



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Aid Bureau, Inc.
Follow-Up Review
November 11-14, 2013

Recipient No. 321016

LSC Compliance Review Team

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I. EXECUTIVE SUMMARY

Finding 1: A limited review of the observed cash disbursement process for two (2) sampled check batches evidenced that LAB is following established procedures in its Accounting Financial Policy and Procedure Manual (“AFPPM”) to: (1) review original supporting documentation prior to approving a check batch; and (2) cancel vendor invoices and supporting documentation upon check preparation.

Finding 2: A limited review of the credit card process evidenced that LAB has updated its AFPPM to reflect current operating procedures and to ensure that credits are timely posted to the appropriate general ledger (“GL”) accounts.

Finding 3: A limited review of the bank reconciliation process evidenced that LAB is following its established procedures in its AFPPM to: (1) have signed and dated reconciliations by both the preparer and the reviewer/approver; and (2) retain voided checks for use in the preparation of the reconciliations.

Finding 4: A limited review of the “Unclaimed Property” liability account for 2012 and 2013 revealed that LAB had a “zero balance” in this account. In 2013, there was one (1) transaction for an employee reimbursement which was transferred with the employee’s permission to a donation account. Additionally, LAB has established current procedures in its AFPPM for unclaimed liabilities.

Finding 5: A limited review of LAB’s allocation of recovered losses revealed that LAB utilized a formula recommended by LSC’s Office of Inspector General (“OIG”) which was agreed upon by its independent auditor. The formula was an equitable method of allocating recovered losses; recording them as derivative of the fund from which the expenses were attributable. This manner is consistent with 45 CFR § 1630.3(h).

Finding 6: A limited review of LAB’s cost allocation evidenced that LAB appropriately allocates costs to the LSC Basic Fund Grant (“LSC BFG”) and timely records those costs in LAB’s GL in a manner consistent with the Accounting Guide for LSC Recipients (2010 Ed.) (“LSC Accounting Guide”) and 45 CFR § 1630.3.

Finding 7: A limited review of LAB’s Private Attorney Involvement (“PAI”) revenue and expenses evidenced that LAB allocates all direct and indirect time of staff attorneys and paralegal time charged as a cost to PAI activities based on time documented entries in LAB’s case management system. Additionally, LAB has elected to account for time charged to PAI for the Executive Director (“ED”) and the Chief Operating Officer (“COO”) outside of the case management system.

II. BACKGROUND OF REVIEW

Legal Aid Bureau, Inc. (“LAB”) is a Legal Services Corporation (“LSC”)-funded, statewide program in Maryland with an administrative office in Baltimore and a total of 13 offices. The administrative office oversees the operation of the entire program and ensures compliance with the LSC Act, regulations, and grant conditions, as well as assists with the efficient provision of services to the program.

For 2012, LAB reported LSC support of \$3,736,418, which approximated 22.8% of the program’s overall funding and support. LSC’s Office of Information Management (“OIM”) records indicate that, for 2012, the Basic Field Grant (“BFG”) was \$3,736,418, and LAB also received Migrant Funding totaling \$109,022. LAB reported PAI expenses in 2012 of \$523,133 which represented 14% of its BFG. In 2012, LAB also had a LSC approved sub-grant in the amount of \$32,000 with Maryland Volunteer Lawyers.

During 2011 (August 22-26), the Office of Compliance and Enforcement (“OCE”) conducted an on-site Focused Fiscal Review (“FFR”) directed at reviewing the internal fiscal controls at LAB and specifically to assess LAB’s controls subsequent to the 2010 conviction of their ex-Chief Financial Officer (“CFO”) for embezzlement. This review resulted in 20 required corrective actions being issued, and ultimately resolved, and five (5) Special Grant Conditions (“SGC”) being imposed on LAB’s LSC funding for FY 2012.

On November 11 through November 14, 2013, OCE conducted a second on-site review, Follow-Up Review (“FUR”), at LAB. In accordance with the approved work plan, the team conducted a fiscal review at the main office in Baltimore, Maryland. This included a review of LAB’s relevant program documentation in order to gain an understanding and explanation of program operations, policies, and procedures to assess compliance with the required corrective actions in the following areas: (1) Cash Disbursement, (2) Credit Card, (3) Bank Reconciliation, (4) Unclaimed Property, (5) Allocation of Recovered Losses, and (6) Cost Allocation. The review tasks were divided amongst three (3) team members, which included two (2) OCE fiscal compliance analysts and one (1) fiscal temporary employee.

To execute the on-site review, OCE team members met with and interviewed members of LAB’s upper and middle management and fiscal staff including the Executive Director (“ED”), Consulting Chief Financial Officer (“CCFO”), Controller, Senior Accountant, and Accounts Payable (“AP”) Accountant. Additionally, information for each SGC was requested and reviewed to ensure that appropriate actions were taken to correct the issue and a corrective measure was implemented to prevent the issue in the future.

During the on-site review, the OCE review team kept LAB’s management informed of any compliance issues related to the SGCs with daily briefings. At the conclusion of the visit, OCE held a brief exit conference during which LAB’s upper and middle management was advised of its preliminary findings. OCE advised LAB that there were no patterns of non-compliance detected, but further review may reveal non-compliance issues. Overall, the review found that LAB has taken appropriate actions to address the five (5) SGCs imposed on its FY 2012 LSC funding and the 20 required corrective actions contained in the prior final report, which was

issued on March 22, 2013. OCE's review also confirmed that the current processes tested reflected that the identified areas are effectively functioning. However, additional information was requested, received, and assessed for PAI activities, as detailed in this report.

