



LEGAL SERVICES CORPORATION

Office of Program Performance

***FINAL
PROGRAM QUALITY REPORT***

FOR

DNA- People's Legal Services

Recipient Number: 703068

March 21-25, 2011

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Introduction

The Legal Services Corporation's Office of Program Performance (OPP) conducted a program quality visit to DNA - People's Legal Services (DNA) on March 21-25, 2011. The team was comprised of program counsel Tim Watson as team leader; Janet LaBella, OPP Director; program counsels Stephanie Edelstein, Evora Thomas, and Chuck Greenfield, and Carolyn Worrell, LSC Temporary Employee.

Program quality visits are designed to ensure that LSC grantees are providing high quality legal services to eligible clients. In conducting its assessment, the team reviewed documents and information that LSC receives from the program in the routine course of business, such as grant application information, case service reports (CSRs), and other service reports (OSRs). The team also reviewed documents and information the program submitted in advance of the visit, including advocates' writing samples and an on-line survey of DNA staff. On site, the team visited all ten program offices and the Central Administration office. The team interviewed attorneys, tribal court advocates, managers, administrative personnel, the executive team, and support staff. In addition to speaking to most of the DNA staff members, the team met with – or interviewed by phone – a sample of board members, judges, and representatives of local agencies and community organizations.

In performing its evaluation of the grantee's delivery system, OPP relies on the LSC Act and Regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. These evaluations are organized according to the four Performance Areas that cover (1) needs assessment and priority setting; (2) engagement in the low income community; (3) legal work management and the legal work produced; and (4) program management, including board governance, leadership, strategic planning, resource development, and coordination within the delivery system.

Program Overview

In an area the size of West Virginia, DNA serves Native American and basic field clients in the high desert and canyon lands of the Four Corners area. The program covers the NAZ-5, AZ-2, NNM-2, and NM-1 service areas. These service areas include Native Americans on or near the Navajo reservation in Arizona, New Mexico, and Utah; the Hopi Reservation in Arizona; the Jicarilla Apache Reservation in northern New Mexico; the general population in San Juan County in northwest New Mexico; and the general populations in the northern sections of Arizona's Apache and Navajo Counties.

The DNA acronym is derived from *Dinebeina Nahiilna Be Agha'diit'aii*, the Navajo words for "attorneys who contribute to the revitalization of the People." Navajo Nation, the largest population served by DNA, has 180,000 residents. The Navajo Nation is comprised of 110 Navajo chapters organized into 5 agencies. Though rich in scenic beauty, the environment is harsh and presents great difficulty for service providers. Some of the most poverty-stricken counties in the U.S. are located in the DNA service area. Many families lack electricity, plumbing, and home telephone service. A

substantial number of homes are heated by wood. Some communities are inaccessible by automobile, roads are often unpaved, and in nearly half the households English is a second language.

DNA receives \$3,032,704 for its Native American work and \$871,287 for its basic field component. With these funds and non-LSC funding that ranges from \$900,000 to \$1.5 million per year, the program operates out of 11 offices in three states. In Arizona, offices are located in Window Rock, Chinle, Keams Canyon, Tuba City, and Flagstaff. In New Mexico, the program has offices in Dulce, Farmington, Shiprock, and Crownpoint. There is also a small office in Mexican Hat, Utah. The facility in Window Rock houses both the administrative office and a service office for the Fort Defiance area.

At the time of the visit the staff totaled 74 individuals. The 15-person administration section consists of the executive director, litigation director, administration director, executive assistant, community education coordinator, administrative assistant, the IT staff, and the fiscal staff. The IT staff is comprised of a manager, a helpdesk technician, and two IT systems technicians. The fiscal staff is the largest administrative unit and consists of the fiscal manager, two assistant fiscal managers, an accounting clerk, and a purchasing manager. All administrative staff are located in Window Rock except for the administration director and the development assistant, who are in the Flagstaff office.

Summary of Findings

DNA continues to provide meaningful services in its challenging service area. The program does a good job of identifying client needs, including patterns of cases that suggest emergent issues. Resources are allocated to meet client needs, and the program moves quickly to address new issues.

Intake varies according to locale and is sufficient to provide access to services. Some parts of the process are needlessly duplicative, and clients' privacy could be better protected. More specific and consistent case acceptance criteria would provide faster case acceptance.

DNA's client community benefits from the program's committed and engaged staff, who participate on boards and in coalitions and volunteer at community centers and events. The program is well-known throughout the service area. The environment presents significant challenges to maintaining client-friendly, accessible office locations.

Owing to the harsh, isolated environment and lack of available land for housing, the program must rely on a "Peace Corps" type staffing model for most of its attorneys, who typically work there for two or three years before moving on to employment in other environments. Despite the severe constraints imposed by attorney staff turnover, DNA provides high quality legal services to its clients. It also has an effective private attorney involvement component and provides a variety of meaningful non-litigation services to the client population.

