on her case before obtaining a signed attestation. Case No. 08E-4041706 is a closed 2009 Tavares case which contained a citizen attestation, however, it was not dated. Case No. 07E-4024097 is a closed 2009 Sanford case which contained a citizen attestation, however, it did not have a separate signature line specific to the attestation. The case was opened in 2007 and a new form was not obtained.

CLSMF is in substantial compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 6: Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements). However, improvement in completing the scope of representation to be provided must be made.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁸ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

CLSMF is in substantial compliance as there were only nine (9) cases reviewed from the sample that lacked a sufficient retainer agreement when required. Case No. 03E-1026963-C is a closed 2008 Daytona Beach case. The case was opened on November 24, 2003, however, a signed retainer was not obtained until March 9, 2006. According to CLSMF, the client was advised by a domestic violence organization not to go to CLSMF offices or reveal her address as a safety precaution. The program remained in constant contact with the client by phone and worked extensively on her case before obtaining a signed attestation. CLSMF should have obtained a retainer agreement at the commencement of representation by fax or through the domestic violence organization who was protecting her. Furthermore, the retainer failed to contain a description of the scope of legal services to be provided by CLSMF. Case No. 10E-20529225 is

⁸ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

a closed 2010 Tavares case where the retainer failed to describe the nature of the legal services to be provided. Case No. 09E-4055774 is a closed 2009 Tavares case where the retainer failed to describe the nature of the legal services to be provided. Case Nos. 09E-11045026 and 020410903C-W are closed 2009 Inverness cases where the retainers failed to describe the nature of the legal services to be provided. Case Nos. 08E-9039889 and 09E-9046885 are closed 2009 Ocala cases where the retainers failed to describe the nature of the legal services to be provided, Case No. 09E-1056856 is a closed 2010 Orlando case where the retainer failed to describe the nature of the legal services to be provided; Case No. 10E-1059960 is closed 2010 Orlando case that was closed with the closing code “B”, limited action. Although no retainer was required, CLSMF obtained a retainer in this case which failed to describe the nature of the legal services to be provided.

CLSMF’s retainer agreements must provide a description of the nature of the legal services to be provided by the program in order to fully comply with 45 CFR § 1611.9.

According to CLSMF, an email was sent to staff immediately following the CSR/CMS review informing them of the need for improvement in completing the scope of representation on the retainer agreements. Additionally, CLSMF indicated that the Advocacy Director has included training and discussion of this subject in all new lawyer training sessions and in his meetings with the Substantive Law Unit (SLU) leaders. According to CLSMF, SLU leaders have also included training and discussions of appropriate terminology regarding the scope of representation on retainer agreements in their case review meetings with CLSMF advocates. Additional training is also planned for October 2010.

Finding 7: Sampled cases evidenced substantial compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations. In addition, the regulations require that recipients prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint. *See* 45 CFR §§ 1636.2(a) (1) and (2).

The statement is not required in every case. It is required only when a recipient files a complaint in a court of law or otherwise initiates or participates in litigation against a defendant, or when a recipient engages in pre-complaint settlement negotiations with a prospective defendant. *See* 45 CFR § 1636.2(a).

Case files reviewed indicated that CLSMF is in substantial compliance with the requirements of 45 CFR Part 1636. Three (3) cases reviewed did not contain a client statement of fact when required. *See* Case Nos. 09E-205866, 09E-2054119, and 08E-2043211 which are open Tavares cases that involved a complaint filed by CLSMF and co-counsel from the Legal Advocacy Center of Central Florida. However, the complaint was not verified and there was no separate client identity statement of fact in the files.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

CLSMF is in compliance with 45 CFR Part 1620. None of the sampled files reviewed revealed cases that were outside of CLSMF's priorities.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided).