On July 25, 2014, LAB submitted written comments in response to OCE's Draft Report which was issued on June 17, 2014. OCE has evaluated the written comments and incorporated them, as applicable, in this final report. LAB's full comments are attached to this report in their entirety.

III. FINDINGS

Finding 1: A limited review of the observed cash disbursement process for two (2) sampled check batches evidenced that LAB is following established procedures in its Accounting Financial Policy and Procedure Manual (“AFPPM”) to: (1) review original supporting documentation prior to approving a check batch; and (2) cancel vendor invoices and supporting documentation upon check preparation.

Cash disbursements include any cash outflow or payment of money to settle obligations such as operating expenses, during a particular period, in order to carry out business activities. LSC’s accounting guidelines focus on a variety of ways disbursement transactions are processed utilizing today’s current technology. In addition to traditional checks, other methods include: automatic and recurring bank withdrawals; telephone transfers; online bill pay options; internet/web-based initiated transactions; wire transfers (such as inter account transfers); and credit/debit card payments. Regardless of the method used, the Accounting Guide for LSC Recipients (2010 Ed.) (“LSC Accounting Guide”) requires that an LSC recipient/program establish:

1. Which disbursement methods are allowed;
2. Who is authorized to initiate them;
3. What documentation needs to accompany the disbursements; and
4. Which independent employee(s) will review the supporting documentation.

Additionally, independent, authorized signors must log into the program’s bank account(s) on a regular basis to review the disbursements used to withdraw cash. When disbursements (except payroll) are presented to authorized signors for review, the disbursement packet must include the supporting vouchers and invoices and there must be appropriate controls to ensure that payments are made only for allowable items of costs, as defined by the terms of respective contracts and grants. Written accounting policies and procedures must be established to describe the accounting system and ensure that similar transactions are processed consistently. Also, appropriate systems for filing checks must be in place for check copies, non-check disbursements, and supporting documents. Supporting documents must be marked ‘paid’ or otherwise canceled to prevent duplicate payment. *See* LSC Accounting Guide, Appendix VII, § G Nos. 2-7.

While on-site, two (2) check batches for two (2) on-site days (11/13/13 and 11/14/13) were observed as they were processed by the AP Accountant. These two (2) batches contained three (3) and 12 checks, respectively. The observation reflected that LAB is following the operating procedures detailed below.

The cash disbursement process begins with the receipt of an invoice, a check request, or a travel reimbursement form being received by the AP department. The AP Accountant then stamps the receipt date on all invoices, check requests, and travel reimbursement forms, inserts the general ledger (“GL”) account code number(s) on them based on the item type, and enters them into the accounting system. After that, the AP Accountant forwards the documents to the Controller for approval.

The Controller reviews the invoices, check requests, and travel reimbursement forms and their supporting documentation and confirms the GL account numbers. Invoices requiring approval by Unit Managers are forwarded for approval and then returned to the AP Accountant. Following the applicable Unit Manager approval, invoices, check requests, and travel reimbursements, together with all supporting documentation, are forwarded to the Chief Operating Officer (“COO”) for approval and then returned to the AP Accountant. The AP Accountant selects approved invoices for payment and runs an AP Detail Check Register report. The AP Accountant forwards the approved invoices, check requests, and travel reimbursements with the AP Detail Check Register report and an Excel worksheet, which lists the amounts of the selected invoices, to the Staff Accountant. The Staff Accountant reviews all selected invoices, check requests, and travel reimbursements to confirm the accuracy of the GL account numbers and proper approval signatures.

Following the Staff Accountant’s review and approval, the approved invoices, check requests, and travel reimbursements, along with the AP Detail Check Register report and Excel worksheet, are forwarded to the Controller. The Controller reviews the selected invoices, check requests, and travel reimbursements and approves them for payment. These documents are then returned to the AP Accountant for check processing. The AP Accountant then sends the Controller an e-mail requesting blank checks with the corresponding check numbers. Upon receiving the blank checks, the AP Accountant prints the checks for the selected invoices, check requests, and travel reimbursements and forwards them to the Controller along with the AP Detail Check Register report for another review. The unsigned checks and supporting documentation are then forwarded to the COO for signature. If a secondary signature is required (all checks larger than \$10,000), the COO contacts the Executive Director (“ED”) and obtains his signature. In the absence of ED, the Chief of Administration or the Director of Human Resources are authorized to sign checks. The signed checks and supporting documentation are finally returned to the AP Accountant. The AP Accountant then mails checks to the appropriate vendors and internally files the supporting documentation. Prior to mailing, the Controller uploads a check register listing issued checks into the bank’s positive pay system to ensure proper financial reporting.

As described above, the operating procedures conformed to LAB’s Accounting Financial Policy and Procedures Manual (“AFPPM”) and the LSC Accounting Guide. There were no recommendations or required corrective actions.

Testing related to credit cards, as part of the testing of cash disbursements process, is detailed in the next finding.

In response to OCE’s Draft Report, LAB had no comments relating to this finding.

Finding 2: A limited review of the credit card process evidenced that LAB has updated its AFPPM to reflect current operating procedures and to ensure that credits are timely posted to the appropriate GL accounts.

