



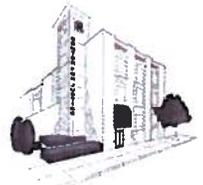
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Pursuing Justice,
Strengthening Lives

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August 7, 2013

Mytrang Nguyen, Program Counsel
Office of Program Performance
Legal Services Corporation
3333 K St., NW, 3rd Floor
Washington, DC 20007-3522
Via email: nguyenm@lsc.gov

Re: Legal Services of Eastern Missouri, Inc. (LSEM- recipient # 526020) comments to LSC Draft PQV Report, dated 7-8-2013, related to March 2013 PQV visit

Dear Mytrang,

Thank you very much for the detailed and thoughtful summary of LSC's Program Quality Visit in March 2013, as described in your draft PQV Report of July 8, 2013 (the "Report"). We very much appreciate all the time and effort of the expert team which interviewed close to 100 people from our staff, board members, volunteer lawyers, judges, lawyers within our service area and many of our community partners, as well as your dedicated work in leading the effort and crafting the draft Report.

We are particularly grateful the team was able to understand our holistic approach to services, along with our strong connections in the community, and the many ways in which this approach serves our clients. Thank you for recognizing that our program is "client-centered" and "client-driven", and that we exhibit "strong advocacy and lawyering" in our program.

While the majority of our responses to various suggestions will be in our competitive LSC grant renewal application, the attached comments highlight some areas where we thought clarification might be helpful.

Sincerely,

Daniel K. Glazier

Executive Director and General Counsel

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Daniel K. Glazier, Executive Director and General Counsel



Legal Services of Eastern Missouri is proud to be a Legal Services Corporation (LSC) grantee, and we comply with all LSC conditions and prohibitions in acceptance of all funds.



**LEGAL SERVICES OF EASTERN MISSOURI, INC. (LSEM)
COMMENTS TO
DRAFT LSC PQV REPORT OF JULY 8, 2013
LSEM RECIPIENT #526020**

Here are some areas where we wanted to provide clarification:

1. Regarding Performance Area II

This portion of the report contains one Tier I Recommendation II.1.4-6.1*, which requests in part that LSEM “*review and assess the efficiency and client experience in its intake process*”, including “*an assessment of technology needs for a more efficient and streamlined centralized intake process, which may include on-line intake.*”

The primary points of clarification regarding Findings 4, 5 and 6 are summarized as follows:

Finding 4: *Since 2008, LSEM has operated a centralized intake system through the Advocacy and Referral Team (ART). The city and nearby suburbs generate a high volume of calls which are primarily handled by live calls and callbacks.*

Response to Finding 4:

- LSEM devotes about .5 FTE (not .75 FTE) of clerical staff (one of whom is also a paralegal) to assist with compiling voice mail messages from intake applicants into the electronic “call back” module of the case management system (Prime), from which ART staff then returns the applicant’s call and completes the intake.
 - This current system has the advantage of being able to prioritize the voice mail messages by marking those with a deadline as an “emergency” in Prime so that ART staff can triage and call the emergencies first from within the Prime “call back” module.
 - Further, as incorrectly listed on page 6, the “information services manager”, who is part-time also in ART, is not included in the daily “voicemail to call back module entry” schedule of morning one hour shifts by four office manager/secretaries.

Finding 5: *The ART team has lost four staff since 2011. This may be contributing to the increased callback volume and inconsistent quality in completed intakes. Other LSEM staff are cutting back on their other responsibilities to assist with callbacks.*

Response to Finding 5:

- Number of persons assisting in ART: Currently, ART staff size is 8.25 FTE (plus a .66 FTE volunteer), not 5.5 as listed on page 5. One previously part-time ART worker was moved to full-time after the staff reductions.
 - LSEM counts the 1 FTE receptionist as part of ART as she fulfills a critical pre-screening function by utilizing a live person to inform many callers that we do not help with criminal and other non-priority matters such as traffic tickets, thus saving valuable time in ART to deal with potential clients who do fit our civil priorities. The receptionist refers such non-priority callers to other resources and records them in our “other matters” module of Kemps.
 - Additionally, LSEM’s information services manager is also a part-time coordinator of ART and was counted in the current ART FTE staff count above.
- ART coverage in satisfaction surveys: While ART does not use separate intake satisfaction surveys for all its phone applicants, the ART functions of receptionist and intake are expressly covered in the general LSEM client satisfaction survey. Surveys related to the ART functions for intake and reception are also covered in our priority planning process survey and in our annual update surveys related to priorities sent to various community stakeholders and clients.
- ART participation in annual planning process: As a rule, ART does participate in the annual planning process with Action Plans and in Action Plan review meetings with the Executive Director and Associate Director for Client Services and has since 2008, when ART started. We apologize that the 2012 ART action plan was not provided to LSC in advance of the visit.
- Training re ART staff: ART staff does participate in all trainings by various units as a general matter. However, as with any training/meeting, due to vacation and/or illness, sometimes a staff member may be absent. However the content of the training and any materials are reviewed with the absent ART intake worker.
- Experience of caller not answered live: The report states that “for 62% of callers who hang up or are forwarded to voice mail the experience with LSEM intake system is unknown.” LSEM disagrees that the experience of 62% is unknown. LSEM listed only approximately 10% of callers as hang-ups, for which it is correct—the experience of that 10% is unknown. In contrast, for the callers who leave a voice mail message (52%), the experience is not unknown. Emergency cases are called back the day the caller’s message is left, or within 1-2 days, with non-emergency calls generally taking a little longer.