Pursuant to a Questioned Cost proceeding, DNA was recently required to return funds to LSC for certain costs that it paid for the purchase of realty and for excessive payments to employees it incurred during a trial of a reduced work week for support staff. Although this cost recovery raises a question about management and leadership at DNA, on the whole the program's key staff members are viewed as effective leaders by judges and other funders in the service area. The DNA board has recently received training concerning board governance responsibilities and appears to be fully informed and engaged. Program management and administration is generally sound, although financial administration is in need of improvement.

DNA's active development program pursues a variety of funding opportunities. The program is a valued member of the larger community of equal justice stakeholders.

PERFORMANCE AREA ONE. Effectiveness in identifying needs and targeting resources to meet those needs.

Criterion 1. Client Legal Needs Assessment and Priorities

Finding 1: Assessment of the needs of the client population is a continuous and effective activity of DNA.

DNA uses effective methods to stay informed about client needs. An important cornerstone of needs assessment is the relationship between DNA and the 110 Chapter Houses of the Navajo Nation. Each Chapter elects a representative to assist DNA in soliciting information concerning client needs. These client representatives attend their local meetings as well as national meetings of all Chapter representatives. Both surveys and focus groups are used. Non-English readers are assisted with Native language speakers. These chapter representatives meet at least yearly with DNA to impart their findings and provide DNA with raw data.

In addition to the use of Chapter representatives, DNA solicits information concerning client needs in a survey to the private bar and seeks advice from community agencies that work on client-related issues. A hallmark characteristic of the DNA staff is its deep involvement with the community. Staff members participate on boards, in coalitions, and in other groups that deal with the issues most affecting DNA's clients. The program also makes use of court statistics, census and demographic data, and its own CMS data.

The following issues are those that have been determined most important to DNA's client community –

- predatory lending
- consumers' rights
- domestic violence
- access to justice (preventive information / understanding the justice system)
- adequate housing

- environmental degradation
- children's rights
- government benefits
- employment discrimination
- civil rights and tribal sovereignty.

Criterion 2. Setting goals and objectives, developing strategies and allocating resources

Finding 2: DNA's broad priorities reflect the needs of the clients and a strategy for meeting those needs within the limits of program resources.

The DNA Board has a Priorities Committee that reviews priorities annually based on the information received from the needs assessment process and input from staff, its client board members, and the Navajo Chapters' client representatives. Board members use the priority setting process as an opportunity to evaluate the program's effectiveness in serving the community. The broad priority categories set by the program are -

- *income maintenance (wages, benefits, etc.)*
- *obtaining/maintaining habitable housing*
- *education*
- *consumer*
- *elderly/disabled*
- *economic development*
- *access to justice (pro se, pro bono)*
- *preservation and promotion of tribal sovereignty*
- *community education*
- *child support (where enforcement division doesn't take the case)*
- *family law*
 - *divorces with domestic violence or children at risk*
 - *orders of protection*
 - *custody where children are at risk*
- *other cases where justice will be served by DNA representation / assistance*

Criteria 3-4. Implementation, Evaluation, and Adjustment

Finding 3: DNA's management and staff are vigilant concerning emergent needs and modify the program's approach when appropriate.

The priorities are broad enough that the board has not seen a need to modify them. However, DNA does modify its activities when it identifies emergent needs.

1. When DNA received complaints about tax preparers in the border towns filing inaccurate tax returns that resulted in audits and issuing credit cards for refunds for which both they and the merchants charged fees, the program applied for and received an IRS grant to do tax returns for low income workers and to assist tax payers who are being assessed for additional taxes and penalties by the IRS.

2. The Fort Defiance office is tracking people asking for assistance in making a claim under the \$3.4 billion Indian Trust settlement in the *Cobell vs. Salazar* class action.
3. The program has recognized a growing problem of border town merchants violating Truth-in-Lending statutes and is tracking these incidents as well as other unscrupulous credit practices.
4. The program is addressing possible governmental harassment of traditional medicine men's legal acquisition and use of eagle feathers.

The application narratives indicate that the CMS data generated for the Grant Activity Reports is used to assess whether the program is meeting projected outcomes. Board members stated in interviews that they evaluate the effectiveness of the program and consider whether the scope and types of services performed are the most effective for meeting client needs in the area.

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

Criterion 1. Dignity and sensitivity

Finding 4: On the whole, the intake process provides sufficient access within the limits of the environment and the program's resources, but it could be made more efficient, consistent, and protective of clients' privacy.

Intake is handled separately by each office, and procedures differ based on office size, location, staffing, access challenges, and community culture. In some offices, the physical arrangements impede the privacy of interviews with clients. The proportion of initial contact by walk-in or call-in varies by office.

In some offices, intake days/hours are very limited—sometimes twice a month (Farmington). Others have intake days occurring from weekly to twice a month. Some accept applications daily. Exceptions appear to be made for emergencies, which are processed promptly in all offices. In some offices the number of full intakes is limited to a specific number; applicants exceeding that number are not seen until the next intake day, which can be 2 weeks away.