While on-site, 126 transactions, totaling \$16,426, were reviewed and tested from the June 2013 credit card account to ensure compliance with the AFPPM and timely reporting in the GL ledger.

The testing evidenced that the documentation of charges, business purposes, and supervisory approvals were consistent and in compliance with the AFPPM and appropriate financial reporting. The current process is described in detail below.

LAB's policy regarding all corporate credit cards states: "Credit cards are provided for the convenience of senior management and advocacy staff. American Express (AmEx) charge accounts are also utilized to take advantage of a favorable rental car arrangement in support of Children In Need of Assistance client visits and certain vendor payments are processed by credit card in order to obtain card issuer reward points. All card rewards and associated benefits are the property of, and solely utilized by, Legal Aid Bureau, Inc. No individuals are authorized to receive or utilize any rewards or benefits accruing from the use of Legal Aid credit cards. All credit card use is strictly limited to business purposes. No personal use of corporate credit cards is allowed. No cash advances or ATM withdrawals are allowed using corporate credit cards. If an employee to whom a credit card has been issued terminates employment or is transferred to a position incompatible with the use of a credit card then that employee shall return their card to the Chief Operating Officer and they shall be denied further use of that card."

LAB's board approved policy provides for Corporate AmEx credit cards to be issued to the following staff managers:

- Executive Director – Currently Issued
- Chief Operating Officer – Currently Issued
- Director of the Statewide Advocacy Support Unit – Surrendered/Cancelled
- Chief Counsel – Currently Issued
- Director of Program Development & Compliance – Currently Issued

Each card is issued in the name of the staff manager and charges are separately reflected on the monthly corporate billing. A separate corporate American Express ("AmEx") credit card account is maintained exclusively for automobile rentals through an Enterprise contract. (The Controller maintains physical control of this card.) Another credit card, an M&T Bank issued Visa, with the name imprint "Bankruptcy," is maintained in the office of the Controller. Use of this card is restricted to bankruptcy court filing fees and use is authorized to be initiated by organization-wide advocacy legal staff for the purpose of filing bankruptcy petitions on behalf of LAB clients. Additionally, Chase Bank MasterCard are issued to the ED and the COO.

A review of the credit card files confirmed that all AmEx Cards are currently issued to the appropriate staff managers with the exception of the Director of the Statewide Advocacy Support Unit, who had recently left that position. At the time of the FUR, that credit card had been surrendered and terminated in a timely manner, and was located in the Controller's file.

The review also found charges to the "Enterprise" AmEx included: (1) a copy of the daily rental agreement; (2) a Request for Travel Arrangement form reflecting the purpose and fund to be charged; and (3) supervisory approval for each charge. For example, review of Chase Bank MasterCard charges reflected correspondence by LAB's Finance unit appropriately requesting additional documentation for outside training costs prior to authorizing payment.

A review of the GL credit card accounts reflected credits (other than payments on account) in the month that they appeared on the account statement. For example, a credit of \$55 that resulted from cancellation of a training event reflected on the June AmEx card statement was posted to the GL as a credit to the training account (532000-00-00-02-00) in a timely manner (effective 6-1-13).

Additionally, the fiscal staff appropriately documented the allocation methodology used to assess the charges to the appropriate funding code and it was demonstrated that the program pays off the full balance of credit card accounts each month; therefore, incurring no finance charges or penalties.

As described above, the current process conformed to LAB's AFPPM and evidenced timely financial reporting in the GL. There were no recommendations or required corrective actions.

In response to OCE's Draft Report, LAB had no comments relating to this finding.

Finding 3: A limited review of the bank reconciliation process evidenced that LAB is following its established procedures in its AFPPM to: (1) to have signed and dated reconciliations by both the Preparer and the Reviewer/Approver; and (2) retain voided checks for use in the preparation of the reconciliations.

According to the LSC Accounting Guide, bank reconciliations serve to verify, at a particular point in time, that the bank balance noted in the monthly statements, provided by a financial institution, is the same balance noted in the program's own internal accounting records. Proper reconciliation procedures substantially decrease the occurrence of any irregular disbursements as the process requires the reconciler to conduct additional inquiry in order to correct any differences between the bank balance and the GL.

Additionally, the LSC Accounting Guide recommends that bank statements be reconciled monthly to the GL by a person who has no access to cash, who is not a regular check signer, and who has no bookkeeping duties. The actual reconciliation should be documented with signature and date in order to ensure timeliness and accuracy. *See* LSC Accounting Guide, § 3-5.2(d).

In addition to appropriate documentation, adequate bank reconciliation procedures should include an assessment of voided checks, an accounting for serial numbers of checks, a comparison of dates and amounts of daily deposits as shown by the cash receipts records with the bank statements; and confirmation that outstanding checks have been investigated and resolved. Bank statements should be delivered unopened directly to a management official for review prior to the reconciliation or delivered directly to the person preparing the reconciliation and should reflect adequate review of the completed reconciliation by a fiscal officer. *See* LSC Accounting Guide, Appendix VII, § Nos. 1-8.

During the on-site review, six (6) months of bank reconciliations were selected to test the process described below. The selected months included: November and December 2012 and January, July, August, and September 2013. LAB's monthly bank reconciliation process is initiated upon receipt

of the bank statements and other correspondence by the Executive Assistant (“EA”) to the ED and the COO. Upon receipt, the bank statements and other correspondence are opened and date stamped as received by the EA. They are then distributed to the ED and/or the COO for review who evidence their review by dated signature on the original bank statements. The statements and correspondence are then forwarded to the Controller for preparation of bank reconciliations.