Finding 6: *The LSEM intake function and ART staff do not appear to be supported with adequate technology.*

Response to Finding 6:

- While we believe our current technology is adequate, LSEM has requested meetings with

appropriate technology and sales staff from its phone service, software and hardware provider, MITEL, to review the technological accuracy of the description of the capabilities of its current system as contained in this draft Report, and also to explore other options as suggested by this draft Report, including software to generate certain reports, hold times, automated callbacks, and pre-recorded information. With the short time frame for a response and various other MITEL commitments, LSEM has not been able to gather such information within the allotted time to prepare this response to LSC's draft Report but LSEM does plan to meet with MITEL later in August. LSEM is also exploring the current cost and effectiveness of an online intake system for its Kemps Prime case management system.

- LSEM plans to implement a longer hold time option for applicants calling in.
- This finding states “*Currently, ART shares the main office telephone number which may pose challenges for callers trying to reach specific staff or applicants trying to reach ART.*”
 - To clarify, LSEM does not believe this system poses challenges for a number of reasons:
 - The automatic message on the main office number (314)-534-4200 or via the 800 #) states that any caller can go to the specific person they are trying to reach at any time by dialing their extension or by pressing # for the directory if they know the name of the person they want.
 - The message also DOES allow for routing by certain substantive areas directly, without going through ART, for example, outside callers to the main number can go directly to the Immigration program.
 - Callers are told that if they have any other legal problem, they can push #6. This takes them directly to ART intake. Thus, an applicant does not have to wait for the receptionist to answer the main number.
 - Staff members have direct dial numbers which they are free to give to existing clients, agencies or to anyone they wish so that callers can by-pass the main number and avoid having their call answered by the receptionist.
 - ART staff does leave their direct dial number for an applicant to call them back so the applicant does not have to go through the main number/receptionist again.
 - The screening function by a live person, our receptionist who answers the main number, is very useful to the community by preventing matters which we do not handle, like criminal, traffic tickets, etc. from going to ART and clogging their system with calls which do not need an intake. The receptionist can also personally give such “out of priority” callers referrals to other sources of assistance. If all calls for help went directly to ART through a different number, the volume would increase substantially, with people who are not eligible for help. While a message during a hold period may help non-eligible persons to screen themselves out, many people do not really listen to the recorded messages and still want to talk to a live person in the hopes of getting help.

2. Regarding Performance Area III.

Finding 8: *LSEM has built a strong capacity to carry out its work effectively with a skilled,*

mission-driven and capable staff that is respected in the client and legal communities.

Minor factual correction: Page 9, Finding 8, 2nd paragraph-- re LSEM executive director experience, sentence should say that he HAS TAUGHT (not teaches) and at the School of Social Work at ST. LOUIS UNIVERSITY (not Washington University).

Finding 9: *LSEM has a long tradition of high-caliber legal work in core areas of poverty law practice and other important areas. Its advocates are proactive and seek to attain the best possible results for individual clients and other low-income people who may face similar legal problems.*

Response to Finding 9: Regarding the section on LSEM strategic use of social workers to help support attorneys and case advocates on legal cases being handled for clients, page 12, top paragraph states that “[u]ntil the recent staff losses, LSEM has an assigned social worker or part-time social worker for almost every unit.” LSEM did not and does not have a permanent staff social worker assigned for “almost every unit.” However, LSEM has always sought to cover clients in units where a permanent staff social worker is not directly assigned to the unit by using social work students/practicum students (some paid under grants) and by the permanent social work staff handling cases of special need upon request from an advocate in any unit.