Staff members noted that in the past some offices have experienced long lines of people waiting to get in on designated intake days, on which a certain number of clients could be seen and the rest would be dismissed. Some offices converted to setting up intake by appointment on select days in an effort to reduce the long lines. While this is commendable, it has led to a high proportion of “no shows” when the date is as far in the future as 2-4 weeks. Most staff members favor the change. A managing attorney opined that the system appears to allow for faster acceptance and processing of cases.

Kemps Prime is the case management system (CMS) used by DNA. A comprehensive manual governs use of the CMS. Remote access and connectivity varies among offices depending on DSL or satellite capacities.

Some offices use an “inquiry” form or “emergency” form in which the intake worker hand-writes the eligibility information. Eligibility and conflicts are checked in the CMS, but the data is not entered in it until after the case has been accepted. This appears to create duplicate tasks.

Case acceptance meetings are generally held following intake days. While the program has broad priorities, it has issued more specific case acceptance criteria to guide case acceptance. Several attorneys reported using these criteria in their acceptance decisions. Offices have been encouraged to create more specific case acceptance guidelines for their locales. While some have begun to determine specific criteria, others have not done so.

RECOMMENDATIONS:

II.1.4.1.¹ - * DNA should evaluate its intake procedures with a view toward making intake faster, increasing access, and developing more consistent procedures.

II.1.4.2. - Offices should develop specific case acceptance guidelines to help streamline the intake process.

II.1.4.3. - * DNA should encourage the contemporaneous entry of eligibility information into its case management system rather than duplicating this data on paper forms.

II.1.4.4. - To the extent possible, the privacy of clients should be protected during interviews.

Criterion 2. Engagement with the low-income population

Finding 5: The DNA staff is deeply engaged with the client community.

DNA’s staff members are passionate about providing meaningful assistance to the program’s clients. The program is well connected to the community, is culturally sensitive, honors language preferences, and has a multi-lingual staff. Interpreters and translators are used to assist the area’s substantial non-English speaking population.

¹ Recommendations in this report have a Roman Numeral to identify the Performance Area, followed by three numbers identifying, respectively, the Criterion addressed by the recommendation, the number of the finding, and a number designating it as the first, second, third, etc., recommendation under that finding. For example, III.2.14.3 designates Performance Area III, Criterion 2, Finding 14, third recommendation under finding 14. Recommendations that are indicated with an asterisk are Tier One recommendations, which are intended to have a direct and major impact on program quality and/or program performance. In your next grant renewal or competitive grant application, your program will be required to report what it has done in response to Tier One Recommendations instead of submitting a full narrative.

Staff members evinced a wide-ranging knowledge of the various cultural and other challenges affecting DNA's clients. They work in the communities on diverse projects, such as volunteering to assist elderly people in hospitals and participating on community boards and coalitions.

Criterion 3. Access and utilization by the low-income population

Finding 6: The environment presents significant challenges to maintaining client-friendly, accessible office locations, but clients are knowledgeable about DNA's work and have reasonable access to offices.

In Arizona, offices are located in Window Rock, Chinle, Keams Canyon, Tuba City, and Flagstaff. In New Mexico, the program has offices in Dulce, Farmington, Shiprock, and Crownpoint. There is also a small office in Mexican Hat, Utah. The geographic distribution of offices and allocations of staff appear to be well-suited for providing relative equity of access by the client community.

Some offices such as Flagstaff, Window Rock, and Dulce are well-located, in good condition, and have a professional appearance. However, in much of the service area there are few options for office space, and the staff operates out of trailers and other buildings that have substantial problems. Some of these facilities require renovations to correct heating problems, ceiling leaks, or plumbing problems. One office was without water for three months. There is a need for better identification of the office (signage) in some locations.

The office in Tuba City is on the third floor of the building; visitors must walk up three flights of stairs to reach the facilities. Clients with access challenges are offered the option to meet in the first floor office of another organization. This impedes the effectiveness of the meeting because the staff has no access to the electronic case management system outside of their office. The office also has some security issues that affect the staff's sense of well-being and perhaps that of the clients, too. The office is shared with another agency, and the staff does not feel that they have sufficient control of access to the office by the general public. Some security concerns were also raised in the Mexican Hat office, where a single person must man the office when the other is away.

Clients are apprised of DNA's services by many means. In some areas a DNA pamphlet accompanies each court summons. Radio public service announcements in English and Navajo are used to remind the public of DNA's work. Written materials are available in offices for clients to review while they are waiting. Video presentations on legal topics are played continuously on wide-screen televisions in the client waiting areas of the Flagstaff and Window Rock offices. Interactive kiosks (developed with TIG funding) are also available in those offices, but due to limited computer literacy and cultural inhibitions, are rarely utilized by applicants and clients. DNA's website describes its work and lists office locations and contact information. It also provides links to other sites with useful information, including its own Native Legal Net, which is

being developed to provide easily accessible information, such as Navajo audio files on consumer issues. Thought the site is not yet sufficiently populated, some files are already online.

RECOMMENDATIONS:

II.3.6.1. - The program should make an effort to have visible signage at each office where it is absent.

II.3.6.2. - To the extent possible, DNA should ensure that offices are accessible.

