



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Advice and Referral Center
Compliance Review
July 9-11, 2013

Recipient No. 130010

I. EXECUTIVE SUMMARY

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

Finding 2: LARC's intake procedures and case management system support the Program's compliance related requirements.

Finding 3: Sampled cases evidenced that LARC substantially complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines ("FPG"). There were a limited number of cases reviewed that lacked the eligibility documentation required by 45 CFR § 1611.4 and CSR Handbook (2008 Ed., as amended 2011), § 5.3. Although LARC indicated that it did not have a 1611 policy at the time the review was scheduled, its current policy income eligibility policy complies with the requirements 45 CFR Part 1611.

Finding 4: Sampled cases evidenced that LARC is in compliance with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Although LARC indicated that it did not have a 1611 policy at the time the review was scheduled, its current asset eligibility policy complies with the requirements of 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

Finding 5: Sampled cases demonstrated compliance with 45 CFR Part 1626 as cases reviewed evidenced consistent screening procedures that verified an applicant's U.S. citizenship or verified the applicant's eligible alien status. One (1) citizenship attestation did not conform to the format in CSR Handbook (2008 Ed., as amended 2011), § 5.5. Although LARC indicated that it did not have a 1626 policy at the time the review was scheduled, its current policy on restrictions on legal assistance to aliens complies with the requirements of 45 CFR Part 1626.

Finding 6: The case sample did not require a determination of compliance with 45 CFR § 1611.9 (Retainer agreements) as the sampled cases were all brief services.

Finding 7: Although LARC indicated that it did not have a 1636 policy at the time review was scheduled, its current policy on client identity and statement of facts complies with the requirements of 45 CFR Part 1636.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources). LARC's policy on priorities is in compliance with the requirements of 45 CFR Part 1620.

Finding 9: With three (3) exceptions, case files reviewed evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: With five (5) exceptions, sampled cases evidenced compliance with the requirements of Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011) (Case closure categories).

Finding 11: With two (2) exceptions, sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).

Finding 12: Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Finding 13: Although LARC indicated that it did not have a 1604 policy at the time the review was scheduled, its current outside practice of law policy complies with the requirements of 45 CFR Part 1604.

Finding 14: Interviews with staff, a review of pamphlets, and fiscal records evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). Although LARC indicated that it did not have a 1609 policy at the time the review was scheduled, its current policy on fee generating cases complies with the requirements of 45 CFR Part 1609.

Finding 16: Based on a limited fiscal review, LARC is in compliance with the requirements of 45 CFR § 1610.5 (Notification); in addition, based on a limited fiscal review, on-site observations of LARC's office, and interviews with staff indicated that LARC does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues.

Finding 17: LARC's in-house PAI cases are compliant with 45 CFR § 1614.3(d)(3) as sampled cases and interviews with LARC staff demonstrated adequate oversight and follow-up of PAI cases. However, sampled open sub-recipient PAI cases did not evidence adequate oversight and follow-up. Based on a limited fiscal review, LARC is in compliance with 45 CFR Part 1614, for fiscal year 2012 regarding the requirement that recipients of LSC funds devote at least 12 ½% of its basic field fund award towards involving private attorneys in the delivery of legal assistance to eligible clients.

Finding 18: LARC is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization. In addition, the sub-grant agreements reviewed for years 2011 and 2013 evidenced compliance with 45 CFR § 1627.3.

Finding 19: LARC is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: Sampled cases evidenced compliance with the requirements of 45 CFR Former Part 1642 (Attorneys' fees).

Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Although LARC indicated that it did not have a 1612 policy at the time the review was scheduled, its current policy on lobbying and certain other activities complies with the requirements of 45 CFR Part 1612.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions). Although LARC indicated that it did not have a 1617 policy at the time the review was scheduled, its current policy on class actions complies with the requirements of 45 CFR Part 1617.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Although LARC indicated that it did not have a 1632 policy at the time the review was scheduled, its current policy on redistricting complies with the requirements of 45 CFR Part 1632.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). Although LARC indicated that it did not have a 1633 policy at the time the review was scheduled, its current policy on representation in certain eviction proceedings complies with the requirements of 45 CFR Part 1633.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation). Although LARC indicated that it did not have a 1638 policy at the time the review was scheduled, its current policy on solicitation complies with the requirements of 45 CFR Part 1638.

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). Although LARC indicated that it did not have a 1643 policy at the time the review was scheduled, its current policy on assisted suicide, euthanasia, and mercy killing complies with 45 CFR Part 1643.

Finding 29: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 30: Although LARC indicated that it did not have a 1644 policy at the time the review was scheduled, its current policy evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

Finding 31: LARC's Accounting Manual adequately defines most internal control areas and significant fiscal processes that serve to maintain the integrity of LARC's accounting, reporting, and financial systems.

Finding 32: LARC's personnel/payroll policies as evidenced by sampled employee records demonstrate adequate internal controls that minimize against unauthorized leave/payments, duplicate payments, and unauthorized disbursements.

Finding 33: Finding 33: Interviews with LARC Management and documents reviewed evidenced that TIG No. 07033 is in compliance with 2007 Grant Assurance No. 5, 2007 Grant Assurance No. 6, and 45 CFR § 1630.3(d).

II. BACKGROUND OF REVIEW

During the week of July 9-11, 2013, staff of the Office of Compliance and Enforcement (“OCE”) conducted a Compliance Review at Legal Advice & Referral Center (“LARC”).¹ The Review was conducted by a team of two (2) Program Counsel, two (2) Fiscal Compliance Specialists, and one (1) fiscal temporary employee.²

LARC’s origins

In 1996, federal funding was drastically reduced and restrictions added that would have barred New Hampshire Legal Assistance (“NHLA”) from undertaking legislative advocacy and large scale litigation. Therefore, NHLA chose not to accept these funds, but instead helped to create LARC so that the federal funds could be used within the parameters of the new restrictions.³

LARC operates as a statewide legal hotline, providing self-help legal advice, as well as, telephone and online intake referral services to eligible clients in the areas of family, housing, and public benefits. LARC is composed of one (1) office located in Concord, New Hampshire and according to its “*Screening Intake Manual*.”

[LARC’s] mission is to promote access to justice by providing legal advice to self-represented low-income clients and, whenever possible, referring eligible clients to participating legal services programs.⁴

The graph below (GR—A) illustrates the amount of LSC eligible cases serviced by LARC versus the amount of referrals it provided applicants from 2011 through April 30, 2013.⁵ LARC explained that the decline in eligible LSC cases in 2012 was due to funding cuts.⁶ A significant portion of the legal assistance provided by LARC is in the form of counsel and advice or brief service.⁷

¹ The most recent prior OCE review was conducted October 2003. The type of review conducted was a Case Service Report/Case Management System Review.

² There was also a Barnett Fellow assigned to this Compliance Review.

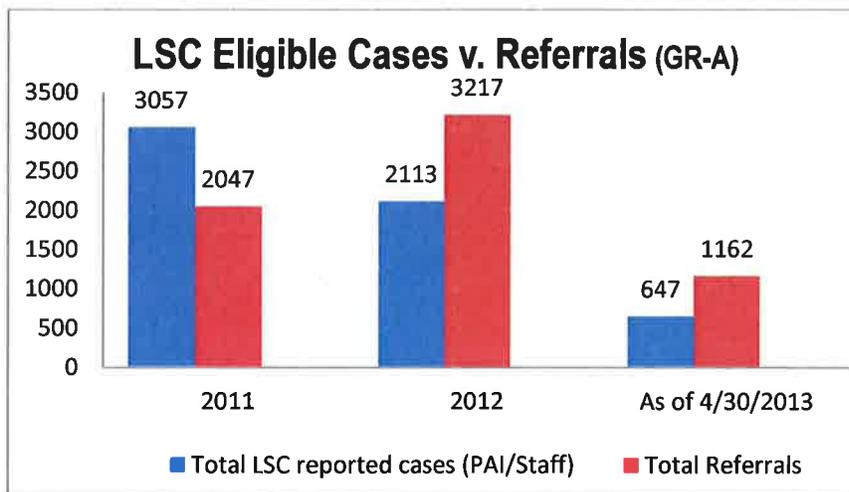
³ See http://www.nhla.org/mission__history.php .

⁴ See *Id.*, at page 1.

⁵ Total LSC reported cases include cases where LARC provided legal assistance and/or the cases were referred to NHLA or Pro Bono. Total referrals include non LSC cases where LARC provided no legal assistance. These non LSC cases were referred to NHLA, Pro Bono, the Bar Association, or some other organization.

⁶ See also LARC’s Program Quality Draft Report issued by the Office of Program Performance on May 24, 2013, at page 21 (explaining that the primary reason for the decline in cases serviced was caused by funding cuts as LARC had to reduce the number of part-time contract attorneys from four (4) to one (1); despite the funding cuts, LARC still had one of the highest number of PAI case closings for 2012 nationwide).

⁷ According to LARC’s Grantee Profile, the case service data indicated that for 2012, 99% of LARC’s closed cases were counsel and advice.



Funding

In fiscal year 2013, LARC received \$668,428.00 in LSC basic field funding. In 2012, LARC’s basic field grant award was \$674,842.00; in 2011, it was \$790,767.00; and in 2010, it was \$824,865.00.

LARC’s personnel

According to LARC’s organizational chart, LARC’s upper Management team consists of its Executive Director, Deputy Director, and the Controller.⁸ The balance of LARC’s staff includes a Supervising Attorney, a Bookkeeper/Office Manager, two (2) Paralegals, two (2) Intake Screeners,⁹ and an Administrative Assistant.¹⁰ LARC also employs two (2) additional attorneys who telecommute. These attorneys are funded by a Foreclosure Settlement grant received from the Office of the Attorney General.

Scope of Compliance Review

The purpose of the visit was to assess the Program’s compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Edition) (“AGLR”), and the Property Acquisition and Management Manual (“PAMM”). The on-site review was designed and executed to assess LARC’s compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LARC correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the Review Team assessed LARC for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance

⁸ The Controller is a part-time consultant.

⁹ Intake screening is conducted primarily by three (3) LARC employees; the two (2) Intake Screeners and the Administrative Assistant.

¹⁰ This Administrative Assistant’s duties also include conducting intake screening. Prior to the on-site review, LARC indicated that the Administrative Assistant would be out on pre-approved leave during the week of the on-site review.

to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹¹ 45 CFR Part 1627 (Sub-grants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);¹² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). Additionally, the Review Team evaluated LARC's management of its Technology Initiative Grant ("TIG") projects and its use of TIG funds as well as assessing compliance with certain Grant Assurances, Grant Award Agreements, and other applicable LSC regulations and requirements.

The Compliance Review was composed of four (4) main areas:

a. Fiscal review

A limited fiscal review was conducted in the following areas: 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1614 (Private attorney involvement);¹³ 45 CFR Part 1627 (Sub-grants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); AGLR, § 1.7 (Responsibilities of the financial oversight committee or committees), AGLR, § 3.5.5 (regarding payroll); AGLR, App. VII § B (regarding personnel and payroll), AGLR, App. VII § G (regarding cash disbursements); AGLR, App. VII § H (regarding cash receipts); and AGLR, App. VII § I (regarding bank reconciliation).

b. Case Service Report ("CSR") Review

In addition to interviews, case file review was conducted to ensure the accuracy of CSR data. By letter dated May 3, 2013, OCE requested that LARC provide a list of all cases reported to LSC in its 2011 CSR data submission (closed 2011 cases), a list of all cases closed in 2012 (closed 2012 cases), a list of all cases closed between January 1, 2013 and April 30, 2013 (closed 2013 cases), and a list of all cases which remained open as of April 30, 2012 (open cases). OCE requested

¹¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

¹² On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

¹³ For fiscal year 2012.

that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case, and the funding code assigned to the case. OCE requested that two (2) lists be compiled – one (1) for cases handled by LARC staff and the other for cases handled through LARC’s Private Attorney Involvement (“PAI”) component. LARC was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). LARC was requested to notify OCE promptly, in writing, if it believed that providing the requested material in the specified format would violate the attorney-client privilege or would be otherwise protected from disclosure.

Pursuant to OCE’s written request dated May 3, 2013, LARC provided the case lists requested. Thereafter, an effort was made to create a representative sample of cases that the Team would review during the on-site visit. The sample was developed proportionately among 2011, 2012, and 2013 closed and open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, *etc.* In the course of the on-site review, the OCE Team selected 210 cases to review on-site, which included 13 targeted files. All of the selected cases were reviewed.

During the case review, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LARC agreement of May 28, 2013, LARC staff maintained possession of the file and discussed with the team the nature of the client’s legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.¹⁴

In addition, the members of the Review Team interviewed LARC’s upper and middle Management, staff attorneys, and support staff in order to evaluate the following procedures regarding case management: intake screening, case acceptance, case closure practices and applicable policies were assessed for compliance applicable LSC requirements.

c. TIG Review

The Review Team also evaluated LARC’s management of its TIG project and its use of TIG funds in order to assess compliance with applicable LSC regulations, rules, and guidelines. Based on documents reviewed, prior to the on-site Review and discussions with LARC, LARC was awarded two (2) TIGs as depicted in the chart below (GR—B). However, only TIG No. 07033 was reviewed as it the only TIG that fell within the scope of the review period. Available materials indicate that LARC was awarded \$25,000.00 under TIG No. 07033, in order to renew its website. The TIG’s start date was November 1, 2007 with the last payment, issued December 22, 2011 in the amount of \$6,250.00. The Final Report was approved by LSC on June 30, 2011.

¹⁴ In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

Specifically, this Review evaluated LARC’s management of TIG No. 07033 in order to determine compliance with 2007 Grant Assurance No. 5 (explaining that prior LSC approval is needed in order for recipients to reprogram TIG funds), 2007 Grant Assurance No. 6 (explaining that the recipient has the sole responsibility for any funding obligations that exceed the grant award amount), Program Letter 10-3 (providing guidance regarding the application of certain requirements in the context of third-party contracts made by TIG grantees with LSC TIG funds) and 45 CFR § 1630.3(d) (explaining that “[s]alary and wages charged directly to Corporation grants and contracts must be supported by personnel activity reports”).

Technology Initiative Grants (GR-B)

YEAR	TIG #	AWARD AMOUNT	PURPOSE	LAST PAYMENT DATE	GRANT STATUS
2007	07033	\$25,000.00	Renewal Website Grant	12/22/2011	Closed
2001	01092	\$51,818.00	1st Website Grant	11/26/2007	Closed

d. Policy review

The Review Team also assessed LARC for the following required policies and procedures: 45 CFR Part 1604 (Outside Practice of law); 45 CFR Part 1605 (Appeals on behalf of clients); 45 CFR Part 1609 (Fee generating cases); 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Part 1617 (Class actions); 45 CFR Part 1619 (Disclosure of information); 45 CFR Part 1620 (Priorities in use of resources); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR Part 1627 (Sub-grants and membership fees or dues); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restrictions on representation in certain eviction proceedings); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1639 (Welfare reform); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing); and 45 CFR Part 1644 (Disclosure of case information).