Recommendation III.1b.12.2*, the second of three Tier I recommendations in the draft Report, asks LSEM to “*explore ways to engage managers and all staff in regular dialogue on practical strategies to handle the workload and case volume issues that result from staff reductions.*”

Response to III 1b.12.2*: While LSEM will explore all of the suggestions listed for our consideration, we wanted to highlight also existing methods to handle workload and case volume:

- The report suggests that LSEM “*should allow its managers and staff latitude to ask if there are certain well-defined circumstances where, due to stretched staff resources, LSEM should limit or restrict assistance.*” It has been an LSEM practice for years that each of the substantive units can request to close intake for appropriate periods of time to deal with overloads, absences, etc. by discussing it with an Associate Director and with the approval of the Executive Director. Intake protocols have been temporarily and permanently changed/limited many times for nearly all units, due to changing staff resources, case load maximum capacity, large upcoming trials, discontinued grants, or to accommodate staff scheduling needs, such as leaves of absence or serious illness. However, LSEM also believes in the wisdom of the managing attorneys, who talk to their staff, about the impact in the client community of restricting intakes in certain types of cases and then not easily getting the word out again to clients and providers that certain intakes have opened up again. Fluctuating case load demands are often handled by giving more cases C&A, instead of restricting intake beyond its current restrictions.
- The monthly reports on pending cases which go to the advocate, managing attorney and Associate Director for Client services serve as a warning signal for caseloads that are too high and the Associate Director of Client Services regularly communicates to a unit manager if she has questions about particular advocate caseloads being high.

Additionally, while some increase in case loads is unavoidable when there are multiple staff reductions, during the period those outstanding case loads are being absorbed in the areas which lost staff, the picture overall is resolving as more time passes from the November 1, 2012 staff reductions as staff self-regulate, with the assistance of management, on the number of cases handled.

- For example, consistent with a nearly 19% staff reduction¹, the numbers of cases opened in the first six months of 2013 are lower than for the same period a year before.

Recommendation III.1b.13.3 states: “*As resources allow, LSEM should consider engaging its advocates in collaborations across offices and units to develop advocate skills and foster organization-wide approaches to services and advocacy,*” and a portion of the narrative for Finding 13 (page 15) referred to “*some attorneys with less trial experience and litigators with less experience in multi-forum advocacy, including media and communications advocacy.*”

Response to recommendation III.1b.13.3 and Finding 13: We are always looking at ways to involve attorneys from different units in more complex litigation and other forms of advocacy. The Director of Advocacy looks for opportunities to involve less experienced attorneys in more complex advocacy outside of their units and has an open door to attorneys from different units who may wish to participate in additional advocacy opportunities. We will continue to look for ways to expand such opportunities.

LSEM already coordinates across programs, units and offices with regard to litigation and complex advocacy. For example, an attorney in the Children’s Legal Alliance has worked on *Olmstead* litigation involving seniors and people with disabilities and one of our consumer attorneys has co-counseled with lawyers in the Lasting Solutions and Housing Units. Our Director of Advocacy, Assistant Director of Advocacy for Litigation and a consumer lawyer are collaborating with the Managing Attorney in the Union office on potential litigation. There are other examples but we will certainly look for opportunities to expand our collaboration in these areas. We will also consider finding ways to take advantage of the program’s appellate expertise, for example, through co-counseling in appellate cases in the Lasting Solutions Unit.

Private Attorney Involvement (page 15)

Finding 14: *LSEM’s private attorney involvement effort has a solid foundation and staffing, and is positioned to grow and expand its work. The Volunteer Lawyers Project can play a critical role in mitigating some of the impacts of staff losses and may benefit from studying other effective, client-centered pro bono models for advice and brief services.*

¹ In the introduction (page 1), in Finding 12 (page 13), and Finding 15 (last paragraph page 18), the draft Report mentions that the recent reduction of 16 staff was a 10% loss. Actually, those 16 people were 18.8% of our staff as it existed in 2010 before any reductions.

Response re VLP statistics: We have a correction to the total of cases referred to a volunteer lawyer in 2012 and the total new lawyers recruited. The total cases referred was not 817 as listed on page 15, but 282 cases via the St. Louis office Volunteer Lawyers Program (this does not count cases referred to Judicare attorneys). Similarly, the number of new volunteer lawyers recruited in 2012 was not 1200 (as stated on page 16) but 77, which was above the 2012 new recruitment benchmark set by VLP in its 2012 Action plan. Perhaps the reference to “1200 attorneys to take pro bono cases” was meant to refer to the full panel of attorneys recruited over many years (not just in 2012) for VLP, with 169 attorneys, as stated correctly, accepting new case placements in 2012. Additionally, LSEM notes that volunteer lawyer time from outside firms, as reported to us in 2012, totaled 5,550 hours, plus another 2,000+ hours contributed by 23 more volunteer lawyers working in-house at LSEM during 2012.