II.3.6.3. - When repairs are under the program's control, they should be made as promptly as feasible. Security issues should be addressed as needed.

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities.

Criterion 1. Legal representation

Finding 7: Although some improvements in systems and methods are warranted, DNA provides high quality legal services to its clients.

DNA litigators face a jurisdictional multiplicity that is rarely seen in LSC-funded programs. They practice in state, federal, and tribal courts in three states. The tribal courts are in three independent nations with different substantive laws and procedures – sometimes quite different from prevailing U.S. law.² Not only do the program's litigators have to deal with this plethora of jurisdictions, they have to be adept at analyzing the factors that will ultimately determine jurisdiction in “straddling” cases.

The program provides advice, brief service, and extended representation throughout its service area. It has been steadily increasing the number of closed cases from 3,041 in 2007 to 4,316 in 2010, a 42% increase. Advice and brief service cases are 84% of the total closed cases. This comports with the national figure of 81.5%. The main categories in which cases are closed are family (41.8%), consumer (17.4%), and employment (15%). The national figures in these categories are, respectively, 34.6%, 12.3%, and 2.7%. Some litigators expressed the concern that the family cases have a limited effect on the broader issues of the client community and are resource intensive.

DNA has a significant presence in the area's courts and has a rich history of handling cases that have resulted in significant benefits to the client community. Judges interviewed by the team were supportive of the program and complimentary of the litigators' legal work. On the whole, litigators make effective and persuasive arguments. This is consistent with the team's assessment of the litigators' writing samples and their

² For example, when parties are married under traditional Hopi custom, there is no recognition of divorce.

descriptions of their work in interviews. DNA's attorneys and advocates make presentations at training and CLE events, as well as the Navajo Bar Review.

- Capacity

DNA has a fairly inexperienced attorney staff. Though the program's tribal court advocates typically have worked for DNA for many years, attorneys typically remain with the program for only 3 years. This pattern is attributable to the professional mobility of attorneys coupled with the conditions and isolation experienced in the DNA environment. Sometimes the program's issues with turnover produce extreme results. The Farmington office lost all four of its attorneys within a span of three months and was without any attorneys for another three months.

Office and living facilities present difficulties not experienced by most programs. Some offices operate out of trailers that have severe electrical and plumbing issues. One office was without water for three months. Since ownership of Indian land is severely restricted, conventional housing is scarce in most of the service area. Some litigators live in facilities that would not be considered habitable by conventional standards. Litigators sometimes live with Navajo families. In some instances the program allows staff members to live in program-owned trailers and houses, although the criteria for such an allowance are unknown to staff.

These problems that contribute to attorney turnover will likely continue. DNA is, in essence, a "Peace Corps" model, where attorneys remain for a two- or three-year stint. This turnover is extremely costly to DNA. Unresolved cases of attorneys who depart have to be taken up by remaining staff or by new hires. Files languish while the program recruits and trains new attorneys. Training costs are affected because the program's collective pool of expertise is constantly being drained. Issue-spotting is affected until new attorneys have gained sufficient experience.

Given the conditions in which attorneys must practice, the program engages in recruitment efforts that are far beyond those of other legal aid programs and manages to recruit high quality attorney staff. Attorneys, while they are with the program, consistently make important contributions to the program and local communities. Attorneys who leave the program often occupy positions that are important to the community.

- Systems to ensure effectiveness

The litigation director, administration director, and executive director each have many years of legal experience (more than 15). The litigation director supervises the managing attorneys and provides litigation support to staff attorneys and tribal court advocates throughout the program. The level of supervision varies with the experience levels of the managing attorneys – which range from less than 1 year to 11 years (as managing attorneys). Most of the managing attorneys have been in their management positions less than 2 years.

Managing attorneys supervise the legal work of staff attorneys and tribal court advocates. Although the method of supervision seems to be more reactive rather than proactive, managers do actively engage in mentoring new attorneys and assisting in their professional development. Management practices vary significantly among offices, although some salient features appear to be consistent. General case acceptance meetings occur immediately after intake. Managers review open cases periodically. It appears that they are using the CMS to run case reports, check for caseload size, and ascertain the number of dormant cases.

There is no periodic review of the cases of managing attorneys by the litigation director, nor is there a consistent practice of checking in with each office or managing attorney or regularly visiting remote offices. The administration director discusses selected cases with managing attorneys, staff attorneys, and tribal court advocates, both for substantive advice on cases and as part of a regular review of open and closed cases. As can be expected in a program with regular attorney staff turnover, caseloads vary significantly, depending upon whether a given office has experienced a recent departure. Although the program has written caseload standards, the exigencies of turnover often necessitate significant variation from the standards.

Litigators have access to the tools they require for their work. A litigation handbook sets forth procedures for opening and closing files, tips for representing a client, information on locating forms and pleadings, local court rules, and a variety of other matters, including cultural awareness. Litigators have access to on-line legal research, extensive library materials, and a litigation fund. All offices appear to employ some form of calendar control; most use the Outlook program. Litigators use dockable laptops.