Overall observations

At the conclusion of the Review, on July 11, 2013, OCE conducted an exit conference during which LARC Management was provided with OCE’s initial findings and made aware of the areas in which compliance issues were found. Overall, the Review evidenced compliance with most LSC requirements and prohibitions. As will be discussed more fully below, the only noted exception concerned oversight and follow-up of LARC’s PAI sub-recipient cases. In addition, interviews with the Chair of LARC’s Audit Committee indicated that the Committee adequately exercises its oversight responsibilities. LARC’s Management and staff cooperated fully during the course of the Review; staff interviews and sampled cases, exhibited LARC’s firm understanding of LSC prohibitions and required intake screening procedures.

By letter dated January 17, 2014, OCE issued the Draft Report (“DR”) detailing its findings, recommendations, and required corrective actions stemming from the on-site Compliance

Review. LARC was asked to review the DR and provide written comments within 30 days. By correspondence dated February 14, 2014, LARC submitted its comments to the DR. *See* LARC OCE-Response to Draft Report (February 14, 2014).

Based on a description of the actions taken by LARC in response to the DR, OCE finds that all Required Corrective Action items have been implemented and that no further action is needed. LARC's comments are reflected in this Final Report and have been attached as an appendix hereto.

III. FINDINGS

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

Recipients are required to utilize an automated case management system (“ACMS”) and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.1.

Interviews with the Deputy Director, as well as on-site observations, revealed that LARC utilizes LegalServer, which provides a web-based, centralized ACMS. A brief demonstration of the system revealed that it is capable of storing case information and generating a variety of reports, *i.e.*, case lists according to staff, open date, and problem codes, as necessary to achieve effective case management and attorney supervision. Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, LARC’s ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 1 in its response to the DR.

Finding 2: LARC’s intake procedures and case management system support the Program’s compliance related requirements.

LARC’s intake screening procedures were assessed by interviewing staff primarily responsible for conducting intake screening, the Supervising Attorney and the Deputy Director, and through on-site demonstrations of LARC’s ACMS, LegalServer. The interviews and the evaluation of LegalServer revealed that intake screening procedures performed by intake staff support LARC’s compliance related requirements with respect to verifying citizenship or alien status and obtaining the required documentations, performing conflict and duplicate checks at the start of the intake screening, screening each applicant for income eligibility and if necessary, applying authorized exception, screening for reasonable income prospects and understanding the contents of Program Letter 06-2.

Intake screening modes

LARC screens applicants by telephone through its hotline, by internet through online intake, and in person. The hotline operates daily, Monday through Friday from 9:00 am to 4:00 pm. However, even though an applicant may walk-in or complete an online application,¹⁵ staff

¹⁵ The online application system was created through TIG No. 07033.

interviewed and on-site demonstrations confirmed that applicant responses are entered into LegalServer. Therefore, intake screening procedures will only be discussed within the context of LegalServer because any responses recorded by an applicant through an online application or through a manual application are inputted into LegalServer; LARC's primary intake screening tool. See LARC's "*Screening Intake Manual*" at page 31 (providing intake screeners with instructions on how to enter an applicant's online application into LegalServer through the "Electronic Case Transfers" tab and directing intake screeners to confirm the accuracy of an applicant's responses through a telephone call).

Overview of intake screening process, case acceptance, and oversight procedures

Intake screening is conducted primarily by a team of three (3) individuals. Interviews with two (2) intake screeners indicated that intake screening is a bifurcated process where the first step is a "pre-screen" that consists of screening for financial eligibility, verifying citizenship/alien eligibility, obtaining identifying information (*i.e.* name, address, date of birth) and screening for conflicts. At the conclusion of the pre-screen, an applicant may be assigned the following status:

1. Pending possible;
2. Begin full intake; or
3. Reject.

If an applicant has not been rejected, then the second step is a full intake screening of the applicant. At the conclusion of a full intake, LegalServer summarizes the applicant's responses as recorded by the intake screener concerning required eligibility criteria (*i.e.* income, assets, and citizenship eligibility) and based on the summary, indicates whether an applicant is LSC eligible.¹⁶ Based on the on-site demonstration, the intake screener must then make an independent determination that the applicant is LSC eligible by checking "yes" or "no." Interviews with both the Deputy Director and the Supervising Attorney indicated that both are available to intake staff, in order to address and resolve any issues that may arise during the screening process. This may include, but is not limited to, questions regarding financial eligibility or citizenship.

Referrals (eligible clients/ineligible applicants)

According to LARC's "*Screening Intake Manual*," ineligible applicants are referred to a variety of statewide legal service organizations.¹⁷ An applicant may be deemed ineligible for a variety of reasons (*i.e.* over income, outside of priorities). According to those interviewed, in those instances where an ineligible applicant was provided a referral to another agency, the applicant's intake information is electronically transferred to NHLA. LARC codes this service as a "Matter."¹⁸ However, in those instances where an applicant is LSC eligible, LARC may provide counsel and advice, and if appropriate, electronically transfer the case to NHLA for direct representation.

¹⁶ The system will flag that an applicant is LSC ineligible with a red "No," while a LSC eligible applicant is flagged with a green "Yes."

¹⁷ See LARC's "*Screening Intake Manual*" at page 49.

¹⁸ See "GR—A" for a break-down of the number of referrals provided by LARC from 2011 through April 30, 2013.

Eligible applicants

If an applicant is deemed eligible to receive legal assistance under the LSC Act, regulations, and LARC's case acceptance priorities, then the case is accepted by LARC and the client is provided an appointment to speak with an attorney or a paralegal. If there are no available appointments, then the applicant is placed on a "Call Back List" for the next available appointment slot.¹⁹

Case management & oversight review

The Deputy Director indicated that cases are reviewed quarterly for compliance issues. With certain limited exceptions, interviews also indicated that the Deputy Director reviews and assigns closing codes for all staff cases. The exceptions include that the Supervising Attorney is responsible for assigning closing codes for his cases and paralegals may assign closing codes in straight forward evictions.

Specific Areas of Compliance Evaluated in Regards to Intake Screening Protocol

1. CSR Handbook (2008 Ed., as amended 2011), § 3.2 Duplicates and Conflicts:

Intake staff reported that duplicates and conflicts are checked during the "pre-screen." As explained above, the "pre-screen" is an abbreviated intake screening consisting of verifying income/asset eligibility and citizenship. According to those interviewed, conflicts and duplicates must be verified by the Executive Director, the Deputy Director, or the Supervising Attorney.²⁰ If the conflict is verified, then the case is rejected and the Applicant is notified of same via email or letter.

2. CSR Handbook (2008 Ed., as amended 2011), § 3.6 Limitation of Defaults in the ACMS:

The on-site observation of LARC's ACMS did not reveal defaults in any field critical to eligibility (*i.e.* income, assets, number in household).²¹

3. Financial Eligibility Screening 45 CFR Part 1611:

a. Overview of LARC's financial eligibility screening procedures

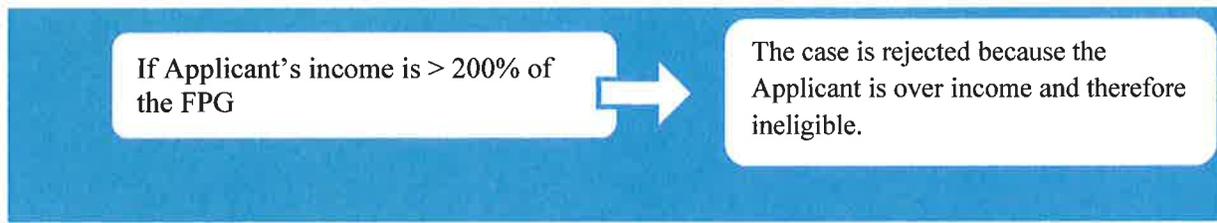
Those interviewed indicated an Applicant whose income is more than 200% of the Federal Poverty Guidelines ("FPG") will be rejected as financially ineligible.²²

¹⁹ See LARC's "Screening Intake Manual" at pages 51-52 (instructing intake screeners how to schedule appointments through LegalServer).

²⁰ Also see LARC's "Screening Intake Manual" at page 16 (indicating that conflicts must be resolved by the Executive Director, the Deputy Director, or the Supervising Attorney).

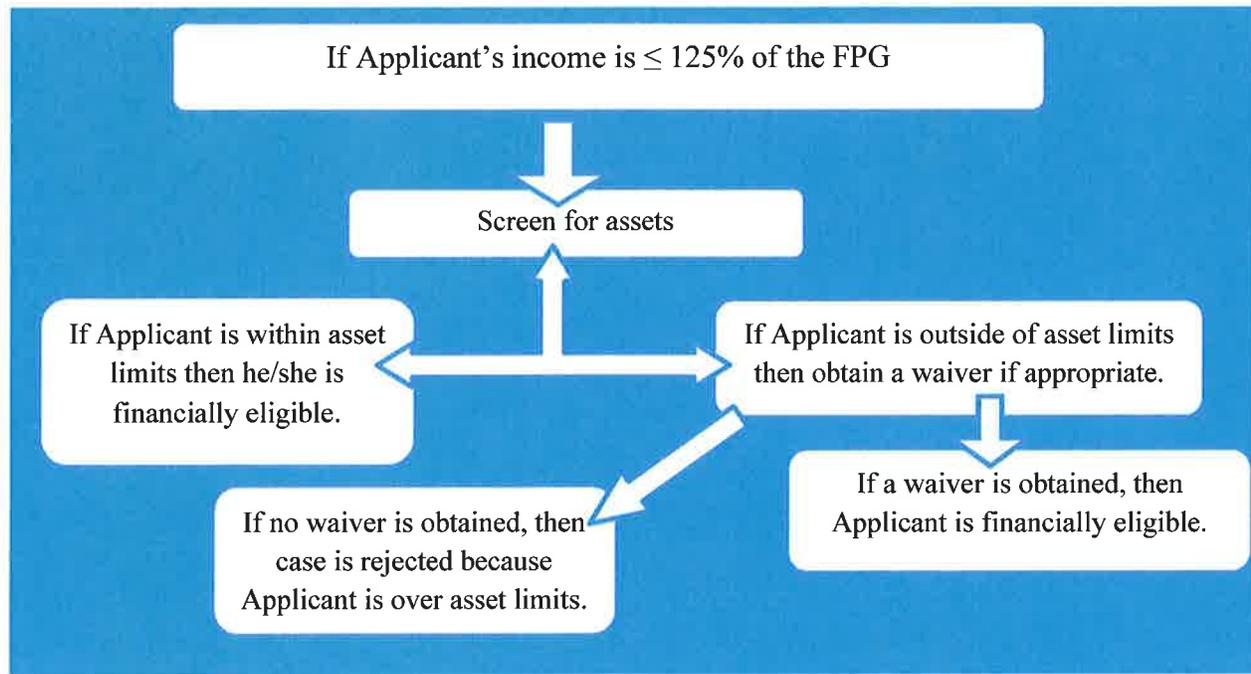
²¹ It is important to note that the last OCE visit in 2003 noted defaults in the ACMS in the assets and income fields. LARC has corrected this issue as this Compliance Review noted no defaults in any field critical to eligibility.

²² See LARC's "Screening Intake Manual" at page 43.



Applicant's income does not exceed 125% of the FPG:

On-site demonstrations and intake staff interviewed indicated an understanding that an applicant will be considered income eligible for LSC funded legal assistance if the applicant's income does not exceed 125% of the FPG.²³



Applicant's income is over 125% of the FPG:

If the applicant's income is over 125% of the FPG, but below 200% of the FPG, those interviewed, the on-site observation through a test application in the LegalServer system, and a review of LARC's "Screening Intake Manual," indicated that LARC employs the following factors:

1. Current income prospects;²⁴
2. Unreimbursed medical expenses and medical insurance premiums;²⁵
3. Fixed debts and obligations;²⁶

²³ See also LARC's "Screening Intake Manual" at page 43 (indicating that if an applicant's income is less than 125% of the FPG they are considered eligible for LSC funded assistance).

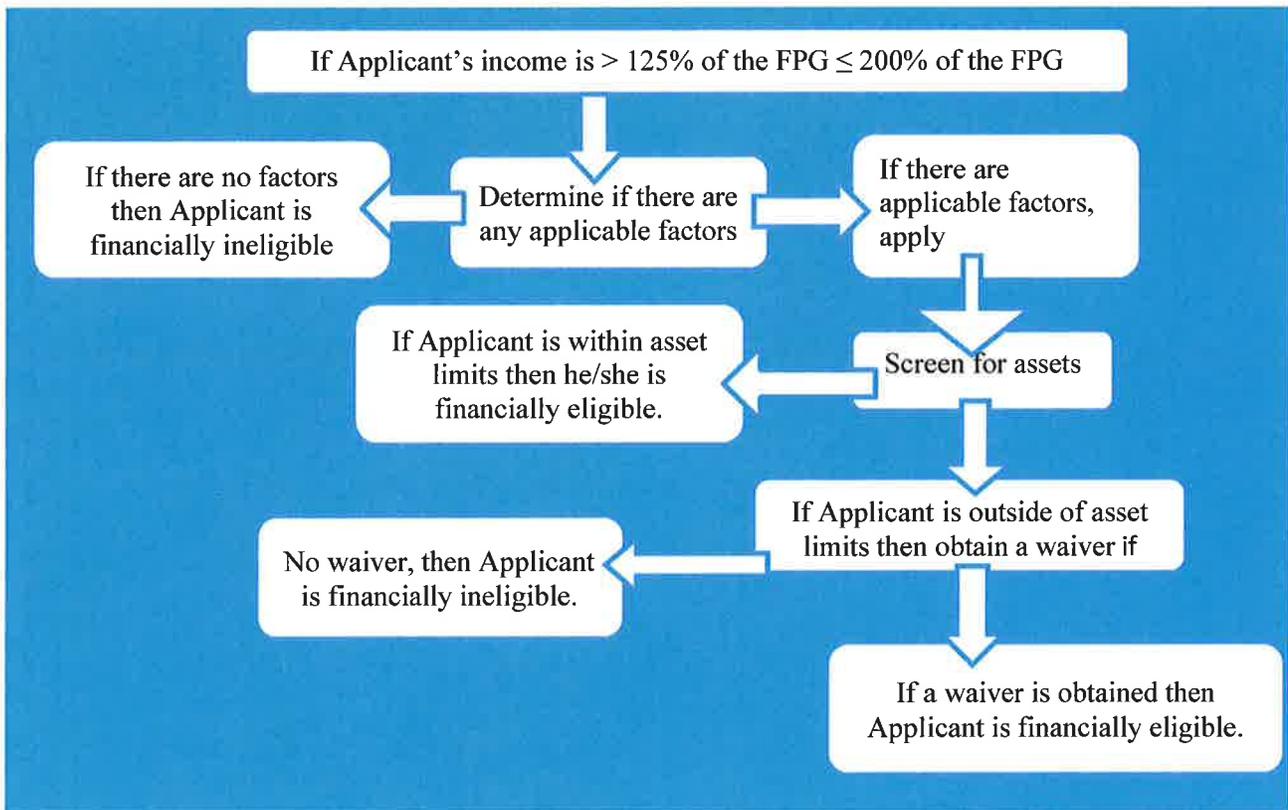
²⁴ Pursuant to CFR § 1611.5(a)(4)(i); also see LARC's "Screening Intake Manual" at page 44.