Response re VLP internal targets: On page 16, the report states “*it did not appear to the team that the VLP had yet set internal recruitment targets to guide its efforts, but it has several examples of success developing more opportunities for in-house legal department to engage in pro bono service.*” Recommendation III.2.14.6 suggested that VLP “*consider setting internal goals to benchmark progress.*”

VLP, like each other program/office of LSEM, does set internal benchmarks for various performance targets in its Annual Action Plan. The VLP action plan sets an internal goal for recruitment of new attorneys to the VLP panel each year to guide its efforts. Additionally, LSEM has special reports for VLP to track progress on various goals such as recruitment, number of cases placed, number of cases referred to VLP, hours of volunteers from outside firms and hours from in-house volunteers. These reports need only the dates to run and are available to all staff on our H drive section with “Action Plan Report” with all manner of data and outcomes to track progress during a year.

Private Attorney Involvement, Finding 14, refers in its last paragraph on page 17 to LSEM’s work in the *Hiltibran* case and suggests that LSEM “*take lessons from its collaboration in the Hiltibran case and continue to consider how to engage mid-sized and larger law firm resource on its significant cases.*”

Response: *Hiltibran v. Levy* is not the first case in which LSEM has collaborated or co-counseled with private law firms. We have a long history of such collaborations before and after the *Hiltibran* case. For example, we co-counseled with 2 small firms on an *Olmstead* case in 2012 and partnered with private firms in a 2005 case challenging cuts to Medicaid services. We have co-counseled with other private law firms in civil rights cases on behalf of homeless individuals or people with disabilities. We have also worked with numerous national public interest law firms and local law schools on several cases. Nevertheless, we will certainly explore opportunities to involve larger private firms in our litigation as well.

The last of the three Tier I recommendations states: Recommendation III.2.14.4*: *As part of the process to address its staff reduction, each unit and office at LSEM should fully consider how it can support the Volunteer Lawyers Project in expanding pro bono opportunities that meet client*

and organizational needs and the capacity and interest of its volunteer attorneys and law students. LSEM may also ask units more expanded questions about possible pro bono opportunities in the annual action planning process and discussion about complex advocacy.

Response to Recommendation III.2.14.4*: LSEM will certainly renew efforts to look for ways to expand VLP involvement to help meet client needs, as we always do, and get more unit involvement in thoughtfully exploring possible models as suggested on page 17. However, to address staff losses, the draft Report suggests on page 16 that VLP “*consider more time-limited pro bono opportunities that bring in more volunteers to serve more clients, particularly those in need of simple advice and brief services.*” LSEM is not sure that more counsel and advice and brief services cases placed through VLP would be efficient or effective in solving clients’ complex legal problems in a manner that will have a meaningful outcome for the client.

The higher than national median placement of extended service cases by VLP (14 per 10,000 per persons compared with the nation median of 8 as reported on page 16), is purposeful. LSEM highly values extended representation as the more certain way to make a lasting difference in clients’ lives, both for VLP case placements and staff cases.

Additionally, all the internal work of an intake with eligibility and facts, plus a summary of a case and calls to potentials volunteers for VLP placement, is about the same internal work whether the VLP placement is for C&A/BS cases or for extended representation. Thus, use of VLP for extended representation placement has also been seen as more efficient. LSEM would also be wary of substituting existing volunteer lawyer time with more C&A cases and losing at the same time the capacity of the very same volunteer attorneys who would otherwise have been available for the more impactful extended representation cases, for example, where a client actually obtains a divorce, or is represented in court on an eviction.

Notwithstanding such concerns, LSEM will explore placement of limited representation types of cases of C&A or BS as long as we are successful in expanding the pool of potential volunteers to handle such cases.

Finding 18: *LSEM’s central administrative staff have varied responsibilities in the organization. Within its staffing and resource limitations, LSEM appears to maintain basic, functional technology systems. It should carefully consider and prioritize technology investments that will improve efficiency and operations.*

Response to Finding 18: On page 20 of the draft Report, it states that the “*LSC team also observed that the organization’s advocates appear to have an extensive collection of client advice letters but it does not appear to employ a system for document assembly.*”

We want to clarify that document assembly has been used for years throughout various programs at LSEM already. ART uses document assembly for nearly all its C&A letters. The program with the highest volume, the Lasting Solutions (family) program uses document assembly for all its correspondence and pleadings. Our Volunteer Lawyers Program uses document assembly for all its status update requests and closing letters. Advocates working on estate planning documents for our Elder Program utilize documents assembly for Wills, and Powers of Attorney, as another example.