There are internet connection challenges in some offices, due to a lack of sufficient bandwidth in some of the reservation phone lines. This causes problems in accessing the CMS on occasion or results in keystroke delay or software time-outs. The CMS servers were moved from Window Rock to Farmington recently when cable bandwidth became available there. Some people in the outer offices have noted a significant improvement in speed. The CMS can be accessed by employees both from the office or remotely.

Many attorneys and tribal court advocates utilize the "all litigators" email group to post questions and responses on substantive and procedural issues. Advocates also access other email groups in Arizona and New Mexico, as well as national groups. Each office has an internal shared drive that contains sample pleadings, letters, and research, but there is no common brief bank accessible throughout the program. A committee is working on developing a shared brief bank.

- Training / orientation / development

New attorneys, advocates, and support staff reported receiving substantial orientation after being hired. Attorneys and tribal court advocates are provided regular training opportunities both conducted within the program and provided outside. As a general rule, the litigation director is in regular contact with newly hired litigators on cases.

Recently hired attorneys in some offices have a mentor relationship with local experienced attorneys. Two attorneys in the Farmington office have been accepted into a pilot project under proposed New Mexico bar regulations, allowing for CLE credits for both the mentor and the protégé. In addition, private attorneys occasionally assist DNA attorneys in certain substantive areas. A private attorney in Albuquerque recently spent a day with the staff, training them on certain aspects of consumer law.

RECOMMENDATIONS:

III.1.7.1 - LSC recognizes the challenge faced by DNA concerning the turnover of attorneys and encourages the program to continue its efforts to address this problem and to explore new methods such as longevity bonuses, additional loan repayment assistance, and other incentives that could increase the length of time that attorneys stay with the program.

III.1.7.2 - * The program should complete its efforts to develop a program-wide brief and information bank, accessible both from all offices and remotely, to the extent internet connections are available.

III.1.7.3 - The "all litigators" email group should be coordinated by the litigation director.

III.1.7.4 - Remote offices should be visited on a more regular basis by the executive director, or, in the alternative, by the administrative director or the directive of litigation.

III.1.7.5 - The case management system should be used more effectively by managers and the litigation director as a supervisory tool – to check on time spent on case work, trends and patterns in case acceptance and closure, and dormant cases.

Criterion 2. Private attorney involvement

Finding 8: DNA has an effective private attorney involvement component.

While DNA does not have a PAI obligation for all of its service areas, it does have that obligation in Coconino and San Juan counties. This is a challenge: two counties, two different states, very rural communities, each with its own bar culture and practice rules.

The PAI plan describes how DNA works with the New Mexico Supreme Court, the Access to Justice Commission, and the San Juan County district court pro bono committee to involve private attorneys. It also describes its work in Arizona – working with the two other LSC programs in Arizona, Community Legal Services and Southern Arizona Legal Aid, to create volunteer opportunities for attorneys and to support and recognize those who volunteer. DNA's website provides contact information for its PAI coordinator in each state.

The PAI program includes volunteer and reduced-fee participation. The Flagstaff office in Arizona and the Farmington office in New Mexico handle referrals and staffing for clinics and other events. There is a high level of participation by pro bono attorneys in San Juan County (NM). The office employs a contract attorney to act as the PAI coordinator, who is assisted by a staff secretary. PAI coordinators in both offices participate in general case acceptance meetings and accept PAI referrals at those meetings. Non-attorney coordinators are supervised by attorneys.

The high courts of Arizona and New Mexico have adopted rules that promote pro bono representation, and the attorneys of both states experience active encouragement by their Supreme Court justices to become involved in pro bono activities. Both states have emeritus rules that allow legal services practice by retired attorneys, and both states permit limited representation, which helps attract private attorneys who are willing to handle a discrete component of a case.

Assistance in pro se clinics is a primary model for involving volunteers; they make presentations, review documents, and provide assistance if more is needed. Judges who spoke with team members expressed appreciation for this service. Clients are screened for eligibility and can be counted for PAI purposes. Volunteer attorneys also provide assistance in extended services cases (often family law, but also in other areas such as consumer and employment).

Volunteers receive support from DNA – malpractice coverage, some sample pleadings and forms on ProBono.Net, and co-counseling with DNA attorneys. When attorneys take cases, DNA provides oversight and follow-up. Recognition of volunteers is coordinated with other volunteer lawyer components in Arizona and with the San Juan County Pro Bono Committee in New Mexico. Clients assisted by private attorneys receive a satisfaction questionnaire when their cases are closed. Staff members are encouraged to participate in local bar activities, and DNA pays the bar dues of its litigators to enhance contact with the private bar.

In 2010, the PAI effort closed 171 cases, up from the previous year's total of 124. The 2010 figure includes 119 domestic cases and 28 cases in consumer /finance. Thirty-four (34) cases were closed after court decisions or settlements with litigation.

RECOMMENDATION:

III.2.8.1. – LSC encourages DNA to increase opportunities for private attorneys to participate in family law clinics, take individual cases, co-counsel with staff, serve as mentors to less experienced staff, and assist the program in other ways that will involve the private bar in its work.