LSC regulations specifically define "case" as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a "case", reportable in the CSR data, depends, to some extent on whether the case is within the recipient's priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

If the applicant's legal problem is outside the recipient's priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

CLSMF is in substantial compliance as there were only two (2) cases reviewed from the sample that failed to contain a description of the legal assistance provided. *See* Case Nos. 08E-0044216, a closed 2008 Daytona Beach case which did not contain documentation of legal advice in the file. CLSMF's staff only referred client to an outside organization and 08E-4038763, a closed 2008 Orlando case which did not contain documentation of legal advice in the file. Neither of these cases should have been included in CLSMF's 2008 CSR submission.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 10: Sampled cases evidenced that CLSMF’s application of the CSR case closure categories are consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). However, improvement is warranted.

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

The files reviewed demonstrated that CLSMF’s application of the CSR case closing categories are consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). There were 15 instances of case closing code errors, however, no pattern of inconsistency was revealed during the review.

The following are examples of cases with closing code errors. Case No. 08E-0033366 is a 2008 closed Daytona Beach case which was closed utilizing the closing code “A”, counsel and advice. The case handler assisted the client in completing pro se documents, therefore, closing category “B”, limited action, is the applicable closing category. Case No. 09E-4056638 is a closed 2010 Kissimmee case which was closed utilizing the closing category “B”, limited action. There was no documentation entered in the file which would suggest this case should be closed utilizing this closing category. According to the notes in the file the client was only provided legal advice, therefore, “A” is the applicable closing category. Case Nos. 10E-3060093 and 10E-3060364 are closed 2010 Kissimmee cases which were closed utilizing the closing category “I(a)”, uncontested court decision. In both cases there was a voluntarily dismissal entered, therefore, closing category “L”, extensive service, is the applicable closing category. CLSMF indicated they would make the appropriated changes to the closing category prior to reporting these cases to LSC. Case Nos. 07E-4030154 and 8E-037555 are closed 2008 Helpline cases which were closed utilizing the closing category “B”, limited action. There was no documentation entered in the file which would suggest these cases should be closed utilizing this closing category. According to the notes in the files the clients were only provided legal advice, therefore, “A” is the applicable closing category. Case No. 08E-2035709 is a closed 2008 Tavares case which was closed utilizing the closing category “L”, extensive service, however “I(b)”, contested court decision is the applicable closing category. Case No. 08E-4042134 is a closed 2008 Inverness case which was closed utilizing the closing category “B”, limited action, however closing category “A”, counsel and advice, is the applicable closing code. Case No. 09E-9052977 is a closed 2009 Ocala case which was closed utilizing the closing code “L”, extensive service, however “I (b)”, contested court decision, is the applicable closing category since CLSMF represented the client at a hearing to obtain an order of protection. Case No. 07E-021359 is a closed 2008 Ocala case which was closed utilizing the closing category “I(c)”, appeal, however closing category “H”, administrative decision, is the applicable closing category for this case. Case No. 09E-1050791 is a closed 2009 Orlando case which was closed utilizing the closing category “I(c)”, appeal, however closing category “H”, administrative decision, is the applicable closing category for this case. **CLSMF disputes our finding regarding these cases.**

According to CLSMF these were unemployment compensation benefits cases that were initially heard by a Claims Adjudicator associated with the Agency for Workforce Innovation (AWI) and eventually appealed to the Florida 5th District Court of Appeals. The CSR states that cases closed with closing code I(c) do not include appeals or writs taken from administrative decisions or lower court decisions to a higher level trial court acting as an appellate court, whether they are on the record or de novo proceedings. Since the cases at issue are appealed to an appellate court and not a trial court acting as an appellate court, CLSMF is correct in closing these cases with closing code I(c) and no change of closing code is required; Case No. 09E-1046151 is a closed 2008 Orlando case which was closed utilizing the closing category “B”, limited action, however, closing category “L”, extensive service is the applicable closing category since CLSMF drafted a pro-se motion and attempted to negotiate a settlement on the client’s behalf. Case No. 08E-1034831 is a closed 2008 cases that was closed utilizing the closing code “B”, limited service, however, CLSMF prepared a motion for the client, therefore “L”, extensive service, is the applicable closing code. Case No. 07E-1024847 is a closed 2008 Orlando case which was closed utilizing the closing code “I(c)”, appeal, however closing category “H”, administrative decision, is the applicable closing code. Case No. 07E-4027333 is a closed 2007 Palatka case which was closed utilizing the closing code “F”, negotiated settlement without litigation, however, the documentation in the file reflects that litigation occurred, therefore, “G”, negotiated settlement with litigation, is the appropriate closing category. Case No. 08E-4031070 is a 2008 closed PAI Inverness case which was closed utilizing the closing code “L”, extensive service, however, closing category “I(a)”, uncontested court decision, is the applicable closing code. Case No. 09E-9047093 is a closed 2010 Ocala case which utilized the closing code “I(a)”, uncontested court decision, however, the use of closing category “L”, extensive service, is the applicable closing category. Case No. 08E-9039053 is a closed 2009 Ocala case which was closed utilizing the closing category “A”, counsel and advice, however, “L”, extensive service, is the applicable closing category.