3. Regarding Performance Area IV.

Regarding the sections IV, 4.19.8 and 4.19.9, dealing with financial administration (page 21), the following additional information relates to ways in which LSEM was already providing key financial information to its Board, for example, and clarifies that LSEM already had a reserve and investment policy.

Recommendation IV.4.19.8: *LSEM should consider the best ways to provide appropriate, key financial information to its staff and board.*

Response: The Director of Finance is on the agenda of every board meeting. The financial presentation includes the most recent quarter's operating results. The quarterly report is comprised of the following information – the operating results of each month in the quarter presented separately, year-to-date results, a comparison of year-to-date actual to budget, the budget for the current year, year-to-date results for the same quarter in the prior year and actual results for the prior year. Highlighted in the discussion are the more significant variances, both positive and negative, of specific revenue and expense line items. In the fall, the presentations include a forecast of the anticipated results for the year's end.

With respect to financial information to staff, the Director of Finance has presented a short financial update at many of the all staff meetings over the years, including at the most recent all staff meeting in July 2013. Additionally, of course our Annual Report provides a yearly update to staff and the community about LSEM finances, as does our public annual 990 filing.

Recommendation IV.4.19.9: *LSEM should consider adopting a reserve policy and investment policy.*

Response: LSEM does have both a reserve and investment policy.

Reserve policy - The following statement is excerpted from a document presented to and approved by the Board earlier in 2013:

“The reserve funds are utilized to meet several objectives.

- 1) Demonstrate to the United Way of Greater St. Louis that LSEM meets the financial stability quality standards by maintaining a sufficient level of reserves. The quality standard guideline requires a level of noncapital unrestricted net assets equal to a minimum of 25% and a maximum of 75% of annual expenses.
- 2) Provide the liquidity to fund any unanticipated expenditures necessary to conduct business in an uninterrupted, safe and effective manner. It is LSEM's practice not to carry any debt other than capitalized equipment leases.
- 3) Provide the cash flow needed to sustain the organization during the normal ebb and flow of grant and contribution cycles, while minimizing the disruption to staffing levels and service to clients. ...Due to the requirements of education, licensing and expertise in specific areas of law, terminating and re-staffing legal positions are both disruptive and costly and should be avoided during downturns perceived to be of short duration.

- 4) In periods deemed to require a decrease in staffing, allow for changes to be made incrementally as a series of steps so that the effect of each change can be assessed prior to the implementation of the subsequent step.”

Investment policy – The following is excerpted from LSEM’s Investment Policy contained within LSEM’s Accounting Manual. LSEM has chosen to follow the LSC investment guidelines:

“...Funds in excess of those needed for monthly operating expense will be invested in federally insured accounts. Investments may be in the form of certificates, U. S. Treasury notes or bills, money market accounts or repurchase agreements that invest in U. S. government securities.

Any investment policy adopted outside these stated policies must be acknowledged by resolution of the divergence from LSC’s authorized policy (stated above), and recorded in the minutes. In such cases, the Board accepts full responsibility for the security of those investments.”

Recommendation IV.6.21.10: *LSEM should consider reinstating its practice of quarterly staff meetings. It should also consider formally providing updates to all staff from the monthly managers meetings.*

Response to Recommendation IV.6.21.10: The draft Report states on page 22 that “[p]rior to the layoffs, LSEM also used to meet as an organization quarterly before the staff reductions and periodically sent an email newsletter entitled “The Brief” to share organizational news and successes.” As stated in the Report, LSEM had already informed LSC that LSEM plans to “meet again regularly as an organization”, and has held “all staff” meetings in March after the visit and in July. However, we want to correct the misimpression that the Brief was only periodically sent out prior to the layoffs. The Brief has continued as a monthly internal newsletter before, during and after the layoffs and LSEM plans to continue to use this useful tool for regular communications. Additionally, managers have been reminded to convey regularly to their staff the content of the monthly manager’s meetings.

CONCLUSION

LSEM is grateful for the detailed and careful analysis of our program according to the LSC Performance Criteria. We are encouraged that the team noted so many positive aspects of our program and we appreciate the many suggestions, which we intend to investigate further. We again thank the team members for their hard work and thoughtfulness in looking at our program and sharing their ideas and the feedback they received from the community and staff. It was an excellent experience from our perspective, where we received the benefit of advice from a team of experienced legal aid consultants.