Criteria 3 and 4. Other services and program activities to and on behalf of the eligible client population

Finding 9: In addition to client representation, DNA provides a variety of meaningful services to the client population.

DNA staff members regularly make presentations on legal topics in English and Navajo at community and other centers. The program has produced radio public service announcements in English and Navajo, airs legal information videos on a continuous feed in office reception areas, and offers legal information in English and Navajo on its toll-free Native Education Legal Line (NELL).

Staff members convene sessions at which they assist pro se litigants with the completion of pleadings and other legal forms. They collaborate closely with domestic violence shelters and with other local task forces and committees on such issues as housing and homelessness. The program has a successful medical-legal partnership project in Shiprock. Staff members are active in the state and local bars of the service area, including service on a Supreme Court rules committee. Their volunteer efforts in the VITA clinics result in tax credits and refunds for clients.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.

Criterion 1. Board governance

Finding 10: The DNA board has recently received training concerning board governance responsibilities and appears to be fully informed and engaged.

The DNA board is comprised of committed and thoughtful members who are knowledgeable about the needs of the client communities and, most particularly, the unique challenges of the Native American communities. The 23-member body sufficiently reflects the cultural and geographic diversity of the service area.

The board exercises its fiduciary role by holding regular meetings of its full membership. It strives to hold quarterly meetings, alternating locations throughout the service area. While most members attend in person, they are permitted to participate by teleconference.

Between regular meetings an Executive Committee is empowered by the by-laws to act on behalf of the full board. Their actions are later ratified by the full board. In recent years, the Executive Committee has only met rarely, usually by teleconference, to handle emergency and unforeseen developments.

The board has several active committees, including the Budget Committee, Audit Committee, Client Grievance Committee, Priorities Committee, and the Facilities

Maintenance (formerly Housing) Committee. From time to time, ad hoc committees such as the Gift Acceptance Policy Committee are established to address matters on a short term basis. Every member of the board is expected to serve on at least one committee. Committees are composed of members who are quite diverse in terms of geography, ethnicity, occupation, and gender.

The Budget Committee meets prior to each full board meeting, where the quarterly financial statement is presented by the Fiscal Manager. The Executive Director and Administrative Director also participate in the discussion. Thereafter, financial reports and decisions of the committee are presented to the full board by its Secretary/Treasurer. In 2010, DNA established an Audit Committee to bifurcate the functions of budget oversight and audit. A new audit firm was also selected to conduct the annual fiscal audit, after many years of using the same audit firm.

At the time that new members are appointed, the board formally introduces the new member, as well as each of the other members. Members are challenged to meet certain expectations that have been defined by DNA and presented to every member -

- participating actively in the board's deliberations,
- donating their time, talent and financial resources,
- promoting DNA in their communities and professional and other circles, and
- communicating input and feedback from the community to DNA.

From time to time, DNA has provided training for all board members on a variety of subjects, including the fiduciary responsibilities of board members, review of financial reports, and ethics. In February, non-profit governance responsibilities were the subject of a training event conducted by an affiliate of Arizona State University and former non-profit consultant.

Information is made available to the board through a variety of ways -

- board packets delivered to members in advance of full board meetings,
- written minutes of each full board meeting, and
- written reports from the executive director and other management staff.

A special web portal has been created for the board to have access to its records and to facilitate collaboration in completing committee assignments.

The DNA board conducts a bi-annual performance evaluation of the executive director prior to negotiation of his employment contract. The evaluation process includes input from staff, along with that of the board. Input from staff is collected by the administration director.

RECOMMENDATIONS:

IV.1.10.1. – * Staff input concerning evaluation of the executive director should be communicated directly to a board representative by staff members.

IV.1.10.2. – Expense and revenue statements should be reviewed monthly by the budget committee or other designated board members.

Criterion 2. Leadership

Finding 11: Although the program has experienced some recent difficulties, DNA's key staff are viewed as effective leaders by stakeholders in the service area.

Several sources praised DNA's executive director for leadership qualities, including judges, staff, and community agencies. The director is known for his ability to "walk in two worlds" - the Native American one and the world beyond the reservation's borders. According to these sources he encourages innovation and collaborates with partners in both states – and national ones as well – to strategize about advocacy and funding. The program's other key staff, the administration director and the litigation director, are also described on the whole as open, helpful, and committed individuals who aggressively address the problems and issues that are brought to them by staff members.

The recent decision by LSC to recover certain costs paid by DNA indicates that decisions made by DNA leadership in 2007 and 2008, regarding the purchase of real property and a temporary reduced work week policy for support staff, did not comply with LSC regulations and policies. These actions should have been taken only after LSC approval. Although DNA did not agree with LSC's conclusions, after unsuccessfully arguing its reason for its actions the program worked out a payment plan for the recovery of costs after receipt of the final LSC decision.

Criterion 3. Overall management and administration

Finding 12: While some improvements are indicated, on the whole, DNA's management and administration is sound.