Although there was no consistent problem with any specific closing code, CLSMF must take action to ensure that staff is trained on the proper closing code categories to fully comply with CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

CLSMF indicated that the files with a 2010 closing date have been corrected in accordance with the recommendations. CLSMF offered no comments on the action the program will take to ensure that staff is trained on the proper closing code to fully comply with CSR Handbook (2008 Ed.), § 6.1 in the future.

Finding 11: Sampled cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.) § 3.3 as all staff cases reviewed were closed in a timely manner.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, limited action, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice,

limited action, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).⁹ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

CLSMF is in compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a) as all case files reviewed were closed in a timely manner.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 12: Sampled cases evidenced compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

⁹ The time limitation of the 2001 Handbook that a limited action case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

CLSMF is in compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases as there were no duplicate case files noted in the review sample.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. *See* 45 CFR Part 1608.

Sampled files reviewed indicate that CLSMF is not involved in such activity. Furthermore, based on the limited review of accounting records for the period of 2008 through March 2010 and interviews with management and staff CLSMF does not appear to have expended grant funds or used personnel or equipment on prohibited activities in violation of 45 CFR § 1608.3(b).

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide legal assistance in any case which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

None of the sampled files reviewed involved legal assistance with respect to a fee-generating case. Furthermore, interviews confirmed that CLSMF is not involved in any fee-generating case. CLSMF has entered into co-counseling agreements with other entities which have requested fees in pleadings filed in the co-counseled cases. The co-counseling agreements, however, provide that CLSMF will not share in any fees generated by those cases. It is also noted that CLSMF has a Fee-Generating Cases-Form 1609B which is included in every case. The form documents whether the case is being funded entirely by non-LSC funds or is not a fee-generating case. The form also has bar survey information stating that CLSMF has determined that the bar will not accept, or will not accept without prepayment of a fee, certain cases which are listed; the appropriate case type must be checked.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 15: Additional information is needed to assess CLSMF's compliance with 45 CFR § 1610.8 regarding program integrity from entities engaging in LSC restricted activities.

45 CFR § 1610.8 requires that LSC recipients maintain program integrity from entities that engage in LSC restricted activities by maintaining objective integrity and independence from such organizations.

The CSR/CMS onsite review confirmed that CLSMF has a relationship with the Legal Advocacy Center of Central Florida, Inc. (LACCF), a non-profit organization that provides assistance to low-income persons. This relationship includes sharing administrative functions, having the same people serve on their two (2) Boards of Directors, and the leasing of office space. LACCF is located in Sanford and Ocala, and provides services that an LSC recipient would be prohibited from engaging in. After assessing the information gathered during the onsite review, it has been determined that additional information is needed before a finding can be made regarding CLSMF's compliance with 45 CFR § 1610.8. LSC will be contacting CLSMF in order to obtain additional information and documents required to complete its assessment.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 16: CLSMF is in substantial compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases. The review of the 2009 PAI schedule in the audited financial statements revealed that there was substantial compliance with 45 CFR § 1614; however, there were minor deficiencies in the allocation of administrative staff salaries, non personnel indirect costs and the direct costs to the Sanford office.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or private attorney involvement requirement.