²⁵ Pursuant to 45 CFR § 1611.5(a)(4)(ii); also see LARC's "Screening Intake Manual" at page 44.

4. Expenses related to work, job training, or education in preparation for employment;²⁷
5. Non-medical expenses associated with age or disability;²⁸
6. Current taxes; and²⁹
7. Other significant factor affecting applicant's ability to afford legal assistance.³⁰

In addition to the above factors, LARC also considers three (3) additional exceptions when an applicant's income is more than 125%, but does not exceed 200% of the FPG:

1. Applicant is trying to maintain public benefits for low income people or families;³¹
2. Applicant is seeking or trying to maintain public benefits for people with disabilities;³²
3. The applicant's income is committed to medical or nursing home expenses.³³



²⁶ Pursuant to 45 CFR § 1611.5(a)(4)(iii); also see LARC's "Screening Intake Manual" at page 44.

²⁷ Pursuant to 45CFR § 1611.5(a)(4)(iv); also see *Id.*

²⁸ Pursuant to 45 CFR § 1611.5(a)(4)(v); also see *Id.*

²⁹ Pursuant to 45 CFR § 1611.5(a)(4)(vi); also see *Id.*

³⁰ Pursuant to 45 CFR § 1611.5(a)(4)(vii); also see *Id.*

³¹ Pursuant to 45 CFR § 1611.5(a)(1); also see *Id.*

³² Pursuant to 45 CFR § 1611.5(a)(3)(ii); also *Id.*

³³ Pursuant to 45 CFR § 1611.5(a)(2); also see *Id.*

b. 45 CFR §§ 1611.2(d), 1611.3(d)(1), and 1611.3(e) Asset Eligibility Screening:

Intake staff interviewed were able to articulate LARC's asset ceiling limits and were familiar with the categories of assets excluded by LARC.³⁴ It was noted through interviews and through a review of the *Screening Intake Manual* that LARC makes a distinction between liquid and non-liquid assets.³⁵ Pursuant to 45 CFR § 1611.2(d), an asset is cash or other resources of the applicant that are readily convertible to cash, which are currently and actually available to the applicant.³⁶ Therefore, this distinction appears to be unnecessary, as the current LSC definition for assets includes liquid and non-liquid assets. While on-site, LARC was advised that this distinction between assets is unnecessary, as the focus is only on resources that are readily convertible to cash. However, as there is no direct LSC prohibition against this distinction, then LARC may, if it chooses, continue to make this distinction as part of its asset screening procedures so long as the distinction is consistent with "asset" as defined in 45 CFR § 1611.2(d).

The on-site demonstration of LARC's intake screening procedures indicated that LARC identifies the following category of assets:

- Additional vehicle;
- Cash;
- Checking;
- No Assets;
- Other;
- Real Estate - not primary residence;
- Retirement Plans (401K, IRA, Pension, etc.) RV (boat, ATV, camper, etc.); and³⁷
- Savings.

4. 45 CFR § 1611.7(a)(1) Reasonable Income Prospects Screening:

The on-site observations indicated that LARC is in compliance with 45 CFR § 1611.7(a)(1), as the on-site demonstration included procedures that make reasonable inquiry regarding sources of an Applicant's income, income prospects, and assets. See LARC's *"Screening Intake Manual"* at page 43 (instructing screeners to inquire as to income prospects and to record an applicant's response to this inquiry in the note field). In addition, the on-site demonstration of LARC's ACMS through a test Applicant noted that LegalServer, in the "Financial Information" screen, specifically requires an intake screener to record an applicant's response to this query in a mandatory field.

³⁴ As this section is limited to a review of LARC's intake screening practices, please refer to Finding No. 4 for additional discussion regarding LARC's treatment of assets as detailed by LARC's Financial Eligibility Policy.

³⁵ See LARC's *"Screening Intake Manual"* at page 44.

³⁶ Also see Financial Eligibility 70 FR 45547 (August 8, 2005) (amending Part 1611) (explaining that the terms liquid assets and non-liquid assets should be removed because the focus should be on the ready convertibility of the asset to cash).

³⁷ Please refer to Finding No. 4 for additional discussion regarding this asset category.

5. 45 CFR Part 1626 Citizenship and Eligible Alien Status Screening:

Those interviewed demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626 as it relates to intake screening procedures.

Walk-in Applicants: Interviews with intake screeners indicated that whenever staff has in-person contact with an applicant, either a signed written attestation confirming United States citizenship status is obtained or documentation of alien eligibility is obtained. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5 (explaining that when a program has in-person contact with an applicant documentation of eligibility it should obtain and maintain either an executed citizenship attestation or documentation of alien eligibility).³⁸

While on-site, it was determined that the citizenship attestation used by LARC did not conform to CSR Handbook (2008 Ed., as amended 2011), § 5.5 because the signature line was not tied only to the attestation. On July 11, 2013, LARC provided, via email, a revised attestation and indicated that the revised attestation will be used for walk-in applicants.³⁹ The revised attestation is compliant with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Telephone Applicants: Those interviewed explained that telephone applicants are asked to verbally confirm United States citizenship status or to indicate that the applicant is an eligible alien pursuant to the alien category groups listed in the Appendix to Part 1626. The on-site demonstration indicated that this screening is conducted during the “pre-screen.”

The section of the *Intake Screening Manual* containing intake screening instructions for citizenship attestations completed solely by a telephone applicant (no in-person contact) did not include a date requirement.⁴⁰ LARC indicated that the instructions have been updated to include that the applicant date the attestation as required by CSR Handbook (2008 Ed., as amended 2011), § 5.5.⁴¹ Furthermore, LARC explained that intake screening staff have been instructed to explain to telephone applicants who draft their own citizenship attestation to include a date.⁴²

6. Program Letter 06-2, Violence Against Women Act (“VAWA”) 2006:

Intake staff were able to articulate the applicability of 45 CFR § 1626.4, Program Letter 06-2, and the VAWA 2006 Amendments.⁴³

³⁸ Also see “*Screening Intake Manual*” at page 64 (instructing screeners to obtain a copies of green cards or other qualifying documentation whenever an applicant is not a U.S. citizen).

³⁹ This was indicated by LARC via email on August 12, 2013.

⁴⁰ See CSR Handbook (2008 Ed., as amended 2011), § 5.5 requiring applicants date the attestation.

⁴¹ This was indicated by LARC via email on August 12, 2013.

⁴² This was indicated by LARC via email on August 12, 2013.

⁴³ Also see LARC’s “*Screening Intake Manual*” at page 35 (instructing screeners to verify a caller’s citizenship status unless the caller is a victim of domestic violence and is calling for legal assistance in an issue related to the alleged abuse).

7. Outreach:

Interviews indicated that LARC conducts outreach pursuant to a grant received from the Internal Revenue Service in order to provide members of the public with financial literacy skills and to provide information that would aid participants in understanding their obligations as tax preparers; no legal advice is provided to participants. Interviews with the Deputy Director and the Supervising Attorney indicated that participants who request legal assistance are directed to LARC in order to undergo intake screening.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 2 in its response to the DR.

Finding 3: Sampled cases evidenced that LARC substantially complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (“FPG”). There were a limited number of cases reviewed that lacked the eligibility documentation required by 45 CFR § 1611.4 and CSR Handbook (2008 Ed., as amended 2011), § 5.3. Although LARC indicated that it did not have a 1611 policy at the time the review was scheduled, its current policy income eligibility policy complies with the requirements 45 CFR Part 1611.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant’s household and the total income before taxes received by all members of such household in order to determine an applicant’s eligibility to receive legal assistance.⁴⁴ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (“FPG”) and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements,

⁴⁴ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2008 Ed., as amended 2011), § 4.3.

LARC substantially complies with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income did exceed 125% of the poverty guidelines. There were a limited number of cases reviewed that lacked the eligibility documentation required by 45 CFR § 1611.4 and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

No authorized exceptions to annual income ceiling noted in case file

Pursuant to CSR Handbook (2008 Ed., as amended 2011), § 5.3,⁴⁵ 45 CFR § 1611.5(b),⁴⁶ and 45 CFR § 1611.5(a)(4)⁴⁷ both of the below referenced cases indicated that the client's income exceeded LARC's annual income ceiling. Therefore, each case file should have listed the specific factor (*i.e.*, fixed debt and obligation, unreimbursed medical expenses) used during intake screening that would support a finding of financial eligibility. As the case files lacked the requisite financial eligibility information, these clients were financially ineligible and therefore the cases not CSR reportable:⁴⁸

One (1) staff case reviewed indicated that the client had a household of four (4) members and reported a monthly income of \$3,033.00. The client's income was approximately 154% of the FPG, which exceeded LARC's annual income ceiling of 125% of the FPG. Therefore, pursuant to LARC's intake screening procedures and its financial eligibility policy, over-income exceptions should have been recorded in the case file.⁴⁹ However, case review evidenced no authorized over-income exceptions noted in the case file. *See* Closed 2013 Case No. 13-0061407.

In another case, in which legal assistance was provided by LARC's sub-recipient Pro-Bono, the case notes indicated that the client had a household of two (2) members and reported a monthly income of \$1,733.00. The client's monthly income exceeded LARC's annual income ceiling of 125% of the FPG. Therefore, pursuant to LARC's intake screening procedures and its financial eligibility policy, authorized exceptions to LARC's annual income ceiling should have been noted in the case file. However, case review did

⁴⁵ Explaining that documentation of financial eligibility shall also indicate the specific facts and factors relied on to make a determination of financial eligibility.

⁴⁶ Explaining that recipients are required to keep such records as may be necessary to inform the Corporation of the specific facts and factors relied on to make such a determination.

⁴⁷ Explaining that a recipient may determine an applicant's income which exceeds 125% of the FPG, but does not exceed 200% of the FPG to be financially eligible based on certain factors; *i.e.* fixed debts and obligations.

⁴⁸ *See* CSR Handbook (2008 Ed., as amended 2011), footnote no. 3 (explaining that if an applicant is financially ineligible under LSC criteria, but not under non-LSC criteria, service to that client may be provided with non-LSC funds, but the case may not be reported to LSC for CSR purposes).

⁴⁹ *See* LARC's "Screening Intake Manual" at page 43-44 (explaining that an applicant whose income exceeds 125% of the FPG, but is less than 200% of the FPG may be eligible if there are applicable factors); *also see* 45 CFR § 1611.5 (explaining that a recipient may determine an applicant whose income exceeds the recipient's annual income ceiling if the applicant's assets do not exceed the recipients applicable asset ceiling or the asset ceiling has been waived may be financially eligible pursuant to authorized exceptions).

not evidence any exceptions noted in the case file. *See* Closed 2013 Case No. 11E-20014354.

Insufficient facts supporting “other significant factors” noted in case file

Pursuant to 45 CFR § 1611.5(b), LARC is required to document and maintain the basis for determining an applicant’s financial eligibility when employing use of authorized exceptions to its annual income ceiling.⁵⁰ While both case files noted “other significant factor” as a basis for each client’s financial eligibility, that factor alone, without supporting information, is insufficient to determine the specific facts supporting financial eligibility. As both of the case files detailed below lacked the requisite financial eligibility information these clients are financially ineligible; as a result, these cases were not CSR reportable:⁵¹

In one (1) case, in which legal assistance was provided by LARC’s sub-recipient Pro-Bono, the case notes indicated that the client had a household of four (4) members and reported a monthly income of \$2,455.00. The client’s monthly income exceed LARC’s annual income ceiling of 125% of the FPG. Case review indicated that LARC applied “other significant factor” as an authorized exception during financial eligibility screening, however, the case file did not indicate the specific facts and factors relied on to make this determination. Pursuant to 45 CFR § 1611.5(b), “other significant factor” with no other supporting information/fact is insufficient to document the basis of an applicant’s financial eligibility.⁵² *See* Closed Case No. 11E-20014608.

In another case, in which legal assistance was provided by LARC’s sub-recipient Pro-Bono, case review indicated that the client had a household consisting of one (1) member and reported an annual income of \$18,000.00. The client’s annual income exceeded LARC’s annual income ceiling of 125% of the FPG. Case review indicated that LARC applied “other significant factor” as an authorized exception during financial eligibility screening, however, the case file did not indicate the specific facts and factors relied on to make this determination. Pursuant to 45 CFR § 1611.5(b) “other significant factor” with no other supporting information/facts is insufficient to document the basis of an applicant’s financial eligibility.⁵³ *See* Closed Case No. 11-0049275.

⁵⁰ Also pursuant to 45 CFR § 1611.5(b), recipients are required to keep such records as may be necessary to inform the Corporation of the specific facts and factors relied on to make such a determination.

⁵¹ *See* CSR Handbook (2008 Ed., as amended 2011), footnote no. 3 (explaining that if an applicant is financially ineligible under LSC criteria, but not under non-LSC criteria, service to that client may be provided with non-LSC funds, but the case may not be reported to LSC for CSR purposes).

⁵² Pursuant to 45 CFR § 1611.5(b), recipients are required to keep such records as may be necessary to inform the Corporation of the specific facts and factors relied on to make such a determination.

⁵³ Pursuant to 45 CFR § 1611.5(b), recipients are required to keep such records as may be necessary to inform the Corporation of the specific facts and factors relied on to make such a determination.

Policy review

Pursuant to 45 CFR § 1611.3, the governing body of each recipient is required to adopt policies consistent with 45 CFR Part 1611 for determining the financial eligibility of individual applicants and if applicable, groups.⁵⁴ A financial eligibility policy must at *minimum* include:

- Pursuant to 45 CFR § 1611.3(b), specify that only applicants for services determined to be financially eligible under the policy may be considered for LSC funded service;
- Pursuant to 45 CFR § 1611.3(c)(1), establish annual income ceilings of no more than 125% of the current FPG;
- Pursuant to 45 CFR § 1611.3(d)(1), establish asset ceilings;⁵⁵ and
- Pursuant to 45 CFR § 1611.3(e), in determining the financial eligibility of a victim of domestic violence, specify that only the income and assets of the Applicant will be considered and specify that any assets jointly held with the alleged abuser will be omitted from consideration.⁵⁶

LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with 45 CFR Part 1611 (Financial Eligibility). Specifically:

- a. Pursuant to 45 CFR § 1611.3(b), LARC's policy specifies that only applicants and groups determined to be financially eligible under the policy may be considered for LSC funded service.*

A review of the revised policy indicates that only individuals and groups determined to be financially eligible will receive legal assistance supported with LSC funds. The policy includes a provision that allows LARC to provide legal assistance to a group, corporation, association if said organization meets the requirements of 45 CFR § 1611.6 (outlining the pre-requisites that must be satisfied for a recipient to represent a group).