The program is managed by the executive director, along with the litigation director and the administrative director. Each has been with the program for more than five years. They are admitted in state and tribal courts within the service area. In general, board members and staff expressed a high regard for their experience and expertise.

The management team is further comprised of the director of development, fiscal manager, purchasing manager, community education coordinator, administrative secretary, manager of information technology, managing attorneys, and project managers. With the exception of the development director, managing attorneys, and project managers, all other members of the management team are supervised by the administrative director. The administrative director also supports the managers, handles LSC reporting, trains and recruits new lawyers and interns, oversees facilities, and supervises IT staff.

There is some confusion concerning the roles of the administrative director and the litigation director. Although managing attorneys reported that the litigation director is

their supervisor, several staff members, including managers, said they had consulted with the administrative director on litigation matters and with the litigation director on purely administrative matters. Some functions normally within the purview of a litigation director are sometimes handled by the administrative director.

The management team and department heads meet each Monday. They also convene after each board meeting to discuss issues that arose during the board's discussions. The program conducts quarterly all-office management meetings. Managers' discussions can also take place in emails via a managers' email group.

DNA encourages staff to pursue special projects that build their leadership skills. However, managers have not been encouraged to receive management skills training.³

Performance evaluations of staff occur sporadically. While some reported recent or yearly evaluations, others indicated that the practice has fallen by the wayside.

The program experiences some administrative inefficiency due to limited bandwidth and other infrastructure challenges, such as power surges, which prevent the normal degree of dependability and speed that mainstream programs experience in their use of technology. However, the program has a skilled IT unit that deals with these limitations to the extent possible. The IT unit personnel have excellent credentials, and the program appears to devote sufficient resources for technology development and support.

Some staff members in the field offices felt that the connection between the main office and the field offices needs improvement. This concern was not uniformly expressed and varied considerably. Staff members complained that responses from accounting and the IT department were slow. Some suggested that requests for repairs to their offices were ignored or answered slowly. Some staff suggested that the central office does not consider the field offices to be important. It is important to note that other persons interviewed suggested that responses from the main office were generally timely and effective. No overall conclusion was evident to the assessment team.

DNA does not have a plan for ongoing operations, information preservation, staff safety, and client service in the event of disaster.

RECOMMENDATIONS:

IV.3.12.1. - The program should provide more clarity regarding the roles of the litigation director and administration director.

IV.3.12.2. - If funding can be found, management staff should attend management training courses periodically.

³ Program's comment: DNA Administration regularly forwards management skill training opportunities and it is the decision of the manager to take the opportunity. (*see attached program response*)

IV.3.12.3. - DNA should develop a plan for continuity of operations in the event of a disaster.

IV.3.12.4. - DNA should require regular and timely evaluations of all staff.

Criterion 4. Financial administration⁴

Finding 13: Although DNA has an experienced financial administration team, some improvements are needed.

The program has a fiscal manager who is responsible for DNA's financial department. While she does not have an accounting degree, she has worked for the program for over 32 years and has been the fiscal manager since 1976. She supervises two experienced assistant fiscal managers and an accounting clerk. The program also has a purchasing manager who is supervised by the administration director. Fiscal staff have all attended fiscal management training for LSC-funded programs and have attended other training events as well. Although the fiscal team is in the Window Rock office, it appeared to the assessment team that some fiscal administration functions are performed by non-fiscal staff in the Flagstaff office and that this may create confusion.

Monthly fiscal reports are presented to the executive director, litigation director, and administration director. These reports show budgeted expenses, actual expenses, variances, projections and comparisons with last year. Quarterly financial reports are submitted to the board and are presented by the fiscal manager to the board's budget committee at committee meetings immediately prior to each quarterly board meeting. The budget committee chair then reports on the fiscal reports to the full board.

Litigators enter their time in Kemps. All other employees manually complete time sheets and mail or email them to the central office for payroll processing. The program is working on computerizing the time-keeping process for all staff. Time reported by employees is allocated to funding sources based on time sheets submitted and time and activity reported in Kemps. The administration director assists in the determination of allocation of time to funding sources.

Notwithstanding the program's large fiscal staff, it appears to experience difficulties with some fundamental responsibilities. The program pays late-payment penalties to some vendors on occasion, reported to be in the range of \$25-30. This has been a long term problem and should have been remedied by now. It was also reported that there have been instances when potential revenue was not claimed when invoices were not timely submitted. This was attributed to the fact that DNA does not have a designated person to perform the accounts receivable function for fee-for-service grants and contracts.

⁴ This visit was conducted by the Office of Program Performance for the purposes set forth in the Introduction. OPP findings and recommendations under this criterion are limited to staffing, organization, and general functions. Assessment of fiscal operations is conducted by other offices at LSC.

DNA last made significant revisions to its accounting manual about 10 years ago. The manual has not been revised to reflect the 2010 revisions to the Accounting Guide for LSC Recipients.

RECOMMENDATIONS:

IV.4.13.1. - * The program should revise its accounting manual in accordance with the 2010 revisions to the Accounting Guide for LSC Recipients.