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR Part 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

CLSMF's PAI program, the Volunteer Lawyer's Project, is administered through its Pro Bono Manager located in Ocala. Three (3) Pro Bono Coordinators conduct the day-to-day operations of the program, dividing areas of responsibilities by county. PAI consists of regularly scheduled clinics conducted by pro bono attorneys and referrals to a panel of pro bono attorneys. Cases are referred to the PAI program through the Helpline and a flyer advertising the legal clinics with majority of the referrals occurring in the Daytona Beach service area.

Case review reveals that PAI cases are well documented. PAI clients are either advised during clinics or individually provided assistance by a private attorney. The advice provided during the clinics was detailed and reflected in the files. The cases referred to private attorneys are open longer and require more oversight and follow-up.

The Tax Unit in Palatka refers cases to outside attorneys, certified public accountants, or enrolled agents to represent clients in tax court. *See* Case Nos. 09E-6045197, 08E-6037391, 07E-6021486, 08E-6031513, and 08E-6042765. CLSMF counts the cases which are referred to a certified accountant or enrolled agent as PAI. According to 45 CFR § 1614.1, this part was designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. Based on the fact that a certified public accountant or enrolled agent is providing the legal assistance rather than a private attorney; these cases cannot be counted and reported as cases to LSC and CLSMF must cease doing so.

According to CLSMF, they believe they erroneously included these cases on the case lists reviewed by LSC during the CSR/CMS visit. CLSMF indicated that they have reminded staff to

exclude tax unit pro bono cases from LSC reporting unless service was provided to the client by an attorney.

Based upon interviews and the review referral cases, it is concluded that CLSMF is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

The review of the PAI schedule disclosed in the Audited Financial Statements for Fiscal Year Ending June 30, 2009 determined that there was substantial compliance with 45 CFR Part 1614, however there were three (3) minor deficiencies in the allocation of PAI costs in the following areas:

- 1) Administrative staff salaries were allocated to PAI based upon a percentage of the individual employee's annual salary. The percentages were determined by analysis of the staff employee's hours of work performed on PAI activities compared to total hours worked by the individual staff employee in preceding years. The percentages used may no longer be an accurate representation of the amount of work currently performed by the staff employee on PAI activities.

According to CLSMF, the time spent by administrative staff will be reviewed annually to determine if PAI allocation percentages are accurate. CLSMF indicated that staff will list all time spent on PAI activities for a period of not less than 30 days.

- 2) There was an overstatement of approximately \$3000 of non-personnel indirect costs allocated to PAI. The non-personnel indirect costs are allocated based upon their relationship to total costs (which include both direct and indirect costs) as a percentage. The non-personnel indirect costs percentage is overstated. The overstatement occurred because certain direct costs which had been allocated to PAI were not subtracted from the total costs to determine the percentage to allocate.

CLSMF indicated it will implement the procedure of deducting direct PAI costs before allocating indirect costs.

- 3) PAI direct costs are allocated to the various CLSMF offices based upon poverty population data. The Sanford office has 7.6% of poverty population in the CLSMF area and received 7.6% of all direct costs allocated to PAI, even though no PAI activity had taken place in the office in 2009.

CLSMF indicated that the allocation of direct PAI costs by the Program's accounting has been adjusted to exclude allocation to all offices where no PAI activity has occurred.

CLSMF must take the necessary steps to ensure costs are allocated on the proper manner.

Finding 17: CLSMF is in general compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

LSC regulation 45 CFR § 1627.4(a) states that:

- a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

Based on the limited review of accounting records and detailed general ledger for 2009 through March 2010 CLSMF is in general compliance with 45 CFR § 1627.4(a) as all non-mandatory dues and fees are being paid with non-LSC funds. However, there were minor charges in 2009 and 2010 that were not permitted under CFR § 1627.4(a). CLSMF took immediate corrective action when notified. CLSMF should ensure that no costs associated with non-mandatory dues or fees are being paid with LSC funds.

CLSMF indicated that they have reviewed the list of unallowable costs with all accounting staff and that the Comptroller and Assistant Comptroller will continue to review these accounts to ensure that no unallowable expenses are being paid with LSC funds in the future.

Finding 18: CLSMF is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

Review of the timekeeping records of 18 advocates selected from the eight (8) CLSMF offices for the pay periods ending November 30, 2009 and March 31, 2010 disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter, or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c).