- b. Pursuant to 45 CFR § 1611.3(c)(1), LARC's policy establishes annual income ceilings of no more than 125% of the current 125% of the FPG.*

A review of the revised policy indicates that LARC has established an annual income ceiling of no more than 125% of the FPG.⁵⁷ In addition, LARC, pursuant to 45 CFR § 1611.4(b)(2),⁵⁸ employs factors if an applicant's income exceeds the annual income ceiling, but is less than 200% of the FPG. Pursuant to 45 CFR 1611.5(a)(4), LARC's applicable factors are:

⁵⁴ Pursuant to 45 CFR § 1611.6(a), a recipient has the discretion of choosing whether to provide legal assistance to an organization or other legal entity.

⁵⁵ This requirement regarding establishing asset ceiling will be discussed in Finding No. 4.

⁵⁶ See 70 FR at 45550 (listing the minimum requirements for the content of recipient's financial eligibility policies).

⁵⁷ This policy requires that the income ceiling be approved annually by LARC's Board of Directors.

⁵⁸ Indicating that a recipient may apply authorized exceptions if an applicant's income exceeds that annual income ceiling.

1. Current income prospects;⁵⁹
2. Unreimbursed medical expenses and medical insurance premiums;⁶⁰
3. Fixed debts and obligations;⁶¹
4. Expenses related to work, job training, or education in preparation for employment;⁶²
5. Non-medical expenses associated with age or disability;⁶³
6. Current taxes;⁶⁴ and
7. Other significant factor affecting applicant's ability to afford legal assistance.⁶⁵

c. Pursuant to 45 CFR § 1611.3(e), LARC's policy indicates that in determining the financial eligibility of a victim of domestic violence, only the income and assets of the Applicant will be considered and specifies that any assets jointly held with the alleged abuser will be omitted from consideration.

A review of the policy indicates that it includes a provision that requires that only the income and assets of the applicant who is a victim of domestic violence will be considered in assessing financial eligibility during intake screening and that any assets held jointly with the alleged abused will be excluded from consideration.

LARC's policy is in compliance with 45 CFR Part 1611 as it contains all of the minimum required provisions.⁶⁶

Additional policy provision; non-mandatory

The policy also includes a provision that requires intake screening staff to make reasonable inquiry regarding an applicant's income prospects. Pursuant to 45 CFR § 1611.7(a)(1), intake screeners are directed by LARC's *Intake Screening Manual* to record an applicant's response in the ACMS as part of the intake screening process.⁶⁷

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

⁵⁹ Pursuant to 45 CFR § 1611.5(a)(4)(i); also see LARC's *Screening Intake Manual* at page 44.

⁶⁰ Pursuant to 45 CFR § 1611.5(a)(4)(ii); also see *Id.*

⁶¹ Pursuant to 45 CFR § 1611.5(a)(4)(iii); also see *Id.*

⁶² Pursuant to 45 CFR § 1611.5(a)(4)(iv); also see *Id.*

⁶³ Pursuant to 45 CFR § 1611.5(a)(4)(v); also see *Id.*

⁶⁴ Pursuant to 45 CFR § 1611.5(a)(4)(vi); also see *Id.*

⁶⁵ Pursuant to 45 CFR § 1611.5(a)(4)(vii); also see *Id.*

⁶⁶ See 45 CFR § 1611.3(b) (specifying that only applicants for services determined to be financially eligible under the policy may be considered for LSC funded service); 45 CFR § 1611.3(c)(1) (establishing annual income ceilings of no more than 125% of the current 125% of the FPG); 45 CFR § 1611.3(d)(1) (establishing asset ceilings); and 45 CFR § 1611.3(e) (specifying that only the income and assets of the applicant will be considered and specifying that any assets jointly held with the alleged abuser will be omitted from consideration).

⁶⁷ See LARC's "*Screening Intake Manual*" at page 43 (explaining that an applicant must respond to the inquiry of "do you have reason to believe that your income is likely to change significantly in the near future" and his/her response must be recorded).

There were no required corrective actions, although in light of the slight issues noted in the case sample, it was recommended that LARC review with intake screening staff required financial eligibility documentation/information when applying authorized exceptions to LARC's annual income ceiling.

In response to this recommendation, LARC indicated that staff had been provided training in this area during a staff meeting held on February 12, 2014.

Finding 4: Sampled cases evidenced that LARC is in compliance with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Although LARC indicated that it did not have a 1611 policy at the time the review was scheduled, its current asset eligibility policy complies with the requirements of 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁶⁸ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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

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

Sampled cases evidenced that LARC maintains the assets eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Policy review

As explained in Finding No. 3 the governing body of each recipient, pursuant to 45 CFR § 1611.3, is responsible for adopting policies consistent with 45 CFR Part 1611 for determining

⁶⁸ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

the financial eligibility of individual applicants and if applicable, groups.⁶⁹ As demonstrated above, there are certain mandatory provisions that must be included in financial eligibility policy in regards to screening for income and financial eligibility screening in general. As to assets, a financial eligibility policy must, pursuant to 45 CFR § 1611.3(d)(1), establish asset ceilings.

A review of the policy drafted and submitted during the course of the Review indicates that LARC's policy established the following asset ceilings:

- \$2,500.00 for a household of 1
- \$4,000.00 for a household of 2
- \$4,500.00 for a household of 3

The policy provides authority for waiver of its asset ceilings under unusual circumstances. *See* 45 CFR § 1611.3(d)(2) (explaining that a recipient's policy may provide for waiver of its asset ceiling through either the Executive Director or designee). In addition, consistent with 45 CFR § 1611.3(d)(1), the policy excludes the following assets from consideration:⁷⁰

1. An applicant's principal residence;
2. Vehicles used for transportation; and
3. Assets used in producing income.⁷¹

Non-excludable assets:

As previously explained, the on-site demonstration of LARC's intake screening procedures indicated that LARC identifies the following categories of assets, which are also listed in LARC's ACMS:⁷²

- Additional vehicle;
- Cash;
- Checking;
- No Assets;
- Other;
- Real Estate - not primary residence;
- Retirement Plans (401K, IRA, Pension, etc.)
- RV (boat, ATV, camper, *etc.*); and
- Savings.

⁶⁹ Pursuant to 45 CFR § 1611.6(a), a recipient has the discretion of choosing whether to provide legal assistance to an organization or other legal entity.

⁷⁰ This is optional as 45 CFR § 1611.3(d)(1) does not mandate that a recipient exclude from consideration, but indicates that a recipient "may exclude [the following] from consideration. . ." an applicant's principal residence, vehicles used for transportation, assets used in producing income, *etc.*

⁷¹ The LSC regulations do not mandate that these assets be excluded from consideration, but rather that a recipient may exclude these assets from consideration when determining an applicant's financial eligibility.

⁷² *See* Finding No. 2 for additional discussion regarding assets as it is applied during intake screening.

As to the above referenced non-excludable assets, LARC's policy indicates that only the equity value of the assets is to be considered in determining financial eligibility. In addition, although retirement plans are not traditionally recognized as assets because they are not readily convertible to cash and are not currently and actually available to the applicant, LARC has chosen to recognize the net value of retirement plans after liquidation less any penalties, fees or taxes incurred in order to access these funds.⁷³ LSC would not traditionally identify retirement plans as assets and therefore these plans would be excluded from consideration during intake screening; so an applicant's retirement plan is not counted towards the asset limits. However, LARC includes retirement plans in screening for assets. Therefore, if an applicant has a retirement plan, then its value (less penalties, taxes, *etc.*) is counted towards the asset limit. Based on discussions with LARC regarding this issue and a review of 45 CFR Part 1611, LARC's definition of assets is more restrictive than LSC's definition, therefore LARC may continue to include retirement plans as assets.

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 4 in its response to the DR.

Finding 5: Sampled cases demonstrated compliance with 45 CFR Part 1626 as cases reviewed evidenced consistent screening procedures that verified an applicant's U.S. citizenship or verified the applicant's eligible alien status. One (1) citizenship attestation did not conform to the format in CSR Handbook (2008 Ed., as amended 2011), § 5.5. Although LARC indicated that it did not have a 1626 policy at the time the review was scheduled, its current policy on restrictions on legal assistance to aliens complies with the requirements of 45 CFR Part 1626.

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5. *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

⁷³ *See* 45 CFR § 1611.2(d) (defining assets).

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷⁴ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced consistent screening procedures compliant with 45 CFR § 1626.6(a) (requiring that all applicants who claim to be citizens attest in writing of their citizenship) and 45 CFR § 1626.7 (explaining that an alien seeking representation should submit documentation verifying eligibility). Moreover, sampled cases evidenced that LARC obtains and maintains documentation necessary to evidence an applicant's citizenship or alien eligibility corresponding to the level of service provided to the client. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5 (explaining that the level of documentation necessary depends on the nature of the legal assistance provided).

LARC has consistent screening procedures in regards to obtaining citizenship attestations for walk-in applicants. However, case review evidenced one (1) case, in which the attestation was undated. *See* Closed 2013 Case No. 12e-20016689. Case review indicated citizenship screening occurred as evidenced by the signed attestation; but it was undated. The failure to date the attestation makes it difficult to determine whether the citizenship attestations were obtained prior to the establishment of the attorney-client relationship and the citizenship attestation was not as stated in the CSR Handbook (2008 Ed.), §5.5 which requires a date.

Policy review

Pursuant to 45 CFR § 1626.12, a recipient is required to adopt written policies and procedures to guide its staff in complying with the requirements of Part 1626. LARC drafted and submitted its Part 1626 policy during the course of the Review. The policy and the procedures outlined evidenced compliance with the requirements of:

- 45 CFR § 1626.4 (regarding immigration of clients who are alleging battery and/or extreme cruelty on their own behalf or on behalf of their child); *See also* LARC's "*Screening Intake Manual*" at page 71 (explaining LARC's domestic violence policy may include direct service recommendations to referrals as LARC is not equipped to handle most domestic violence cases);
- 45 CFR § 1626.8 (regarding screening requirements in emergency type situations);

⁷⁴ *See* Kennedy Amendment at 45 CFR § 1626.4.

- 45 CFR § 1626.6 (regarding all applicants who claim to be citizens to attest in writing); *See also* LARC’s “*Screening Intake Manual*” at page 64 (requiring that an Attestation of Citizenship be obtained from a client when he/she sends documents to LARC); and ⁷⁵
- 45 CFR § 1626.7 (regarding the appropriate level of documentation for brief advice and consultation legal provided to an alien by telephone); *See also* LARC’s “*Screening Intake Manual*” at page 64 (explaining when verification of citizenship is required, instructing screeners to make photocopies of documentation establishing eligibility).

Correspondence from LARC’s Executive Director and the Board’s Chairperson indicated that that this policy, as reviewed, was adopted by LARC’s Board at the September 2013 Board of Directors meeting.

As LARC indicated that staff responsible for intake screening have been provided training regarding the required elements for compliant citizenship attestations, there are no required corrective actions or recommendations.

LARC did not offer any comments regarding Finding No. 5 in its response to the DR.

Finding 6: The case sample did not require a determination of compliance with 45 CFR § 1611.9 (Retainer agreements) as the sampled cases were all brief services.

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁷⁶ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

As previously explained, LARC is a hotline and referral service in which the legal service provided by staff consists of providing advice and counsel or brief service. Pursuant to 45 CFR §

⁷⁵ LARC indicated on August 12, 2013 via email that it revised this section of its intake manual to include a date as required by CSR Handbook, (2008 Ed., as amended 2011), § 5.5 . LARC also indicated that staff have been trained to ensure that attestations drafted by applicants include a date. *See* Finding No. 2 for additional discussion regarding 45 CFR Part 1626 as it is applied during intake screening.

⁷⁶ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient’s risk management.

1611.9(b), retainer agreements are not required for limited service type cases. Therefore, the case sample did not require a review in this area as the staff cases reviewed were all limited services.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 6 in its response to the DR.

Finding 7: Although LARC indicated that it did not have a 1636 policy at the time the review was scheduled, its current policy on client identity and statement of facts complies with the requirements of 45 CFR Part 1636.

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

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

As all of LARC's staff and compensated PAI cases are brief services, Part 1636 is inapplicable.

Policy review

Pursuant to 45 CFR § 1636.5, a recipient is required to adopt written policies and procedures in order to assist its staff in complying with the requirements of Part 1636. LARC drafted and submitted the policy during the course of the Review. The submitted policy evidenced compliance with the requirements of Part 1636. Specifically the policy was compliant with:

- 45 CFR § 1636.2 (explaining the prerequisites required when a recipient initiates or participates in litigation on behalf of a plaintiff client);
- 45 CFR § 1636.3 (explaining that LSC has access to the written statements); and
- 45 CFR § 1636.4 (explaining that Part 1636 applies to cases initiated by LARC staff as well as to cases for which private attorneys are compensated by LARC).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 7 in its response to the DR.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources). LARC's policy on priorities is in compliance with the requirements of 45 CFR Part 1620.

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

Pursuant to 45 CFR § 1620.3⁷⁷ and 45 CFR § 1620.4,⁷⁸ LARC must have a written statement of priorities and policies and procedures for accepting cases outside of LARC's priorities and accepting emergency cases.

a. Pursuant to 45 CFR § 1620.3, LARC's governing body has adopted procedures for establishing priorities for the use of all of LARC's LSC and non LSC resources.

As discussed earlier in this writing, LARC and NHLA have integrated their Boards. Therefore, the same individuals serve as officers on both Boards. In order to establish priorities, the Board has determined that advocates from LARC and NHLA, at the start of each year, who have expertise in housing, government benefits, family, and consumer debt will recommend substantive priorities, and quantifiable and achievable caseload targets.⁷⁹ This yearly recommendation is consistent with the requirements of 45 CFR § 1620.5 which requires that priorities are to be reviewed annually. Each quarter, the four (4) groups assess the current priorities in each substantive area, using factors like emerging client issues, funder requirements, and current caseloads.⁸⁰

b. Pursuant to 45 CFR § 1620.3, LARC's governing body has adopted a written statement of priorities that determines the cases and matters which may be undertaken by LARC.

⁷⁷ Requiring that a recipient's governing body adopt procedures for establishing priorities for the use of all of its LSC and non LSC resources and must adopt a written statement of priorities that determines the cases and matters which may be undertaken by the recipient.

⁷⁸ Requiring that a recipient's governing body adopt written policies and procedures in order to guide the recipient in accepting emergency cases or matters not within the recipient's established priorities.

⁷⁹ *See* Strategic Plan (approved by the NHLA/LARC Boards on November 14, 2012) at page 9. In the event that group members are unable to agree on the substantive priorities, then the Executive Directors of both organizations will work together to establish the priorities. If the Executive Directors cannot come to an agreement, then the Boards will determine and establish the priorities. *Id.*

⁸⁰ *See* 45 CFR § 1620.3(c) (examples of the factors to be considered in establishing priorities are the resources of the recipient and suggested priorities as promulgated by LSC); *also see* Strategic Plan (approved by the NHLA/LARC Boards on November 14, 2012) at page 9.