The preparer¹ of the General Operating Account bank reconciliation logs into the Accufund Accounting system and selects the bank reconciliation module. This module presents the cash account GL activity and provides for comparison of bank activity from the bank statement to information in the GL. Any discrepancies are accounted for and resolved so both the bank statement information and the GL are the same. During this process, the preparer is required to reference and have available for review the following: (1) all voided checks during the current month that occurred due to processing errors; (2) checks issued in prior periods that were voided in the current month; and (3) sequential check numbers accounted for as either issued or voided. Once the bank reconciliation has been completed, the preparer signs and dates it. It is then forwarded to the reviewer for dated signature approval on the actual reconciliation.

The Controller prepares bank reconciliations of Payroll, Resource Development, Helping Hands, PayFlex, and Client Escrow accounts using Excel worksheets comparing GL activity to bank statement activity. Any discrepancies are accounted for and resolved so both the bank statement information and the GL are the same. Once these bank reconciliations have been completed, the preparer signs and dates them and forwards them for review. The reviewer signs and dates the actual reconciliation.

The review concluded that bank reconciliations had been prepared monthly, contained dated signature approvals, retained and accounted for voided checks, and contained the appropriate documentation necessary for review and approval. There were no recommendations or required corrective actions.

In response to OCE’s Draft Report, LAB had no comments relating to this finding.

Finding 4: A limited review of the “Unclaimed Property” liability account for 2012 and 2013 revealed that LAB had a zero (0) balance in this account. In addition, LAB has established current procedures in its AFPPM for unclaimed liabilities which it follows.

A liability account should be established for property that has been transferred from an organization to another party, where possession has not occurred within a reasonable period of time (six (6) months). The most common type of unclaimed property is stale dated checks. LAB’s policy is to void and reissue checks that are more than six (6) months old that have not cleared their bank account. For uncashed checks that are more than six (6) months old, the Controller voids the uncashed checks both in the accounting system and in the bank’s Positive

¹ Bank reconciliations for most of LAB’s bank accounts are performed by the Controller. However, there are a few bank account reconciliations that are performed by the CCFO. Additionally, in the absence of the Controller, the CCFO will perform this function for all accounts and obtain approval from the COO.

Pay System (which is effectively a Stop Payment order). Reissued checks less than or equal to \$1,000 are mailed to payees together with a letter of explanation.

When checks are reissued that exceed \$1,000, an attempt is made to contact the payee by telephone, e-mail, or other means to determine the reason that the check was not negotiated and to notify them that a replacement check is going to be issued. For uncashed checks subject to state reporting and transfer requirements, LAB files all appropriate forms and remits unclaimed property to the Comptroller of Maryland. Prior to remittance to the Comptroller of Maryland, and after un-cashed checks are voided, those amounts are credited to the Unclaimed Property Liability account (Account # 206000). All stale checks written off within the same fiscal year as they were written are credited to the same expense or asset account debited when the original check was issued. Stale dated checks written off in fiscal years subsequent to the year in which the original check was issued are credited to the miscellaneous income account.

During on-site testing, the "Unclaimed Property" account in the GL was reviewed for 2012 and 2013 and determined to have a zero balance. There was no activity in this account for 2012. However, in 2013, there was there was one (1) transaction, a \$12.72 employee reimbursement, which was transferred with the employee's permission to a donation account (Donna's Place). This was evidenced with e-mail documentation and the GL showing the transfer out of the liability account and into the donation account.

There were no recommendations or required corrective actions.

In response to OCE's Draft Report, LAB had no comments relating to this finding.

Finding 5: A limited review of LAB's allocation of recovered losses revealed that LAB utilized a formula recommended by LSC's Office of Inspector General ("OIG") which was agreed upon by its independent auditor. This formula was an equitable method of allocating recovered losses; recording them as derivative of the fund from which the expenses were attributable. This manner is consistent with 45 CFR § 1630.3(h).

The former CFO at LAB from 1978 until January 2008 was convicted for making fraudulent payments to a co-conspiring vendor for office supplies. A U.S. District Court judge sentenced the former CFO to jail in 2010 and ordered restitution of \$1,145,940.25. Subsequent to the conviction, LAB has actively sought to recover lost funds through multiple means, including claims under a bonding agreement which LAB maintained under the requirements of 45 CFR Part 1629. Based on claims filed, LAB has received payments on insurance claims of \$500,000 (April 21, 2011) from The Hartford and \$76,547.17 (July 22, 2011) from Brethren Mutual.

LAB's initial insurance recovery made in 2011 was reflected in derivative income of \$127,623.76 attributed to LSC. Allocation of the recovered proceeds to LSC (22.1%) were based on a formula developed by the LSC Office of Inspector General ("OIG") and agreed upon by LAB's Independent Certified Public Accountant ("IPA") to reflect the loss of federal funds. Additionally, on March 4, 2013, LAB made an additional recovery of \$121,556.09 in its claim against the audit firm (Mitchell & Titus LLP) whose audits covered the years included in the

indictment, of which \$26,863.90 was attributed to LSC as derivative income. The method used for allocating the above recoveries to LSC complies with the requirements of 45 CFR § 1630.3(h).