CLSMF has on file the corresponding Quarterly Certification for Part-time Case Handlers who also work part-time for an organization that engages in restricted activities in compliance with 45 CFR § 1635.3(d).

In response to the DR, CLSMF offered no comments with respect to this finding.

Finding 19: Sampled cases and a limited review of fiscal records evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Except as provided by LSC regulations, recipients may not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3. The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3. However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed.¹⁰

Based on a limited review of the CLSMF fiscal records, specifically the 2008 and 2009 Audited Financial Statements, and interviews with the Comptroller/Administrator evidenced that there

¹⁰ LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).

were no attorneys' fees awarded, collected, or retained for cases serviced directly by CLSMF that would violate this Part.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations define

“initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹¹

None of the sampled files reviewed involved initiation or participation in a class action.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Recipients may not make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting. *See* 45 CFR § 1632.3.

None of the sampled files reviewed revealed participation in litigation related to redistricting.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety of other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

None of the sampled files reviewed involved defense of any such eviction proceeding.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant; nor may a recipient participate on behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

¹¹ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.¹² This restriction has been contained in all subsequent appropriations acts.¹³ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation such as community education materials and program literature, indicated program involvement in such activity.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 28: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007

¹² *See* Section 504(a)(18).

¹³ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

(a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in any litigation with respect to abortion.

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews conducted further evidenced and confirmed that CLSMF was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

In response to the DR, CLSMF offered no comments with respect to this Finding.

Finding 29: OCE's review of CLSMF's internal control policies and procedures found the program's policies and procedures compare favorably to LSC's Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System. (Chapter 3 - Accounting Guide for LSC Recipients).

LSC requires its recipients, under the direction of its board of directors, to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as the process put in place by the recipient's board of directors, management, and other personnel which is designed to provide reasonable assurance of achieving objectives of safeguarding of assets against unauthorized use or disposition, reliability of financial information and reporting; and compliance with regulations and laws that have a direct and material effect on the program. See Chapter 3 of the Accounting Guide for LSC Recipients (August 1997).

OCE's review of CLSMF's accounting policies and procedures manual, accounting records and discussions with program management found that the program has established an adequate internal control structure which includes adequate accounting records, competent personnel, defined duties and responsibilities, segregation of duties, independent checks and proofs and a written accounting manual.

The bank reconciliations for February and March 2010 were reviewed for all bank accounts and were found to be performed timely and accurately with corresponding approvals associated. There were seven (7) outstanding checks that were found to be at least six (6) months old which does not comply with the programs policy "that such checks should be investigated and voided if necessary." CLSMF should follow the Accounting Guide for LSC Recipients (AGLSCR), and the policy stated in their Accounting Procedure Manual.

CLSMF indicates they have tightened its procedures on outstanding checks. According to CLSMF checks which have been outstanding for 6 months or more are either voided or reissued according to policy.

A review of the use of company credit cards disclosed no internal control deficiencies and that all charges were for prudent business purposes and supported by adequate documentation. There was one (1) instance where a credit card charge was made for LACCF. The review of the corporate SunTrust Visa credit card statement of January 2010 revealed a charge of \$33.39 was made for lunches at a training session for three (3) employees of LACCF. As stated previously, CLSMF and LACCF share the same Board of Directors and rent office space from each other and CLSMF does the accounting and administrative functions for LACCF. The charge was recorded on CLSMF's general ledger as a receivable from LACCF.

A review was conducted of the payroll advances to employees of CLSMF to ensure that such advances were not in fact loans to employees.

The review consisted of determining the Accounting Procedure Manual requirements for employees to receive payroll advances. The requirements are as follows:

- 1) advances will only be given for emergencies
- 2) advances can only be requested four times a year per employee
- 3) advances must be repaid over the next three payroll periods – can be extended to five payroll periods with comptroller's approval
- 4) the employee must have accumulated an amount equal to advance in hours in the Personnel Time Bank less taxes and deductions
- 5) employee must complete a preprinted form (which is approved by comptroller) that details requirements and form must be signed by comptroller.