Prior to the visit, OCE was provided a list of LARC's priorities and, according to the "Screening Intake Manual" reviewed, LARC staff will provide a combination of advice and counsel and referral to other agencies as appropriate in the following priority areas:⁸¹

- Domestic violence;⁸²
- Divorce/legal separations;⁸³
- Parental rights and responsibilities;⁸⁴
- Abuse and neglect cases;⁸⁵
- Housing;⁸⁶ and
- Income maintenance/Public benefits.⁸⁷

If there are available resources, LARC will also provide advice and counsel in grandparent visitation rights cases and wills and estates.

Sampled case files reviewed evidenced that LARC is in compliance with 45 CFR Part 1620. All case files reviewed were within LARC's priorities.

c. Pursuant to 45 CFR § 1620.4, LARC's governing body has adopted written policies and procedures in order to guide LARC in accepting emergency cases or matters not within LARC's established priorities.

Consistent with 45 CFR § 1620.4, LARC defines an emergency as a situation that has one (1) or more of the following elements:⁸⁸

1. The need for immediate legal action to protect the client's rights;
2. A significant threat to the health and safety of the client exists for which no other legal help is available; or
3. Issues that arise because of new and unforeseen circumstances, such as changes in the law affecting large numbers of clients and other emerging legal issues not anticipated when the priorities were initially adopted.

According to the documents reviewed, the Executive Director and a staff attorney will determine whether a prospective case satisfies the above listed requirements. If an emergency determination is made, then brief service and/or referral will be provided to the client.⁸⁹ According to the Executive Director Report to the Board of Directors dated February 8, 2013,

⁸¹ See LARC's "Screening Intake Manual" at pages 20-24.

⁸² See Strategic Plan, (approved by the NHLA/LARC Boards on November 14, 2012) at page 12, Goal 4.

⁸³ See *Id.* at page 13, Goal 4: no. 5.

⁸⁴ This includes child support, custody issues, and relocation issues, termination of parental rights. See *Id.*

⁸⁵ See *Id.* at page 12, Goal 4.

⁸⁶ See Strategic Plan (approved by the NHLA/LARC Boards on November 14, 2012) at page 10, Goal 2: no. 3.

⁸⁷ See Strategic Plan (approved by the NHLA/LARC Boards on November 14, 2012) at page 11, Goal 3: no 3.

⁸⁸ See LARC's "Priorities" at pages 1-3.

⁸⁹ See LARC's "Priorities" at pages 1-3.

there were no emergency cases or matters accepted by LARC that were not within the established priorities.⁹⁰

d. Pursuant to 45 CFR § 1620.6, LARC staff who handle cases or matters, or make case acceptance decisions sign written agreements indicating they have read and are familiar with LARC's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for LARC that is not a priority or an emergency.

Subsequent to the Compliance Review, the Team requested to see copies of signed written agreements wherein staff acknowledged, among other things, that they have read and are familiar with LARC's priorities and emergency case acceptance procedures. Pursuant to the request, the Deputy Director provided copies of the statements signed by LARC staff via email, which were consistent with the requirements of 45 CFR § 1620.6.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 8 in its response to the DR.

Finding 9: With three (3) exceptions, case files reviewed evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

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

If the applicant's legal problem is outside the recipient's priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2008 Ed., as amended 2011), § 7.2.

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6.

⁹⁰ OCE assumes, that LARC, pursuant to 45 § 1620.7(a), provides the Board with reports on a quarterly basis, with information on all emergency cases or matters undertaken that were not within LARC's priorities, but the Review Team did not review any documentation other than that noted above.

With three (3) exceptions, case files reviewed evidenced conformity to the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6. The three (3) noted exceptions described below did not contain evidence of the legal assistance provided.

Insufficient description of legal assistance

Pursuant to CSR Handbook (2008 Ed., as amended 2011), § 5.6, a case file must contain a description of the legal assistance provided to the client and the description must be sufficient to support the closing code category. As these case files did not contain a description of the legal advice provided, these cases should not have been reported to LSC:

One (1) case, in which legal assistance was provided by LARC's sub-recipient Pro-Bono, was opened June 7, 2012, closed on March 20, 2013, and assigned closing code "A," counsel and advice. At the time of case review, the case file did not contain a description of the legal advice provided by the attorney that would support the "A" closing code. *See* Closed Case No. 13-2001172200.

Another staff case that was opened July 12, 2011, closed October 26, 2011, and assigned closing code "K," other, did not contain a description of the legal assistance provided that would support the "K" closing code. *See* Closed Case No. 11-0050938.

Referrals

One staff case that was opened August 17, 2011, closed October 25, 2011, and assigned closing code "K," other, that at the time of case review, did not document the legal assistance provided by LARC staff. Apparently, this case was referred to NHLA for legal assistance. Therefore according to LARC's internal procedures this case should have been reported as a "Matter" as the Applicant was provided referral services.⁹¹ *See* Closed Case No. 11-0051588.

There were no required corrective actions as the issues noted in the case sample did not indicate a systemic issue regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided). However, it was recommended that LARC review with staff responsible for providing applicants with referrals to other organizations, the appropriate procedures for handling and closing a "Matter."

In response to this recommendation, LARC indicated that staff had been provided training in this area during a staff meeting held on February 12, 2014.

⁹¹ *See* LARC's "Screening Intake Manual" at pages 48, 74.

Finding 10: With five (5) exceptions, sampled cases evidenced substantial compliance with the requirements of Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011) (Case closure categories).

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.1.

With the five (5) exceptions explained below, the files reviewed demonstrated that LARC's application of the CSR case closing categories is consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

Limited service case categories

One staff case was opened March 29, 2013, closed June 27, 2013, and assigned de-selection code "X." At the time of case review, it was explained that this was one (1) of two (2) cases with this client. Both cases involved the same minor children, but each case involved distinct legal issues. Counsel and advice was provided to the client regarding the legal issues, but the advice provided for both legal issues was notated in one (1) of the case files, as opposed to in the applicable case file. As case review indicated that legal advice was provided for the two (2) legal issues, the advice provided should have been noted in the appropriate case files, and each case assigned closing code "A," counsel and advice.⁹² *See* Closed Case No. 13-0063275.

Another staff case was opened July 25, 2012, closed February 27, 2013, and assigned closing code "B," limited action. The case notes indicated that the client was provided legal advice and sent a blank copy of a motion. The case notes did not indicate that LARC assisted the client in preparing the motion for filing. Therefore, as the case notes indicate that advice was provided, the correct closing code is "A," counsel and advice. *See* Closed Case No. 12-0058190.

Extended service case categories

One (1) case in which legal assistance was provided by LARC's sub-recipient, Pro-Bono, was opened on January 28, 2013, closed February 13, 2013, and assigned closing code "F," negotiated settlement without litigation. The case notes indicated that the matter was litigated and the file include a copy of the settlement agreement; therefore, the correct closing code is "G," negotiated settlement with litigation.⁹³ *See* Closed Case No. 13E-20017233.

⁹² *See* CSR Handbook (2008 Ed., as amended 2011), § 8.2 (explaining that a case where a program provides legal advice to a client the case should be closed as Counsel and Advice).

⁹³ *See* CSR Handbook (2008 Ed., as amended 2011), § 8.3 (explaining that a case where a program negotiates and reaches an actual settlement on behalf of a client while a court or formal administrative action is pending should be closed as Negotiated Settlement with Litigation).

Another is a case in which legal assistance was provided by LARC's sub-recipient, Pro-Bono. The case was opened on September 4, 2012, closed January 8, 2013, and assigned closing code "G," negotiated settlement with litigation. The case notes indicated that this was a contested case with a case dispositive decision, therefore, the correct closing code is "I(b)," contested court decision.⁹⁴ *See* Closed Case No. 12E-20016689.

The third, is a Staff case that was opened July 12, 2011, closed October 26, 2011, and assigned closing code "K," other. At the time of case review, the case file did not contain a description of the legal assistance provided that would support the "K" closing code; therefore, this case should have been de-selected as it is not LSC reportable.⁹⁵ *See* Closed Case No. 11-0050938.

The DR contained no required corrective actions as the issues noted in the case sample did not rise to a level to indicate a pattern of issues with the requirements of Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). However, it was recommended that LARC review with staff proper application of closing code "A," counsel and advice. In addition, it was recommended that LARC review with staff and provide Pro-Bono with guidance, as applicable, as to the proper application of extended service codes:

- "F," negotiated settlement without litigation versus "G," negotiated settlement with litigation;
- "G," negotiated settlement with litigation versus "I(b)," contested court decisions; and
- "K," other versus LARC's de-selection code.

In response to these two (2) recommendations, LARC indicated that LARC and Pro-Bono staff had been provided the recommended training.

Finding 11: With two (2) exceptions, sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).⁹⁶ There is, however, an exception for limited service cases opened

⁹⁴ *See* CSR Handbook (2008 Ed., as amended 2011), § 8.3 (explaining that a case where there is an adverse party and that party contests the case should be closed as Contested Court Decision).

⁹⁵ *See* CSR Handbook (2008 Ed., as amended 2011), § 8.1 (explaining that all LSC reported cases must document contain a description of the legal assistance provided to the client; *also see* CSR Handbook (2008 Ed., as amended 2011), § 5.6.

⁹⁶ The time limitation of the 2001 Handbook that a brief service case should be closed "as a result of an action taken at or within a few days or weeks of intake" has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions

after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook, as amended 2011) should be reported as having been closed in the grant year in which the Recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3). With two (2) exceptions explained below, LARC is in compliance regarding the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3:

One (1) staff case was opened on July 25, 2012, closed on February 27, 2013, and assigned closing code “B,” limited action.⁹⁷ According to the case notes, this case was closed and then re-opened with the last notated legal activity in the file occurring on October 19, 2012.⁹⁸ Therefore, as there was no entry in the case management system indicating why the case should be held open into the following year, this case should have been closed in 2012.⁹⁹ *See* Closed Case No. 12-0058190.

Another staff case was opened on June 3, 2002, closed on February 25, 2011, and assigned closing code “A,” counsel and advice. According to the case notes, the most recent legal activity occurred on July 31, 2003. Therefore, as there was no entry in the case management system indicating why the case should be held open into the following year, this case should have been closed in 2003.¹⁰⁰ *See* Closed Case No. 02E-1031181.

Pursuant to CSR Handbook (2008 Ed., as amended 2011), § 3.3, these two (2) cases were not timely closed and therefore should not have been reported to LSC.

The DR contained no required corrective actions, although it was recommended that LARC conduct periodic reviews of case management reports on open and closed cases, particularly those limited service files that remain open for an extended period of time, to ensure against dormancy and the reporting of untimely closed cases.

In response to this recommendation, LARC indicated that periodic reviews would be conducted in order to ensure against dormancy and the reporting of untimely closed cases.

with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

⁹⁷ This case also had a closing code issue. *See* Finding No. 10 for additional discussion.

⁹⁸ It is assumed that the case was re-opened prior to September 30.

⁹⁹ *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) (regarding timely closing of limited service cases).

¹⁰⁰ *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) (regarding timely closing of limited service cases).

Finding 12: Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.2.

When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

Sampled cases evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 12 in its response to the DR.

Finding 13: Although LARC indicated that it did not have a 1604 policy at the time the review was scheduled, its current outside practice of law policy complies with the requirements of 45 CFR Part 1604.

This Part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipient's full-time attorneys. Under the standards set forth in this part, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in *pro bono* legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

In response to the document request letter dated May 3, 2013, LARC indicated that there were no attorneys who had engaged outside practice of law. This was confirmed and verified on-site through interviews with the Executive Director, the Deputy Director, the Supervising Attorney, one (1) paralegal, and two (2) intake screeners.

Policy review

Pursuant to 45 CFR § 1604.3, a recipient is required to adopt written policies governing the outside practice of law by full-time attorneys that are consistent with the requirements of Part 1604. A recipient is not required to permit outside practice of law by full-time attorneys, but if it chooses to do so, any adopted policy must be consistent with Part 1604. Therefore, a recipient's Part 1604 policy may be more restrictive than this regulation, but it cannot be less restrictive. *See* 45 CFR § 1604.3(b)

LARC drafted and submitted this policy during the course of the Review. The policy permits full-time attorneys to engage in the outside practice of law consistent with the restrictions outlined in Part 1604. A review of the submitted policy evidenced compliance with the following sections:

- 45 CFR § 1604.2 (defining full-time attorneys, outside practice of law, and court appointment);
- 45 CFR § 1604.4 (outlining types of permissible outside practice of law activities);
- 45 CFR § 1604.5 (explaining that subject to certain exceptions, compensation for outside practice is prohibited);
- 45 CFR § 1604.6 (explaining the circumstances in which a full-time attorneys may use *de minimis* or limited amounts of LARC's resources when engaged in the outside practice of law); and
- 45 CFR § 1604.7 (allowing full-time attorneys to accept court appointments).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

A review of LARC's policies, timekeeping records, and interviews with full-time attorneys evidenced compliance with 45 CFR Part 1604.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 13 in its response to the DR.

Finding 14: Interviews with staff, a review of pamphlets, and fiscal records evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

LSC regulations prohibit recipients from expending grants funds or contributing personnel or equipment to any political party or association, the campaign of any candidate for public or party

office, and/or for use in advocating or opposing any ballot measure, initiative, or referendum. See 45 CFR Part 1608.

A comprehensive review of LARC's pamphlets, brochures, flyers, *etc.* was conducted and revealed that the collected information was free of any prohibited political message, expression, symbol, image, or allusion, and in compliance with 45 CFR Part 1608. In addition, sampled case files reviewed were free of all of the prohibitions outlined in Part 1608. Interviews with the Executive Director, the Deputy Director, the Supervising Attorney, one (1) paralegal, and two (2) intake screeners indicated compliance with this Part.

A vendor/payee file generated from the LARC's general ledger accounting system, representing persons and entities who have received payments from LARC during the period 2011 through April 30, 2013 was reviewed for identifiable disbursements to political entities. Additionally, pages and links from the LARC on-line web-site (<http://www.nhlegalaid.org/about/legal-advice-and-referral-center>) and a search of on-line news articles (Google, Bing and Yahoo) mentioning LARC were reviewed for indications of relationships with political candidates, activities or entities, as were attestations made on LARC's IRS 990 Form, Return of Organization Exempt from Income Tax.¹⁰¹ No indication of prohibited political activities was found.

Discussions with the Executive Director, the Deputy Director, the Supervising Attorney, and (1) intake screener also indicated that LARC is not involved in these prohibited activities.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 14 in its response to the DR.

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases). Although LARC indicated that it did not have a 1609 policy at the time the review was scheduled, its current policy on fee generating cases complies with the requirements of 45 CFR Part 1609.