Currently, LAB continues to seek additional recoveries from the fraud. LAB has determined that the co-conspirator holds title to several Maryland properties and LAB is, therefore, exploring the potential for recovery if legal action can be initiated. In addition, recent case rulings may provide the opportunity for LAB to file claims against the former CFO's pension. LAB is encouraged to advise its Office of Program Performance liaison if or when any additional recoveries are made.

In LAB's response to OCE's Draft Report, LAB stated that intends to provide its Office of Program Performance ("OPP") liaison with periodic updates when recoveries for the fraud are made. OCE concludes that these actions are sufficient.

Finding 6: A limited review of LAB's cost allocation evidenced that LAB appropriately allocates costs to the LSC Basic Fund Grant ("LSC BFG") and timely records those costs in LAB's GL in a manner consistent with the LSC Accounting Guide, LAB's AFPPM, and 45 CFR § 1630.3.

The LSC Accounting Guide, § 2-1.2, notes that "Because LSC requires separate disclosure as part of the financial statements (either within the overall statement of activities or as a separate schedule), LSC recipients should maintain a fund-based accounting system at least for LSC funds." The LSC Accounting Guide, § 2-5, describes the accounting records that should be maintained by each recipient. "In general, accounting records shall be maintained on a double-entry basis using fund accounting and must be adequate to enable a recipient to prepare its annual financial statements, internal reports, and other management reports." According to standards governing the allowance of costs under LSC grants or contracts (*See* 45 CFR § 1630.3), expenditures by a recipient are allowable under the recipient's grant or contract only if the recipient can demonstrate that the cost was actually incurred in the performance of the grant or contract and the recipient was liable for payment which is reasonable and necessary for the performance of the grant or contract as approved by LSC and allocable to the grant or contract.

The 2011 LSC review found that LAB's allocation and reporting methodology related to the LSC BFG occurred on an annual basis and the result was not posted to the GL. In addition, the methodology did not adequately ensure that non-allowable costs were excluded from the allocation to LSC funds. While on-site, the FUR team reviewed LAB's GL and confirmed that expenses attributable to the LSC BFG for 2009-2012 had been incorporated to the GL. The team also reviewed and confirmed that the written guidance governing cost allocations in LAB's APPFM were currently in operation and in compliance with 45 CFR Part 1630.

For the years 2009-2011, LAB incorporated expenses attributable to the LSC BFG funding in its GL through journal entry to comply with the required corrective actions contained in the final report from the 2011 review. LAB shared this information with its IPA in time for preparation of the 2011 Audited Financial Statements ("AFS"). In order to establish compliance for 2012 and future periods, LAB engaged the services of a consultant with expertise in its AccuFund

accounting software to fully incorporate the LSC BFG accounting and allocation into the accounting system in the same manner as LAB's other funding sources. This project was implemented in 2012 and has been completed.

LAB has also established written policies and procedures to ensure compliance with 45 CFR Part 1630 and the LSC Accounting Guide regarding allocation of costs to the LSC BFG in its AFPPM. The procedures established include a process to ensure that unallowable costs are excluded from the cost allocation computation. LSC BFG cost allocations are accomplished by designating Full Time Equivalent ("FTE") personnel quantities by cost center within the AccuFund accounting system to the LSC BFG funding code. Initially, an allocation spreadsheet is prepared and imported into Accufund setting the appropriate percentage bases for the monthly recurring allocations. This spreadsheet is periodically reviewed and updated if there are changes in FTEs.

FTE allocations at the individual office level are made in proportion to the FTE calculations assigned to each office receiving an allocation of LSC funds. LSC BFG funding is therefore allocated based on the proportionate amount, per office, of funding necessary to cover allowable costs incurred at a particular office that are not allocated to other specific funding sources. Indirect costs attributable to the three (3) program-wide cost centers (Program Management and Operations, Resource Development, and Statewide Advocacy) are computed monthly based on proportionate legal salary amounts allocated to the operating offices and then allocated to programs (grants) within those cost centers based on FTEs assigned. These program-wide costs are entered monthly by general journal entry utilizing an external spread sheet (MS Excel) containing Pivot Tables with exported GL data for the month (following month-end postings) to allocate the total among the allowable account codes. Review of the 2012 AFS, 2012 LAB GL, and the 2012 LAB Master Report of LSC Revenue and Expense evidenced the receipt and expenditure of \$3,736,418 of LSC BGF in a uniform manner during the year 2012.

Review of the 2013 process found that the only change from the 2012 process was made in July 2013 and continued forward. The original process allocated the program-wide charges (Program Management and Operations, Resource Development, and Statewide Advocacy) as overhead to the individual offices; however, it was found that the information was more useful for financial management purposes when it remained attributed to each overhead cost center. This change assists LAB to allocate costs in a more efficient and effective manner.