Two (2) individual employees' advances were selected from the time period January 1 to April 20, 2010 to review for adherence to the Accounting Procedure Manual requirements noted above. Each selected advance was found to be in adherence with the above requirements without exception.

IV. RECOMMENDATIONS¹⁴

Consistent with the findings of this report, it is recommended that CLSMF:

None

¹⁴ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, CLSMF is required to take the following corrective actions:

1. Ensure retainer agreements have a description of the nature of the legal services to be provided by the program;

According to CLSMF, an email was sent to staff immediately following the CSR/CMS review informing them of the need for improvement in completing the scope of representation on the retainer agreements. Additionally, CLSMF indicated that the Advocacy Director has included training and discussion of this subject in all new lawyer training sessions and in his meetings with the Substantive Law Unit Leader (SLU). According to CLSMF, SLU leaders have also included training and discussions of appropriate terminology regarding the scope of representation on retainer agreements in their case review meetings with CLSMF advocates. Additional training is also planned for October 2010.

2. Ensure staff is trained on the proper closing codes categories to fully comply with CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1;

In response to the DR, CLSMF offered no comments with respect to this Corrective Action.

3. CLSMF must cease counting and reporting PAI cases in which the legal assistance provided to the client is not performed by an attorney;

CLSMF indicated that they have sent reminders to staff reminding them to exclude tax unit pro bono cases from LSC reporting unless service was provided to the client by an attorney.

4. Ensure that staff follow the Accounting Guide for LSC Recipients, and its own policy as stated in their Accounting Procedure Manual, that outstanding checks for a period longer than established be investigated and proceed according to the findings;

CLSMF indicated they have tightened its procedures on outstanding checks. According to CLSMF checks which have been outstanding for 6 months or more are either voided or reissued according to policy.

5. Ensure that no costs associated with non-mandatory dues or fees are being paid with LSC funds;

CLSMF indicated that they have reviewed the list of unallowable costs with all accounting staff and that the Comptroller and Assistant Comptroller will continue to

review these accounts to ensure that no unallowable expenses are being paid with LSC funds in the future.

6. Ensure that the allocation of the staff administrative salaries is based on a current analysis of the percentage that the employee works on PAI activities in comparison to the total hours worked;

According to CLSMF, the time spent by administrative staff will be reviewed annually to determine if PAI allocation percentages are accurate. CLSMF indicated that staff will list all time spent on PAI activities for a period of not less than 30 days.

7. Ensure, when determining the non-personnel cost percentage which is allocated to PAI, that staff subtracts the direct costs already allocated to PAI from the total costs; and

CLSMF indicated it will implement the procedure of deducting direct PAI costs before allocating indirect costs.

8. Ensure that the allocation of direct costs excludes all offices where no PAI activity had taken place.

CLSMF indicated that the allocation of direct PAI costs by the Program's accounting has been adjusted to exclude allocation to all offices where no PAI activity has occurred.



COMMUNITY LEGAL SERVICES OF MID-FLORIDA, INC.

OFFICE OF COMPLIANCE
AND ENFORCEMENT
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August 18, 2010

Mr. Danilo Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Sent via FedEx

Dear Mr. Cardona:

Per your letter of July 21, 2010, attached are Community Legal Service of Mid-Florida's responses to the required corrective actions, including a request for reconsideration in section 2.

We appreciate the professionalism and constructive suggestions that the team made.

Sincerely,

William H. Abbuehl
Executive Director

WHA/ss
Attachment

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COMMUNITY LEGAL SERVICES OF MID-FLORIDA, INC.

CLSMF'S responses to REQUIRED CORRECTIVE ACTIONS to May 3-7, 2010 CSR/CMS Review

1. **Ensure retainer agreements have a description of the nature of the legal services to be provided by the program.**

An email was sent to all CLSMF staff immediately following the review (May 7, 2010), complimenting them on the positive comments by the LSC reviewers and informing them of the shortcomings that were pointed out during the review as well as the exit interview. The need for improvement in completing the Scope of Representation was included in that email. Our Advocacy Director has included training and discussion of this subject in all New Lawyer Training sessions and in his meetings with the Substantive Law Unit (SLU) Leaders and the SLU Leaders have included training and discussions of appropriate terminology regarding the Scope of Representation in their case review meetings with CLSMF advocates. Additional training is planned for October, 2010.