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar

¹⁰¹ Dated September 30, 2012. Part IV, no.3 (inquires as to whether an organization engaged in direct or indirect political campaign activities).

cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

Policy review

Pursuant to 45 CFR § 1609.6, a recipient is required to adopt written policies and procedures that would assist staff in complying with the requirements of Part 1609. A review of the policy drafted and submitted by LARC during the course of the Review demonstrated compliance with the following sections of Part 1609:

- 45 CFR § 1609.2 (defining fee-generating case); and
- 45 CFR § 1609.3 (explaining pre-requisites for when LSC funds may be used for fee-generating cases).

Sampled case files reviewed, as well as interviews with the Executive Director and the Deputy Director evidenced compliance with the requirements of 45 CFR Part 1609.

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 15 in its response to the DR.

Finding 16: Based on a limited fiscal review, LARC is in compliance with the requirements of 45 CFR § 1610.5 (Notification); in addition, based on a limited fiscal review, on-site observations of LARC's office, and interviews with staff indicated that LARC does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues.

Part 1610 was adopted to implement Congressional restrictions on the use of non-LSC funds and to assure that no LSC funded entity engage in restricted activities. Essentially, recipients may not themselves engage in restricted activities, transfer LSC funds to organizations that engage in restricted activities, or use its resources to subsidize the restricted activities of another organization.

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees.

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is based on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one or more factors is not determinative. Factors relevant to the determination include:

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and
- iv) the extent to which signs and other forms of identification distinguish the Recipient from the other organization.

See 45 CFR § 1610.8(a); *see also*, OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. Particularly if the recipient and the other organization employ any of the same personnel or use any of the same facilities that are accessible to clients or the public. But, as noted previously, standing alone, being housed in the same building, sharing a library or other common space inaccessible to clients or the public may be permissible as long as there is appropriate signage, separate entrances, and other forms of identification distinguishing the recipient from the other organization, and no LSC funds subsidize restricted activity. Organizational names, building signs, telephone numbers, and other forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

A limited fiscal review of LARC's general ledger, on-site observations, and interviews with staff indicated that LARC does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues.

Pursuant to 45 CFR § 1610.5, a recipient is required to provide written notification to all funding sources who provide \$250.00 or more of the prohibitions and conditions which apply to said funds.¹⁰² A recipient must provide this written notification to funds received through “. . . grants, contracts, or charitable donations from funders other than the Corporation, which are intended to fund the nonprofit work of the recipient.”¹⁰³ However, written notification does not have to be provided for funds “. . . received from sources such as court payment to attorneys for their work under court appointments . . . nor [is written notification required for] payments to the recipient for rent, bank interest, or sale of goods.”¹⁰⁴

In addition, for solicited funds, notification should be provided before the funds are accepted. Therefore, “. . . notice should be given during the course of soliciting funds or applying for a grant or contract.”¹⁰⁵ However, for unsolicited donations, notice should be given in the Recipient’s letter acknowledging the contribution.¹⁰⁶

LARC’s Accounting Manual was reviewed for evidence that the Program had policies and procedures in place to encourage compliance with 45 CFR § 1610.5. According to the Manual, for any non-LSC grant funding applied for or received in excess of \$250.00, LARC will provide written notification to the applicable funder of the prohibitions and conditions that apply to those funds.¹⁰⁷ However, this standard is incorrect because pursuant to 45 CFR § 1610.5, the monetary threshold is not in excess of \$250.00, but rather \$250.00 or more. Subsequent to the Compliance Review, LARC was notified, via email dated September 9, 2013, to revise the standard threshold language used in its Accounting Manual so that it accurately reflects 45 CFR § 1610.5. LARC agreed to the revision and, in an email dated September 10, 2013, OCE was provided a copy of the revised policy for review. In addition, LARC also indicated that fiscal staff had been advised on the correct threshold amount. The revised policy language was reviewed and it is compliant with 45 CFR § 1610.5

According to interviews with both the Executive Director and the Deputy Director, LARC’s fundraising efforts are coordinated solely through Campaign for Legal Services (“CLS”). CLS is a joint fundraising venture composed of LARC, NHLA, and Pro- Bono.¹⁰⁸ According to CLS’ Director, CLS was established to maximize fundraising efforts by preventing multiple solicitations within the same donor pool. Operations are controlled by a “Joint Fundraising Agreement” dated June 1, 2005. The funds raised by CLS are distributed by a preset formula that may vary from year to year. According to fiscal documents reviewed, the most current distribution percentage for 2012 was as follows:

¹⁰² This section incorporates the requirement of Section 504(d)(1) of the appropriations act that recipients may not accept funds from non-LSC sources unless they provide written notice to the funders that their funds may not be used in any manner inconsistent with the LSC Act or Section 504. *See Use of Non-LSC Funds, Transfers of LSC Funds, Program Integrity*, 62 FR 27696 (May 21, 1997) (amending 45 CFR § 1610.5).

¹⁰³ *See* 62 FR at 27696.

¹⁰⁴ *See Id.* An exception is provided for tribal funds. The notice requirement would apply only when the tribal funds are in fact restricted. Thus, when a recipient receives tribal funds to which the restrictions do not apply, no notice is required to the source of the funds.

¹⁰⁵ *See* 62 FR at 27696.

¹⁰⁶ *See Id.*

¹⁰⁷ *See* LARC’s Accounting Manual at page 18.

¹⁰⁸ CLS is established as a registered trade name under the NHLA corporate structure.

LARC: 21.5%
Pro-Bono: 15%
NHLA: 63.5%

All proceeds, expenses, and distributions are recorded as a cost center in the books of NHLA and donors are provided with NHLA's tax identification number. According to the Director, CLS provides all donors, regardless of donation amount with a thank-you letter that includes tax deduction information, as well as notification of the prohibitions and conditions that apply to the funds. A sample thank you letter reviewed contained the following notation:

The Campaign for Legal Services, the New Hampshire Bar's Pro Bono Referral Program, the Legal Advice & Referral Center, and New Hampshire Legal Assistance did not provide any goods or services in exchange for this contribution. Applicable tax ID: xx-xxxxx97

The Legal Advice and Referral Center (LARC) is funded in part by the Legal Services Corporation (LSC). As a condition of this federal funding, LARC is required to notify you that *LARC's funds* may not be used in any manner inconsistent with the Legal Service Corporation Act or Section 504 of Public Law 104-134. (emphasis added)

The notification procedures as explained by the CLS Director and a review of the sample notification letter indicate that CLS understands the requirements of 45 CFR § 1610.5. The DR contained no required corrective actions; however, it was recommended that LARC seek to edit the notifying language so that it is clear that LSC prohibitions apply to funds from all sources. The existing language as it read implied that the LSC restrictions apply to LARC funds as opposed to the donated funds.¹⁰⁹

In response to this recommendation, LARC indicated that CLS had been advised to edit the notifying language to be more consistent with 45 CFR § 1610.5. According to LARC, CLS implemented use of the revised language in its funder notifications as of March 2014.

Finding 17: LARC's in-house PAI cases are compliant with 45 CFR § 1614.3(d)(3) as sampled cases and interviews with LARC staff demonstrated adequate oversight and follow-up of PAI cases. However, sampled open sub-recipient PAI cases did not evidence adequate oversight and follow-up. Based on a limited fiscal review, LARC is in compliance with 45 CFR Part 1614, for fiscal year 2012 regarding the requirement that recipients of LSC funds devote at least 12 ½% of its basic field fund award towards involving private attorneys in the delivery of legal assistance to eligible clients.

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

¹⁰⁹See 62 FR at 27696 (explaining that written notice must be provided to donors indicating that the donated funds may not be used in manner inconsistent with the LSC Act or Section 504).

delivery of legal assistance to eligible clients. This requirement is referred to as the “PAI” or private attorney involvement requirement.

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

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 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).

a. Fiscal review

LARC’s PAI efforts are carried out in-house through volunteer and reduced fee attorneys and through its sub-recipient, Pro-Bono. Based on a limited on-site review, LARC’s financial systems and procedures for its PAI efforts satisfy the requirements of Part 1614 for fiscal year 2012. Specifically, the fiscal review determined the following:

- i. Pursuant to 45 CFR § 1614.1, LARC has devoted an amount equal to at least twelve and one-half percent (12½%) of its annualized basic field award to the involvement of private attorneys.*

LARC’s audited financial statement for fiscal year ending September 30, 2012 reported a total PAI expenditure of \$142,614.00 (revised) which is 18.7% of the total basic field grant of \$761,785.00 (revised), complying with the 12½ % requirement in 45 CFR Part 1614.

- ii. Pursuant to 45 CFR § 1614.3(e)(1)(i), LARC accounts for and clearly documents direct and indirect PAI costs.*

A review of the PAI cost allocation for calendar year ending September 30, 2012, disclosed that LARC correctly allocates the salaries of attorneys and paralegals through use of time sheets. A

review of three (3) staff attorney time records for the month of March 2012 with time charged to PAI evidenced compliance with the requirements of Part 1614. A review of three (3) staff attorney time records for the month of March 2012 with time charged to PAI also evidenced compliance with 45 CFR Part 1614.

However, the review disclosed that LARC allocated travel, training, and meeting expenses based on a percentage rather than an actual cost basis, reducing the PAI expenditures by \$554.00 from \$143,168.00 to \$142,614.00. The discrepancy was brought to the attention of the Controller who immediately changed the formula used by LARC. The new formula is now based on an actual cost rather than percentage basis.

A review of non-personnel costs evidenced that they are allocated on the basis of reasonable operating data.

iii. Pursuant to 45 CFR § 1614.3(e)(1)(ii), LARC maintains private attorney contracts on file which set forth payment systems, hourly rates, and maximum allowable fees.

A review of 13 cases and the time reported by two (2) contract attorneys in the month of March 2012 disclosed no exceptions.

In accordance with 45 CFR §1614.4, LARC has developed an annual PAI plan and budget to meet its PAI requirements. LARC utilizes a system of accounting for PAI related costs which generally complies with the requirements of 45 CFR § 1614.3(e) and these procedures are documented as evidenced by the cost allocation methodology policy reviewed while on-site and subsequent to the Review. OCE finds that LARC has taken sufficient action to satisfy Required Corrective Action item 2. No additional information is required.

LARC may document these methods in the manner it deems most effective; however, it was recommended that a full description of the policies and processes used to allocate and record PAI direct and indirect costs and the use of non-LSC funds attributable to its PAI efforts be established in the LARC's Accounting Manual. In response to this recommendation, LARC demonstrated that its Accounting Manual includes its cost allocation policy.

b. Overview of LARC's PAI efforts

As explained earlier in this writing, LARC's PAI efforts are satisfied both in-house and through use of its sub-recipient, Pro-Bono. Pro-Bono is a private non-profit organization operated through, and supported by the New Hampshire Bar Association. LARC has partnered with Pro-Bono through a sub-grant in order to coordinate private attorneys who choose to volunteer to assist low-income individuals with non-criminal legal matters. Each will be discussed separately. With certain exceptions in its Pro-Bono cases, LARC's PAI procedures demonstrated compliance with 45 CFR §§ 1614.3(d)(1) and 1614.3(d)(2) and CSR Handbook (2008 Ed., as amended 2011), § 10.4.

In house PAI cases — LARC’s PAI efforts are coordinated primarily through its Deputy Director who is an attorney. According to interviews with the Deputy Director, there are three (3) consistent volunteer attorneys and one (1) reduced fee or contract attorney. Sampled cases and interviews with intake screening staff and the Deputy Director evidenced compliance with the requirements of 45 CFR § 1614.3(d). Specifically, compliance was noted in the following areas:

i. *Pursuant to 45 CFR § 1614.3(d)(1), LARC’s PAI intake and case acceptance procedures are consistent with its established priorities.*

LARC’s in house PAI efforts consist of volunteer cases and reduced fee cases. Both are screened in the same manner as LARC’s staff cases.¹¹⁰ Interviews with staff responsible for intake screening demonstrated familiarity regarding LARC’s case priorities.

ii. *Pursuant to 45 CFR § 1614.3(d)(3), LARC’s in house cases demonstrated effective case oversight and follow-up procedures through proper reporting procedures, timely case closings, and proper closing code designation.*

Proper reporting procedures — Sampled cases demonstrated that in cases where a PAI referral was unsuccessful, but program staff provided legal assistance to the client, the case was closed and reported as a staff case.

Timely case closing — Sampled cases were closed either in the year in which legal assistance was completed or in the following grant year.

Proper closing code designation— Sampled cases evidenced appropriate closing codes for the legal assistance provided by LARC’s volunteer attorneys.

As such, sampled cases and interviews with LARC staff evidenced effective case oversight and follow-up of its in house PAI cases.

iii. *Pursuant to 45 CFR § 1614.3, LARC’s open sub-recipient PAI cases did not demonstrate effective follow-up and oversight systems.*

*PAI Sub-recipient, Pro-Bono*¹¹¹ — Pro-Bono attorneys assist predominately in the areas of family law, housing, and public benefits. In this capacity, Pro-Bono refers and oversees cases, as well as provides the volunteer attorneys with supportive services.

As explained in the in house PAI section, delivery model for legal assistance through the use of private attorneys should include certain *minimum* components: intake and case acceptance

¹¹⁰ Please refer to Finding No. 2 for additional discussion regarding LARC’s intake screening procedures.

¹¹¹ This discussion is limited solely to whether the current structure between Pro-Bono and LARC satisfy the requirements of 45 CFR Part 1614 regarding case oversight, timely case closings, and proper PAI case documentation. Please refer to Finding No. 18 for additional discussion of Pro-Bono, as LARC’s sub-grant, and whether there is compliance with 45 CFR § 1627.3 (regarding requirements for all sub-grants).

procedures that are consistent with a recipient's established priorities;¹¹² and effective case oversight and follow-up procedures.¹¹³

While there is no doubt that LARC's intake and case acceptance procedures are consistent with its priorities for its Pro-Bono cases; sampled referred cases from LARC to Pro-Bono evidenced questions regarding the effectiveness of the oversight and follow-up systems in place.

Overview of the referral, case acceptance, and case oversight process for Pro-Bono

Pursuant to 45 CFR § 1627.3(e), all sub-grant agreements should specify that LSC has the same oversight rights over a sub-recipient that it has over an LSC recipient. The sub-grant Agreement between LARC and Pro-Bono contains this provision.¹¹⁴ As a result, in regards to the cases referred to Pro-Bono by LARC, the requirements of CSR Handbook (2008 Ed., as amended 2011) extend to Pro-Bono pursuant to the 2013 sub-grant agreement. This is “. . . to assure that the Corporation has the power to ensure the expenditure of funds in conformity with law and applicable regulations, guidelines, and instructions.”¹¹⁵

The PAI case management and oversight process includes the following steps:

Initial stage: case referral

Interviews with the Deputy Director and an Intake Screener indicated that the intake screening process for a sub-recipient PAI case is no different than the intake process for a staff case. As a result, the intake process will not be discussed in this section, as this matter was covered in detail in Finding No. 2.