LAB's AFPPM provides that LSC designated non-allowable costs, and certain other indirect cost (allowable) categories determined by LAB, are not allocated to LSC BFG. In addition to LSC prescribed non-allowable costs (such as alcoholic beverages, non-mandatory dues, and lobbying), LAB has chosen to also exclude from allocation to LSC BFG funding certain other expense and spending categories although these expenditures may be otherwise allowable. Excluded expenditure accounts include:

1. Award Expense
2. Awards Programs
3. All Capital spending
4. All Fundraising Event Expense

5. All Internal Event Expenses
6. All Travel Meal Expense
7. All Training Meal Expense
8. Bad Debts
9. Building Improvements
10. Building Repairs and Maintenance
11. Depreciation
12. Discretionary Expense
13. Dues
14. Expendable Office Equipment/Software Expense
15. Fines and Penalties
16. Interest
17. Legislative Liaison Services
18. Loss on Sale of Assets
19. Meetings
20. Pension Plan Contributions in Excess of Net Periodic Pension Expense
21. Pension Valuation Adjustment
22. Resource Development Expense

LAB's exclusion of these expenses can be seen in the "zero balance" line items reflected in LSC AccuFund Master Reports (2012 and January – October 2013) for such line items such as: Dues and Fees, Board Travel, Legislative Liaison, and Capital Additions (not all inclusive). Additionally, these expense exclusions were also reviewed in GL allocation reversals for entries erroneously made to fundraising expense accounts.

There were no recommendations or required corrective actions.

In response to OCE's Draft Report, LAB had no comments relating to this finding.

Finding 7: A limited review of LAB's Private Attorney Involvement ("PAI") revenue and expenses evidenced that LAB allocates all direct and indirect time of staff attorneys and paralegal time charged as a cost to PAI activities based on time documented entries in LAB's case management system. Additionally, LAB has elected to account for time charged to PAI for the ED and the Chief Operating Officer ("COO") outside of the case management system.²

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.

² Since the on-site review took place, LSC has revised its regulation related to Private Attorney Involvement, 45 CFR Part 1614. The new regulation went into effect on November 14, 2014. All citations contained in this report are to the former 1614.

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 § 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).

According to LAB's CCFO, the practice at LAB is to document all direct and indirect time of staff attorneys and paralegals allocated as a cost to PAI activities by using time entries into LAB's case management system. LAB's executives, managers, and staff who do not provide legal assistance to eligible clients, but who do engage in PAI activities, the cost of which LAB allocates to LSC BFG or otherwise reports as PAI spending, maintain records of the time engaged in these supporting activities in their personal daily planning calendars.

The CCFO also expressed that these contemporaneous timekeeping records, in regards to PAI-related time tracked in the case management system, include the date, the amount of time spent, an identification designating PAI qualified time, and a notation regarding the nature of the activity. The CCFO also reported that PAI related time is recorded in increments not greater than one-quarter hour.

A limited review of the PAI allocation for 2012 evidenced that LAB was not in compliance with 45 CFR Part 1614 as per the following findings: (1) LAB did not consider all costs to calculate the percentage to allocate as indirect PAI costs, resulting in underreporting of PAI costs; and (2) LAB did not exclude PAI travel, training, and other direct costs from the total cost to be allocated.

LAB corrected the above findings by developing a new methodology to correctly allocate direct and indirect costs for PAI effective 2013. This new methodology included a revised spreadsheet which has formulas that allocates direct and indirect PAI costs based on all funding sources. The review of the new methodology evidenced compliance with 45 CFR Part 1614.

The revised PAI cost for 2012 amounted to \$577,838, compared to \$523,133 reported in the Schedule of Private Bar Involvement contained in the 2012 AFS, this evidenced an underreported PAI cost for 2012 of \$54,705.

The PAI allocations related to six (6) PAI staff were reviewed and traced to their timekeeping records and payroll and evidenced that their PAI time was based on actual time, and salaries were calculated based on their annual salary over their annual workable hours. However, the limited review evidenced that two (2) staff attorneys showed an even one (1) hour daily time entry for PAI-related activities. The CCFO confirmed that these individuals were part of the intake unit which is responsible for answering various telephone help lines established for people seeking assistance with legal problems. It has been the practice for several years within the Intake Services Unit to record daily an even hour attributable to PAI activities as an estimate of the minimum amount of time spent each day on calls from individuals who are ultimately referred to the private attorney referral system. LSC recommends that actual PAI time records be kept for a period of time, i.e. one (1) month and, based on the daily results, LAB apply that amount for a period of six (6) months with new calculations then being performed in order to apply the result to the following six (6) months. This provides a reasonable basis for the allocation of intake time to PAI-related activity rather than arbitrarily allocating one (1) hour.

Finally, records of PAI time charged for the ED and the Chief Operating Officer (“COO”) recorded outside of the case management system were requested and reviewed. The review team found the following discrepancies in the records provided: (1) numerous entries had no clarity regarding how the activity or time related to PAI; (2) several entries appeared to allocate the total time of the entire activity to PAI, when reasonably, only a segment of the activity could relate to PAI; (3) numerous time entries related to the program’s labor negotiations, other employment issues, or general program business were designated as PAI time; and (4) several entries indicated no relation to PAI. Based on the information provided, LSC was unable to ascertain whether or not any of the PAI time provided should have been charged to PAI by the ED and COO, as there were insufficient descriptions for these possible PAI activities. The Draft Report required LAB to provide justification and/or explanation for time charged to PAI by the ED and COO.