IV.4.13.2. - * The accounting staff should identify the reason for the pattern of late payments, establish a procedure to eliminate the problem, and file a written report with management and the board.

IV.4.13.3. - * The accounting staff should identify any instances of earned revenue not being claimed, establish a procedure to eliminate the problem, and file a written report with management and the board.

Criterion 5. Human resources administration

Finding 14: DNA does not have a Human Resources unit; HR duties are distributed among management staff.

Matters that are normally handled by a Human Resources unit are distributed among several staff members, primarily the administration director and the fiscal staff. Some staff expressed concern that they could not access the program's disability benefits because of lack of assistance from management staff. The program recently updated its Personnel Manual that sets out the program's policies on the usual range of personnel issues. DNA's benefit package includes leave and medical coverage. The program has a non-matching employee retirement contribution program.

Criterion 6. Internal communication

Finding 15: Internal communication is satisfactory.

Although the program experiences some challenges owing to insufficient bandwidth and limited telephone provider options on the reservation, internal communication at DNA is sufficient. The litigators have daily email collaborations on various issues. Interviews suggested that there are one or two program-wide meetings per year and that staff from outer offices frequently see one another at in-service training events and other training events. The administration director publishes a "Here's What's New" periodic electronic newsletter.

Criterion 7. General resource development and maintenance

Finding 16: DNA's development personnel actively seek additional funding that will enhance its ability to serve its clients.

Development activities are staffed by a full-time development director and an assistant, who are responsible for grant writing. The development director, a member of the management team, is urging board members to increase their involvement in resource development and fundraising.

Non-LSC funding has been from 29% to 33% of DNA's budget in recent years. DNA had approximately \$2 million in non-LSC funding in 2010. Other funders include a variety of sources, such as the U.S. Department of Justice (Victims of Crime Act), the U.S. Department of Housing and Urban Development (foreclosure prevention), and bar foundation funding.

The program's development plan includes action steps and persons responsible, and it takes into consideration the program's mission and priorities. The program also considers the resources needed to implement a project. The development team is assisted by line staff in their efforts. The program is seeking funding from the Kellogg and Kresge foundations to replace funding for the Medical-Legal Partnership project. Other funding is being sought from the New Mexico *pro hac vice* fund, the New Mexico Community Health Foundation, and the Justice Department's Access to Justice funds.

Criterion 8. [omitted]

Criterion 9. Participation in an integrated legal services delivery system

Finding 17: DNA is a respected and active participant in the justice communities in its service area.

DNA is an active and valued member of the justice communities in Arizona, New Mexico, the Navajo Nation, and other tribal justice communities. The program is highly respected by the courts, the private bar, and the national Native American legal services community. The executive director is chair of the National Association of Indian Legal Services. Local agencies, such as domestic violence shelters, highly value the program's work.



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July 18, 2011

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 LSC



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RE: Draft Program Quality Report – Program Response

Dear Mr. Watson,

In review of the Draft Program Quality Report there are some corrections required:

- Page 4, Introduction, 2nd paragraph – “On site, the team visited all ~~eleven~~ ten program offices, plus Central Administration...”
- Page 4, Program Overview Section, 1st paragraph – delete “non-Native American” and insert “general” (2x)
- Page 4, Program Overview Section, 2nd paragraph – “The DNA acronym is derived from Dinebeiniina Nahiilna be Agha’diit’aii, the Navajo words for ‘attorneys who ~~work~~ contribute to the ~~economie~~ revitalization of the People.”
- Page 5, 1st line – “...unpaved, many families lack electricity, plumbing and home telephone services...”
- Page 5, Program Overview Section, 2nd paragraph – delete “CLE coordinator” and insert “Community Education coordinator.”
- Page 10, last paragraph on page – “Video presentations on legal topics...in the client waiting area of the Flagstaff and Window Rock offices.”
- Page 14, 1st paragraph – “In addition, private attorneys occasionally ____ DNA attorneys in certain substantive areas.” ...occasionally assist(?) DNA attorneys...
...occasionally mentor(?) DNA attorneys... ... occasionally co-counsel with(?) DNA attorneys...
- Page 17, 3rd full paragraph – replace “University of Arizona” with “Arizona State University”
- Page 18, Finding 12 section, 2nd paragraph – “With the exception of the Development Director,...”
- Page 20, Finding 13 section, 1st paragraph – delete “purchasing manager” The Purchasing Manager is supervised by the Administrative Director.
- Page 21, Finding 15 section, “The director of administration publishes ~~the DNA-Update~~ a “Here’s What’s New” periodic electronic newsletter.”
- Page 21, Finding 16, 1st paragraph – “...by a full-time development director and ~~deputy director~~ an assistant, ...”
- Page 22, Finding 17, ...~~Navaho~~ Navajo Nation...
- Suggestions for entire draft report: revise “director of administration” to “administration director” and “litigation director” to “director of litigation.”
- General comment regarding, Page 19, 2nd full paragraph – “However, managers have not been encouraged to receive management skills training.” Comment: DNA Administration regularly forwards management skill training opportunities and it is the decision of the manger to take the opportunity.