2. **Ensure staff is trained on the proper closing codes categories to fully comply with CSR Handbook (2001 Ed.), § 6.1 and CSR Handbook (2008 Ed.), § 6.1.**

Files with 2010 closing dates have been corrected in accordance with the recommendations of the reviewers; however, we respectfully request reconsideration regarding the following files:

"09E-4057024, a closed 2010 Daytona Beach case where the closing code in the file was different than the closing code listed in the ACMS."

Although the date of closing was different in the ACMS than in the physical file, the closing code was B in the ACMS, the physical file and in the case lists sent to LSC for the review. We believe the closing code was not different and that this was not an error.

"10E-1059960 closed 2010 Orlando case where the retainer failed to describe the nature of the legal services to be provided."

This file was closed as a B. No retainer is required by LSC (1611.9(b)).

"07E-4021359, 09E-1050791, 07E-1024847 were closed utilizing the closing category I(c), appeal, however, closing category "H", administrative decision, is the applicable closing category..."

We disagree. Appeals of denial of unemployment compensation benefits in Florida are initially heard by a Claims Adjudicator associated with the Agency for Workforce

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Innovation (AWI). The Claims Adjudicator issues a Notice of Determination and if the determination is advise to the client he or she can appeal. This appeal is heard by an Appeals Referee with AWI and the Appeals Referee issues his or her decision and if this decision is adverse to the client, he or she can appeal to the Unemployment Appeals Commission (UAC). The UAC will issue an order and if this order is adverse, the client can appeal to the Florida District Court of Appeal. Each of the above cases were appealed to the Fifth District Court of Appeal of Florida. The 2008 handbook states clearly that this category should be used for "appeals to an appellate court taken from a decision of any court or tribunal". The Florida Fifth District Court of Appeal is an appellate court.

3. CLSMF must cease counting and reporting PAI cases in which the legal assistance provided to the client is not performed by an attorney.

We believe that the error in reporting cases where the service was provided by an accountant or registered agent (tax cases) was in providing client lists to LSC in preparation for the review and not in our 2010 CSR reporting (for cases closed during calendar year 2009). In any event, we have sent reminders to affected staff reminding them to exclude tax unit pro bono cases from LSC reporting unless service was provided to the client by an attorney.

CLSMF is ensuring that cases are not reported unless service is provided to our clients by an attorney or paralegal under the direction of an attorney.

4. Ensure that staff follow the Accounting Guide for LSC Recipients, and its own policy as stated in their Accounting Procedure Manual, that outstanding checks for a period longer than established be investigated and proceed according to the findings.

CLSMF has tightened its procedures on outstanding checks. Checks which have been outstanding for 6 months or more are researched and either voided or reissued according to policy.

5. Ensure that no costs associated with non-mandatory dues or fees are being paid with LSC funds.

The list of unallowable costs including dues and fees has been reviewed with all accounting staff; the Assistant Comptroller and Comptroller will further review these accounts to ensure that no unallowable expenses are being paid with LSC funds.

6. Ensure that the allocation of the staff administrative salaries is based on a current analysis of the percentage that the employee works on PAI activities in comparison to the total hours worked.

The time spent by administrative staff will be reviewed annually to determine if PAI allocation percentages are accurate. This will be accomplished by applicable staff listing all time spent on PAI activities for a period of not less than 30 days.



7. **Ensure, when determining the non-personnel cost percentage which is allocated to PAI, that staff subtracts the direct costs already allocated to PAI from the total costs.**

The Comptroller and Assistant Comptroller recognize the need to deduct direct PAI cost before allocating indirect cost. This procedure will be implemented immediately

8. **Ensure that the allocation of direct costs excludes all offices where no PAI activity had taken place.**

The allocation of direct PAI costs by the MIP accounting system to offices has been adjusted to exclude all offices where no PAI activity has occurred.