During the screening process, intake screeners complete a questionnaire prior to referring the case to Pro-Bono for Extended Service. Pending the referral and acceptance of the case by Pro-Bono, the Deputy Director indicated that LARC may continue to provide the client with legal assistance, usually in the form of counsel and advice.

Prior to a referral to Pro-Bono, the Deputy Director reviews each case in order to ensure that Pro-Bono's acceptance criteria has been met. After this determination is made, an email is sent to Pro-Bono with the client's information. LARC usually refers several cases at a time to Pro-Bono utilizing a referral spreadsheet. Additionally, LARC sends a letter to the client stating that the case was referred to Pro-Bono for possible placement with a volunteer attorney. Attached to this letter is a citizenship attestation for the client to sign, however, LARC does not require the client to sign and return the attestation prior to referring the case to Pro-Bono.

Once a case is referred to Pro-Bono, LARC will mark the case as “Pro-Bono decision pending” in its ACMS until the case is formally accepted by Pro-Bono for referral. LARC is usually notified within two (2) weeks whether the case will be accepted by Pro-Bono for referral.

¹¹² See 45 CFR § 1614.3(d)(1).

¹¹³ See 45 CFR § 1614.3(d)(3).

¹¹⁴ See 2013 Sub-grant Agreement Form III(B).

¹¹⁵ See Subgrants and Membership Fees or Dues, 48 FR 54206 (November 30, 1983) (final rule establishing Part 1627).

LARC conducts no oversight of the cases once they have been referred to Pro-Bono for legal assistance.

Second stage: case acceptance

The Special Projects Coordinator at Pro-Bono reviews LARC's referred cases with volunteer attorneys who have agreed to be available a few hours each week to assist in the case placement process. Cases that are relatively uncomplicated by-pass this screening and are placed directly with a volunteer attorney for extended service.

Once a case is accepted for possible placement, the client is sent an acceptance packet which includes a letter informing the client that his/her case was referred by LARC to Pro-Bono and that Pro-Bono will attempt to place the case with a volunteer attorney. This packet consists of a citizen attestation and a retainer agreement for the client to sign and return to Pro-Bono. In addition, the packet also includes the Pro-Bono Program Guidelines and a financial affidavit. It seems that each referral undergoes an additional and independent screening by Pro-Bono. Case placement times vary and may depend on the complexity of the legal issue. It does not appear that there is a specified time period after which the case is either sent back to LARC to provide legal assistance or a referral, or the applicant is advised that legal assistance cannot be provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.4.

The volunteer attorney who has agreed to meet the client is also sent a referral packet which includes the client's personal information and an "Initial Disposition Form."¹¹⁶ The form requires the attorney to indicate whether he/she will provide representation to the client after the initial interview or whether the client failed to contact the attorney. Pro-Bono then notifies LARC which cases have been referred to volunteer attorneys.

Third stage: case oversight

According to Pro-Bono, a status update form is sent to the volunteer attorney every two (2) months. If the attorney fails to return this form, Pro-Bono indicated that it employs alternative methods in order to obtain case status information; *i.e.* direct contact the attorney's office by phone, email or contact the court to determine if case is still ongoing. However, these status update forms were not readily available at the time of case review. While all of the open sampled cases reviewed indicated that they had been referred and accepted by Pro-Bono; no additional case status information could be obtained from LARC or Pro-Bono during case review. As a result, on August 21, 2013, LARC's Deputy Director obtained case status information for the sampled cases and submitted same to OCE for review.

Final stage: case closure

Once a case is completed, the volunteer completes a "Final Case Disposition" form describing the services provided to the client and the hours spent on the case. At the completion of the case, Pro-Bono also sends the client a "Client Satisfaction Questionnaire." The Pro-Bono Coordinator and the Administrative Assistant review all closed cases in order to assign the applicable case closure code. Additionally, a compliance review of the case is conducted to determine whether it meets the eligibility criteria required to be reported as an LSC case. If a case is determined LSC

¹¹⁶ The packet also includes various legal forms such as a "Notice of Indigency" and "Notice of Entitlement to Full Waiver of Filing Costs and Sheriff's Fees."

eligible, the closed case report is sent to LARC. Upon receipt of the close case report from Pro-Bono, LARC closes the case in its ACMS and conducts a compliance review as well in order to determine whether the case is LSC eligible.

A review of the sampled closed cases that were ultimately reported to LSC indicated compliance with CSR Handbook (2008 Ed., as amended 2011), § 10.5 (explaining that each PAI case reported to LSC should include at a *minimum*, financial eligibility information, citizenship and alien eligibility documentation, legal assistance documentation, the client's name, legal problem, and description of the assistance provided to the client). The reviewed closed cases were thoroughly documented, assigned applicable case closure category, and timely closed.

The oversight procedures articulated by Pro-Bono appear to satisfy the requirements of CSR Handbook (2008 Ed., as amended 2011) § 10.4 (requiring case oversight and follow-up), so it is unclear why at the time of case review, status information for open cases was not readily available and had to be provided subsequent to the on-site Review. For example:

According to the case list provided, intake screening for a sampled case was conducted on March 2, 2006; however, case status information was unavailable during case review. The documents received from LARC, via email, subsequent to the on-site Review were dated April 30, 2013 and September 21, 2012. It is unclear based on the documents received what legal assistance was provided prior to 2012. *See* Open Case No. 06E-1042858.

According to LARC, at the time of the Review, there were approximately 300 open cases that have been referred to Pro-Bono. Since LARC receives no status update information before case closing, the status of these cases may remain unclear for an extended time period; *i.e.* has the case been placed with an attorney or is the case pending a referral for placement with an attorney. It appears that most cases referred to Pro-Bono are LSC eligible and are referred pursuant to an LSC approved sub-grant agreement.

Therefore, pursuant to 45 CFR § 1614.3(d)(3), effective oversight and follow-up systems should be developed that provide periodic status information regarding open cases that have been referred to Pro-Bono pursuant to an LSC approved sub-grant agreement. The oversight and follow-up may be conducted by either Pro-Bono and/or LARC, but oversight and follow-up should include procedures that are sufficient to track the timely referral, follow-up, and disposition of referred cases. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.4. The procedures should at *minimum* articulate:

1. a specified time period after referral to Pro-Bono where the case is either sent back to LARC when referral has been unsuccessful or the applicant is advised that legal assistance cannot be provided and LARC is notified of same; and
2. procedures that identify and periodically follow-up on all open PAI cases; and administratively close untimely or dormant cases so that they are not included in future CSRs.

See CSR Handbook (2008 Ed., as amended 2011), § 10.4.

As part of its comments to the DR, LARC was directed to provide the policy/procedures describing the newly developed oversight and follow-up systems in place as it relates to potential LSC eligible cases referred to Pro-Bono pursuant to an LSC approved sub-grant agreement.

In response to this Required Corrective Action, LARC submitted a document titled “Pro Bono Timeframes” to OCE for review.¹¹⁷ The submitted document memorializes an agreement between LARC and Pro-Bono, in which the two (2) organizations, agree to follow specific time frames for referrals and procedures for follow-up on PAI cases. OCE finds that LARC has taken sufficient action to satisfy Required Corrective Action item 1. No additional information is required.

Finding 18: LARC is in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization and the sub-grant agreements reviewed for years 2011 and 2013 evidenced compliance with 45 CFR § 1627.3.

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. See 45 CFR § 1627.1. These rules govern sub-grants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient’s programmatic activities.¹¹⁸ Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000.00 or less for the direct provision of legal assistance to eligible clients. See 45 CFR §§ 1627.2(b)(1) and (b)(2).

All sub-grants must be in writing and must be approved by LSC. In requesting approval, recipients are required to disclose the terms and conditions of the sub-grant and the amount of funds to be transferred. Additionally, LSC approval is required for a substantial change in the work program of a sub-grant, or an increase or decrease in funding of more than 10%. Minor changes of work program, or changes in funding less than 10% do not require LSC approval, but LSC must be notified in writing. See 45 CFR §§ 1627.3(a)(1) and (b)(3).

¹¹⁷ This document was submitted to OCE via email dated February 27, 2014. In a response dated March 4, 2014, OCE advised LARC that the procedures outlined in the document were consistent with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 10.4 regarding a specific time period for referrals and follow-up procedures. However, this approval is limited to the document itself and not to its application as the agreement was drafted subsequent to the Review.

¹¹⁸ Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient’s legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient’s clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000.00 is included.

Sub-grants may not be for a period longer than one (1) year, and all funds remaining at the end of the grant period are considered part of the recipient's fund balance. All sub-grants must provide for their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to sub-recipients as apply to recipients. Recipients are responsible for ensuring that sub-recipients comply with LSC's financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR §§ 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with 45 CFR Part 1627 and shall maintain records sufficient to document the recipient's compliance with 45 CFR Part 1627. *See* 45 CFR § 1627.8.

a. LARC is in compliance with 45 CFR § 1627.4 (regarding membership fees or dues).

Pursuant to 45 CFR § 1627.4, LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except for payment of membership fees or dues mandated by a governmental organization to engage in a profession. LARC has written procedures to insure compliance with LSC restrictions on fund use.¹¹⁹ According to the documents reviewed:

LARC will never request federal funds to pay for the following costs:

1. Bad debt expense or contingencies;
2. Membership fees or dues to any private or nonprofit organization, unless mandated by a governmental organization to engage in a profession;
3. Contributions or donations to others;
4. Entertainment expenses;
5. Fines and penalties; and
6. Interest, fundraising and other financial costs.

A limited fiscal review of accounting records, for the period 2011 through April 2013, disclosed that LARC is in compliance with 45 CFR § 1627.4. All non-mandatory dues and fees reviewed were paid with non-LSC funds. In order to assist in ensuring compliance, LARC has notated selected payee (vendor) files in the accounting system as to what funds may be appropriately applied.

b. LARC is in compliance with 45 CFR § 1627.3 (outlining the requirements for all sub-grants) for years 2011 and 2013.

¹¹⁹ *See* LARC's Accounting Manual at page 18.

According to internal OCE documents, LARC had a sub-grant agreement with Pro-Bono for years 2011 and 2013. Pro-Bono offers legal assistance through private attorney referrals in the following areas:

- Parenting plans;
- Divorce;
- Domestic Violence;
- Evictions from Private Housing;
- Mortgage Foreclosures (Limited Services);
- Chapter 7 Personal Bankruptcies;
- Debt Collection;
- Wills and Probate;
- Assistance to Non-profits; and
- Income Tax Disputes.

i. LARC's sub-grant agreement for year 2011:

On February 4, 2011, pursuant to 45 CFR § 1627.3(a)(1), LARC submitted a written request to enter into a sub-grant agreement with New Hampshire Pro Bono Referral System (“Pro-Bono”). The sub-grant was approved by OCE on or about March 17, 2011. According to the terms of the approval letter, the effective period of the sub-grant agreement was March 22, 2011 through December 31, 2011 for an amount “not to exceed \$65,000.00.”¹²⁰ According to fiscal documents reviewed, LARC expended \$62,400.00 in fulfillment of the sub-grant agreement. Pursuant to 45 CFR § 1627.3(b)(3), a recipient is required to inform LSC in writing of any changes in the sub-grant award of less than 10%. However, this was unnecessary in this instance because LSC’s approval was not based on a fixed amount. The sub-grant approval letter, dated March 17, 2011, contained a threshold limit approval amount, as opposed to an exact fixed approval amount; so it seems that minor fluctuations (deviations of less than 10%) in the sub-grant award amount was anticipated at the time of approval. Therefore, LARC was not required to notify LSC in writing of the minor change to the sub-grant award.

According to the terms of the sub-grant agreement, LARC agreed to provide its sub-grantee with funding and, in exchange, the sub-grantee agreed to recruit and train volunteer lawyers, review cases for acceptance, and refer and monitor direct representation cases.¹²¹ Specifically, Pro-Bono agreed to provide the following services:

1. General administrative support—space, staff, telephone service;
2. Client intake/screening/referral;
3. Attorney recruitment; and
4. Attorney representation—pro-bono.¹²²

¹²⁰ See 45 CFR § 1627.3(b)(1) (explaining that a sub-grant may not be for a period longer than one (1) year).

¹²¹ There was an addendum to the sub-grant agreement, “Addendum A” which provided more detail and specificity regarding the parties’ obligations and duties to each other.

¹²² See 2011 Sub-grant Agreement Form at page 1.

Consistent with the requirements of 45 CFR § 1627.3(c)(3), Pro-Bono, according to its independent audit for year ending May 31, 2012, reported the sub-grant funds as revenue and expense by line item in its annual independent audit.¹²³ *See also* 45 CFR § 1627.6(b) (explaining that a sub-grantee should audit any funds sub-granted to it in its annual audit and supply a copy of same to the recipient).

ii. LARC/Pro-Bono for year 2012:

As noted earlier in this writing, LARC, in 2012 did not have a sub-grant agreement with Pro-Bono. On-site interviews with LARC indicated, in the spring of 2012, that an agreement was reached between Pro-Bono and LARC and memorialized in a Memorandum of Agreement (“MOU”) which was not submitted to LSC for review.¹²⁴

iii. Sub-grant Agreement for year 2013

On November 15, 2012, pursuant to 45 CFR § 1627.3 (a)(1), LARC submitted a written request to enter into a sub-grant agreement with Pro-Bono. Apparently the above referenced MOU was included as an attachment to the written request. OCE, in a writing dated December 17, 2012 approved the sub-grant agreement for calendar year 2013, but indicated that this approval did not extend to the MOU. According to the terms of the approval letter, the sub-grant’s effective period was to run from January 1, 2013 through December 31, 2013.¹²⁵

According to the sub-grant agreement, the requested sub-grant amount was \$47,238.94. This amount was based on LARC and Pro-Bono’s agreement that the sub-grant award would be an amount equal to 7% of LARC’s LSC basic field funding.¹²⁶ Because the terms of the sub-grant agreement was based on a percentage of LARC’s basic field award, as opposed to a fixed amount, the award amount would fluctuate as LARC’s basic field funding changes. In May 2013, LARC’s LSC 2013 basic field grant award was reduced to \$668,428.00, due to federal budget issues. Therefore, consistent with the terms of the sub-grant agreement, the award amount decreased from \$47,239.00 to \$46,789.96. The change in the sub-grant award was \$450.00 or .95%. Consistent with the requirements of 45 CFR § 1627.3(b)(3), LARC informed LSC of this adjustment in the sub-grant award in correspondence dated August 29, 2013.¹²⁷

¹²³ A sub-recipient is not required to report the funds in a separate audit report. The funds may be reported separately in the sub-grantee’s audit report or in the alternative, separately disclosed and accounted for, and reported upon in the audited financial statements of the recipient. *See* 45 CFR § 1627.3(c). The relationship between the Recipient and its sub-grantee will determine the proper method of financial reporting. *Id.*

¹²⁴ OCE, in a writing dated December 17, 2012, approved the sub-grant agreement for calendar year 2013, but indicated that this approval did not extend to the MOU. The Compliance Review did not review the MOU and the provisions contained therein for any compliance issues. LSC, may, at a later date review the MOU for compliance with applicable LSC regulations.