In response to OCE’s Draft Report, LAB stated, “Enclosed are revised 2012 PAI time logs with expanded explanations of PAI time entries for the Chief Operating Officer and me [ED]. After further review, modifications have also been made to the amount of time in some of these entries and revised totals have been calculated. These records comply with relevant Maryland Legal Aid PAI time keeping procedures as detailed in our Accounting and Financial Policies and Procedures Manual. The Chief Operating Officer and I [ED] spend a considerable amount of time, as reflected in our personal daily planning calendars, interacting with, encouraging, directing, facilitating and supporting a large and ever expanding group of volunteer attorneys who provide critically important and extremely valuable pro bono legal services and other support to Maryland Legal Aid. The time spent by Maryland Legal Aid’s executives in interacting with these professionals is properly classified as private attorney involvement in accord with Code Federal Regulation, Title 45, Subtitle B, Chapter XVI, Part 1614 – and specifically as described in Part 1614.3 (b).”

The additional requested information was provided and has been evaluated by OCE. OCE recognizes that the COO is not an attorney so therefore does not meet the definition of an attorney which triggers the timekeeping requirements of 45 CFR Part 1635. However, in instances where LAB seeks to charge COO time to PAI, the charges must be based on reasonable operating data which is clearly, and accurately, documented. Conversely, if LAB's ED provides any legal assistance to eligible clients, he must abide by the timekeeping requirements of 45 CFR Part 1635. If the ED is not providing legal assistance then, ED time spent on PAI supporting activities as well as activities considered to be a case or matter must be documented by timesheets in order to justify the cost allocation, direct or indirect, to PAI. *See* 45 CFR Part 1614.

The level of detail required by Part 1614 is not as high as that required by Part 1635 but the details must be sufficient to justify the allocation. In order to assist OCE to determine whether the level of LAB's PAI allocation of COO and ED time is allowable please provide:

1. A copy of the pertinent sections of daily planning calendars referenced in LAB's response to the Draft Report;
2. A narrative (policy or procedure) explaining the manner in which:
 - a. entries are made to the daily planning calendars (by whom, how often, detail required, etc.);
 - b. entries from the daily planning calendars are transferred to LAB's accounting system or otherwise compiled (how often, details required, system used, etc.);
 - c. the cost allocation methodology used for determining indirect PAI costs; and
 - d. if reasonable operating data is used for calculating the COO's indirect expenses, how that data is compiled; and
3. A narrative explaining how/if hours stated for individual PAI activities are calculated and/or confirmed as being correct.

IV. RECOMMENDATIONS

None.

V. REQUIRED CORRECTIVE ACTIONS

None.

VI. ADDITIONAL INFORMATION REQUIRED

As noted in Finding 7.



MARYLAND LEGAL AID

Human Rights and
Justice for All

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4.2013



July 25, 2014

Ms. Lora M. Rath, Director
Office of Compliance and Enforcement
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

Re: Fiscal Follow-up Review, Recipient No. 321016

Dear Ms. Rath:

This is to confirm receipt of the Fiscal Follow-up Review Draft Report, forwarded on June 17, 2014, related to your office's on-site visit which took place the week of November 11, 2013. Below are Maryland Legal Aid's comments along with additional information requested in the Report. After careful review, we understand, and generally agree with, the findings.

In the area of administrative corrections, the report refers to "the Deputy Director" in multiple places. Maryland Legal Aid does not have a position of Deputy Director. We believe that the person being referenced is Gustava Taler, Esq., Maryland Legal Aid's Chief Operating Officer. The report also contains separate references to the Chief Operating Officer, which is correct. An organizational chart was provided in advance of the visit which shows Maryland Legal Aid's current executive management structure.

In addition, the report refers to a current "CFO" in multiple places. As disclosed in the Finance & Accounting Unit Organizational Chart provided in advance of the visit, Maryland Legal Aid does not currently have a "CFO" position. Rather there is a vacant Director of Finance position in the Finance & Accounting Unit. We believe that the individual referred in the Draft Report as the current "CFO" is Wm. Kenneth Freienmuth, CPA, who is an outside consultant with extensive law firm experience and expertise who provides accounting services to Maryland Legal Aid as part of a continuing consulting engagement. Mr. Freienmuth performs some functions which would be responsibilities of a Director of Finance and, as disclosed in the Segregation of Financial Duties Worksheet provided in advance of the visit, currently performs certain accounting functions involved in Maryland Legal Aid's system of internal control.

The Legal Aid Bureau, Inc. is a 501 (c)(3) organization that provides free civil legal services to low-income people in every Maryland community. A copy of our current financial statements is available upon request by calling our office: (410) 951-7719. Documents and information submitted to the State of Maryland under the Maryland Charitable Solicitations Act are available from the Office of the Secretary of State, State House, Annapolis, MD 21401, for the cost of copying and mailing.

All funds received by the Legal Aid Bureau, Inc. are spent in accordance with the Legal Services Corporation Act of 1974, as amended (1977, 42 U.S.C. §§ 2996 et seq.), its implementing regulations, 45 C.F.R. § 1600 et seq. and other applicable law.

Finding 5, in connection with continuing successful fraud recovery efforts, states that: "*LAB is encouraged to advise its Office of Program Performance liaison if or when any additional recoveries are made.*" Maryland Legal Aid intends to provide LSC's Office of Program Performance liaison with periodic updates of these recoveries as they progress.

The recommendation in Finding 7 regarding Private Attorney Involvement activities and calculations in relation to the time keeping practices of the Intake Services Unit states that: "*LSC recommends that actual PAI time records be kept for a period of time, i.e. one (1) month, and based on the daily results LAB apply that amount for a period of six (6) months with new calculations then being performed in order to apply the result to the following six (6) months. This provides a reasonable basis for the allocation of intake time to PAI related activity rather than arbitrarily allocating one (1) hour.*" Maryland Legal Aid intends to follow this recommendation, or a very similar methodology, going forward for the purpose of calculating the proper allocation of Intake Services Unit time to PAI.

With regard to Finding 7's comments related to senior executive PAI time records, and also with respect to the related section VI. ADDITIONAL INFORMATION REQUIRED, enclosed are revised 2012 PAI time logs with expanded explanations of PAI time entries for the Chief Operating Officer and me. After further review, modifications have also been made to the amount of time in some of these entries and revised totals have been calculated.

These records comply with relevant Maryland Legal Aid PAI time keeping procedures as detailed in our Accounting and Financial Policies and Procedures Manual. Those procedures state:

Maryland Legal Aid executives, managers and staff who do not provide legal assistance to eligible clients, but who do engage in Private Attorney Involvement (PAI) activities, the cost of which Legal Aid allocates to LSC BFG or other PAI spending, maintain records of their time engaged in these supporting activities in their personal daily planning calendars. These contemporaneous timekeeping records, in regard to PAI-related time, shall include the date, the amount of time expended; an identification designating PAI qualified time, and a notation regarding the nature of the activity. PAI-related time is recorded in increments not greater than one-quarter hour.

The Chief Operating Officer and I spend a considerable amount of time, as reflected in our personal daily planning calendars, interacting with, encouraging, directing, facilitating and supporting a large and ever expanding group of volunteer attorneys who provide critically important and extremely valuable pro bono legal services and other support to Maryland Legal Aid. Some of the most well respected and accomplished attorneys in Maryland devote significant amounts of their time on a pro bono basis assisting Maryland Legal Aid with direct services to clients, fundraising, procurement, governance, legislative liaison activities,

community outreach and a wide range of complex legal issues. The time spent by Maryland Legal Aid's executives in interacting with these professionals is properly classified as private attorney involvement in accord with Code of Federal Regulations, Title 45, Subtitle B, Chapter XVI, Part 1614 - and specifically as described in Part 1614.3 (b) which states:

“(b) Activities undertaken by recipients to meet the requirements of this part may also include, but are not limited to:

(1) Support provided by private attorneys to the recipient in its delivery of legal assistance to eligible clients on either a reduced fee or pro bono basis through the provision of community legal education, training, technical assistance, research, advice and counsel; co-counseling arrangements; or the use of private law firm facilities, libraries, computer-assisted legal research systems or other resources; and

(2) Support provided by the recipient in furtherance of activities undertaken pursuant to this Section including the provision of training, technical assistance, research, advice and counsel, or the use of recipient facilities, libraries, computer assisted legal research systems or other resources.”

Further, the work of these private attorneys on behalf of Maryland Legal Aid has contributed significantly to the success of the organization with respect to resource development and delivery of service. Maryland Legal Aid's governing board of directors is primarily comprised of members of the private bar – together with members drawn from the client community. The Equal Justice Council, Maryland Legal Aid's blue ribbon committee of top lawyers and business leaders, provides fundraising assistance, community outreach and community awareness statewide. Efforts by these two groups have produced considerable private donations, foundation awards, state and local government grants and contracts and cy pres awards over the last few years.

Also enclosed with this response is a revised calculation of PAI spending for 2012, which incorporates revised hour totals from the Chief Operating Officer and my PAI time logs. These calculations utilize the corrected methodology for allocating direct and indirect costs for PAI that is referenced in Finding 7. They further incorporate improved cost accounting procedures calculating the costs per hour of staff time and custom accounting system reports developed subsequent to the follow-up fiscal review visit. This revised calculation demonstrates that 2012 calculated PAI costs exceed the Schedule of Private Bar Involvement contained in the 2012 AFS and was in compliance with 45 CFR Part 1614.

Ms. Lora M. Rath, Director
Office of Compliance and Enforcement
July 25, 2014
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Finally, Maryland Legal Aid's executive management and fiscal staff enjoyed working with your staff that conducted the review. Their insight and professionalism were greatly appreciated. Should you have any questions, I can be reached at 410-951-7680 or by email at wjoseph@mdlabor.org.

Sincerely,



Wilhelm H. Joseph, Jr. Esq.
Executive Director

Enclosures

LEGAL AID BUREAU, INC.

Schedule of Private Bar involvement
For the Year Ended December 31, 2012
Revision at July 25, 2014

	Private Bar Involvement		
	LSC	Non-LSC	Total
Support and Revenue:			
Grants & Other Support	\$ 122,189	\$ 467,056	\$ 589,245
Expenses:			
Attorney Salaries	47,512	256,781	304,293
Paralegal Salaries	4,863	26,282	31,145
Support Salaries	6,185	33,428	39,613
Employee benefits	15,131	81,774	96,905
Occupancy	4,319	23,341	27,660
Equipment rental	631	3,030	3,661
Supplies	760	8,659	9,419
Telephone	1,979	10,695	12,674
Travel			-
Training	4,304	173	4,477
Library	429	2,317	2,746
Insurance	318	1,719	2,037
Audit	216	1,168	1,384
Litigation	180	1,206	1,386
Contract Services - Subgrant	32,000		32,000
Contract Services	3,362	16,484	19,846
			-
Total Expenses	122,189	467,057	589,246
Excess of Support and Revenue over Expenses	\$ -	\$ -	\$ -