¹²⁵ *See* 45 CFR § 1627.3(b)(1) (explaining that a sub-grant may not be for a period longer than one (1) year)

¹²⁶ *See* MOU at ¶ 3.

¹²⁷ LARC’s correspondence calculated the adjustment at \$683.48. It appears that LARC’s calculation was not based on the actual approved award of \$47,239.00, but rather on a slightly higher amount of \$47,473.44. This figure represented 7% of LARC’s basic field award prior to LSC deductions. However, because this slightly higher amount was not approved by LSC, it was not used to calculate the adjustment in the sub-grant award for 45 CFR § 1627.3(b)(3) purposes.

According to the terms of the sub-grant agreement, LARC agreed to provide its sub-grantee with funding and, in exchange, the sub-grantee agreed to recruit and train volunteer lawyers, review cases for acceptance, and refer and monitor direct representation cases. Specifically, Pro-Bono agreed to provide the following services:

1. Client intake/screening/referral;
2. Attorney recruitment;
3. Litigation support; and
4. Attorney representation – pro-bono.¹²⁸

Policy review

Pursuant to 45 CFR § 1627.8, a recipient is required to adopt written policies and procedures to guide its staff in complying with this Part. A review of the policy drafted and submitted by LARC during the course of the Review demonstrated compliance with the following sections of Part 1627:

- 45 CFR § 1627.3 (explaining requirements for all sub-grants);
- 45 CFR § 1627.4 (regarding membership fees or dues);
- 45 CFR § 1627.5 (regarding contributions); and
- 45 CFR § 1627.7 (regarding tax sheltered annuities, *etc.*).

Once this policy had been submitted to LARC's Board for review, LARC, pursuant to 45 CFR § 1627.8, was asked to indicate in its comments to the DR that the Part 1627 policy as reviewed had been adopted by its Board of Directors.¹²⁹ In response to this request, LARC indicated that the Part 1627 policy had been reviewed and adopted by its Board of Directors on November 5, 2013.¹³⁰ OCE finds that LARC has taken sufficient action to revise its Part 1627 policy. No additional information is required.

In addition, it was recommended that LARC, in order to promote clarity, include in its sub-grant agreement provisions outlining each party's responsibilities as it relates to case oversight and follow-up. In response to this recommendation, LARC indicated that subsequent sub-grant agreements would include provisions outlining each party's responsibilities as it relates to case oversight and follow-up.

Finding 19: LARC is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability

¹²⁸ See 2013 Sub-Grant Agreement Form at page 1.

¹²⁹ Due to a misunderstanding on the part of the Team Leader, LARC did not submit its Part 1627 policy to its Board for review and adoption at the September 2013 Board meeting.

¹³⁰ LARC advised OCE of this in an email dated January 28, 2014.

of the Recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

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

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

LARC's timekeeping requirements are documented in LARC's Accounting Manual. The process requires all employees to input their time into the LegalServer software on a daily basis and the entry include leave periods while a fund code is required for any time spent on a specifically designated grant or project. Legal staff is required to enter case, matter or supporting activities in one tenth of an hour increments. Staff members interviewed demonstrated a familiarity with the timekeeping system.

OCE was unable to conduct a review of case files in order to assess compliance with Part 1635 during the on-site Review. However, a review of all staff timekeeping records for pay period 8 (April 30, 2013) reflected that the records are electronically and contemporaneously kept. The time spent on each case, matter or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c).

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 19 in its response to the DR.

Finding 20: Sampled cases evidenced compliance with the requirements of 45 CFR Former Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the

recipient. *See* 45 CFR § 1642.3.¹³¹ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).¹³²

The sampled files reviewed did not contain a prayer for attorneys' fees. As such, LARC is in compliance with the requirements of 45 CFR Former Part 1642. Sampled files reviewed and interviews with the Executive Director and the Deputy Director further corroborated this finding.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 20 in its response to the DR.

Finding 21: Sampled cases reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). Although LARC indicated that it did not have a 1612 policy at the time the review was scheduled, its current policy on lobbying and certain other activities complies with the requirements of 45 CFR Part 1612.

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

Pursuant to 45 CFR § 1612.10(c), recipients are required to submit semi-annual reports describing their respective legislative activities conducted pursuant to 45 CFR § 1612.6 (permissible activities using non-LSC funds). A review of LARC's semi-annual reports indicated that it conducted no permissible legislative, rulemaking, or self-interest lobbying activity for 2012.

¹³¹ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

¹³² Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

Policy review

Pursuant to 45 CFR § 1612.11, recipients are required to adopt written policies and procedures that would assist their staff in complying with the requirements of Part 1612. LARC drafted and submitted the policy during the course of the Review. The submitted policy evidenced compliance with the requirements of Part 1612. Specifically:

- 45 CFR § 1612.2 (defining relevant terms such as grassroots lobbying, legislation, public policy, and rulemaking);
- 45 CFR § 1612.3 (prohibited legislative and administrative activities);
- 45 CFR § 1612.4 (prohibiting recipients from engaging in grassroots lobbying);
- 45 CFR § 1612.5 (permissible activities using any funds);
- 45 CFR § 1612.6 (permissible activities using non-LSC funds);
- 45 CFR § 1612.7 (prohibiting certain public demonstrations and activities);
- 45 CFR § 1612.8 (prohibiting certain training activities);
- 45 CFR § 1612.9 (prohibiting recipients from using any funds to organize); and
- 45 CFR § 1612.10 (explaining recordkeeping requirements and how to account for permissible Part 1612 activities that were charged to non- LSC funds).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

None of the sampled files and documents reviewed, including LARC's legislative activity reports, evidenced any prohibited Part 1612 activity. Sampled files reviewed and interviews with the Executive Director and the Deputy Director further corroborated this finding.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 21 in its response to the DR.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

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

None of the sampled files reviewed involved using LSC funds to provide legal assistance with respect to a criminal proceeding, or funds from any source to collaterally attack a criminal conviction. Interviews with the Executive Director, the Deputy Director, the Supervising Attorney, and one (1) paralegal also confirmed that LARC is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 22 in its response to the DR.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions). Although LARC indicated that it did not have a 1617 policy at the time the review was scheduled, its current policy on class actions complies with the requirements of 45 CFR Part 1617.

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹³³

None of the sampled files reviewed involved initiation or participation in class actions. Interviews with the Executive Director, the Deputy Director, the Supervising Attorney, and one (1) paralegal, also confirmed that LARC is not involved in this prohibited activity.

Policy review

Pursuant to 45 CFR § 1617.4, a recipient is required to adopt written policies and procedures to guide its staff in complying with the requirements of this Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with the requirements of Part 1617. Specifically:

- 45 CFR § 1617.2 (defining “class action,” “initiating or participating in any class action”); and
- 45 CFR § 1617.3 (prohibiting recipients from initiating or participating in any class action).

¹³³ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 23 in its response to the DR.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting). Although LARC indicated that it did not have a 1632 policy at the time the review was scheduled, its current policy on redistricting complies with the requirements of 45 CFR Part 1632.

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

None of the sampled files reviewed revealed participation in litigation related to redistricting. Interviews with the Executive Director, the Deputy Director, the Supervising Attorney, and one (1) paralegal confirmed that LARC is not involved in this prohibited activity.

Policy review

Pursuant to 45 CFR § 1632.4, a recipient should adopt written policies consistent with the requirements of this Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with the requirements of Part 1632. Specifically:

- 45 CFR § 1632.2 (defining advocating or "opposing any plan," redistricting); and
- 45 CFR § 1632.3 (explaining that a recipient shall not make available any of its resources in litigation related to redistricting; except for litigation brought by a recipient under the Voting Rights Act of 1965).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 24 in its response to the DR.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings). Although LARC indicated that it did not have a 1633 policy at the time the review was scheduled, its current policy on representation in certain eviction proceedings complies with the requirements of 45 CFR Part 1633.

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

None of the sampled files reviewed involved defense of any such eviction proceeding. Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Supervising Attorney, and one (1) paralegal also confirmed that LARC is not involved in this prohibited activity.

Policy review

Pursuant to 45 CFR § 1633.4, a recipient is required to adopt written policies and procedures to guide its staff in complying with the requirements of this Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with the requirements of Part 1633. Specifically:

- 45 CFR § 1633.2 (defining “controlled substance,” “public housing project,” and “charged with”); and
- 45 CFR § 1633.3 (explaining that in certain situations recipients are prohibited from defending any person in proceeding to evict).

Correspondence from LARC’s Executive Director and the Board’s Chairperson indicated that this policy, as reviewed, was adopted by LARC’s Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 25 in its response to the DR.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

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

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Supervising Attorney, (1) paralegal, and review of the Recipient's compliant policies also confirmed that LARC is not involved in this prohibited activity.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 26 in its response to the DR.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation). Although LARC indicated that it did not have a 1638 policy at the time the review was scheduled, its current policy on solicitation complies with the requirements of 45 CFR Part 1638.

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC Recipients and their staff from engaging a client which it solicited.¹³⁴ This restriction has been contained in all subsequent appropriations acts.¹³⁵ This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation, such as community education materials and program literature, indicated program involvement in such activity. Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Supervising Attorney, one (1) paralegal, and two (2) intake screeners also confirmed that LARC is not involved in this prohibited activity.

Policy review

Pursuant to 45 CFR § 1638.5, a recipient should adopt written policies that implement the requirements of this Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with the requirements of 45 CFR Part 1638. Specifically:

- 45 CFR § 1638.2 (defining "in-person" and "unsolicited advice");
- 45 CFR § 1638.3 (outlining the prohibitive activities); and
- 45 CFR § 1638.4 (outlining permissible activities).

¹³⁴ See Section 504(a)(18).

¹³⁵ See Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 27 in its response to the DR.

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing). Although LARC indicated that it did not have a 1643 policy at the time the review was scheduled, its current policy on assisted suicide, euthanasia, and mercy killing complies with the requirements of 45 CFR Part 1643.

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. Nor may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Supervising Attorney, one (1) paralegal, and two (2) intake screeners confirmed that LARC is not involved in this prohibited activity.

Policy review

Pursuant to 45 CFR § 1643.5, a recipient is required to adopt written policies that would assist its staff in complying with the requirements of this Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with the requirements of 45 CFR Part 1643. Specifically,

- 45 CFR § 1643.2 (defining "assisted suicide," euthanasia, and suicide);
- 45 CFR § 1643.3 (outlining the prohibitive activity using LSC funds); and
- 45 CFR § 1643.4 (limiting the applicability of 45 CFR § 1643.3).

Correspondence from LARC's Executive Director and the Board's Chairperson indicated that that this policy, as reviewed, was adopted by LARC's Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 28 in its response to the DR.

Finding 29: Sampled cases evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

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

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Sampled files reviewed, interviews with the Executive Director, the Deputy Director, the Supervising Attorney, one (1) paralegal, and an intake screener evidenced and confirmed that LARC was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 29 in its response to the DR.

Finding 30: Although LARC indicated that it did not have a 1644 policy at the time the review was scheduled, its current policy evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

In accordance with 45 CFR Part 1644, recipients are directed to disclose certain information to the public and to LSC on cases filed in court by the recipient's attorneys. 45 CFR Part 1644 applies in the following instances:

- a. To actions filed on behalf of plaintiffs or petitioners who are clients of the recipient;
- b. Only to the original filing of a case, except for appeals filed in appellate courts by a recipient if the recipient is not the attorney of record in the case below and the recipient client is the appellant;
- c. To a request filed on behalf of a client of the recipient in a court of competent jurisdiction for judicial review of an administrative action; and
- d. To cases filed pursuant to sub-grants under 45 CFR Part 1627 for the direct representation of eligible clients, except for sub-grants for private attorney involvement activities under 45 CFR Part 1614. See 45 CFR § 1644.3

Policy review

Pursuant to 45 CFR § 1644.5, each recipient is required to adopt written policies and procedures to guide its staff with the requirements of the Part. LARC drafted and submitted this policy during the course of the Review. The submitted policy evidenced compliance with Part 1644. Specifically:

- 45 CFR § 1644.2 (defining the phrase “to disclose the cause of action” and the term recipient);
- 45 CFR § 1644.3 (outlining when case disclosure is required); and
- 45 CFR § 1644.4 (mandatory information that must be included in the case disclosure).

Correspondence from LARC’s Executive Director and the Board’s Chairperson indicated that that this policy, as reviewed, was adopted by LARC’s Board at the September 2013 Board of Directors meeting.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 30 in its response to the DR.

Finding 31: LARC’s Accounting Manual adequately defines most internal control areas and significant fiscal processes that serve to maintain the integrity of LARC’s accounting, reporting, and financial systems.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the LSC Act, applicable appropriations acts and any other applicable law, regulations, rules, policies, guidelines, instructions, and other directives of LSC, including, but not limited to, the AGLR, the LSC Audit Guide for Recipients and Auditors (the “Audit Guide”), the CSR Handbook, the PAMM, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

These materials set forth financial accounting and reporting standards for recipients of LSC

funds, and describe the accounting policies, records, and internal control procedures to be maintained by recipients to ensure the integrity of accounting, reporting, and financial systems. It provides guidance on all aspects of recipient fiscal operations and the AGLR, App. VII, contains a significantly revised accounting procedures and internal control checklist which provides guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating, or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

The AGLR provides that in establishing an adequate internal control structure, the following items must be considered: competent personnel; clearly defined duties and responsibilities; segregation of duties; establishing independent checks and proofs; and development of an Accounting Manual. *See* AGLR, App. VII – Accounting Procedures. *See also*, Segregation of Financial Duties Worksheet and LSC Program Letter 10-2 (July 1, 2010) “Embezzlement, Fraud, and the Critical Importance of Effective Internal Control.”

The LSC Fundamental Criteria is a listing of the elements of an adequate accounting and financial reporting system. Compliance with the Fundamental Criteria can assist recipient boards with their fiduciary and stewardship obligations and may reduce the possibility of serious ethical, financial, and compliance breaches. Good internal controls can improve the effectiveness of the recipient’s operations, the reliability of grantee financial information, compliance with laws and regulations and the safeguarding of assets.

An LSC recipient, under the direction of its governing body, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process put in place, managed and maintained by the recipient’s governing body and management which is designed to provide reasonable assurance of achieving the following objectives: (1) safeguarding of assets against unauthorized use or disposition; (2) reliability of financial information and reporting; and (3) compliance with regulations and laws that have a direct and material effect on the program. *See* Chapter 3 of the AGLR.

LARC has an Accounting Manual supplemented by a Personnel Policy Manual available to staff. The Accounting Manual was found to adequately define most required accounting and control policies:

Cash Receipts/Cash Disbursements

Cash receipts and cash disbursements follow appropriate segregation of duties. Based on LARC’s size and staff level, situations arise where both the Bookkeeper and the Office Assistant are consistently performing the same functions; and in all cases, oversight approval is performed by the Executive Director. The cash receipt log is maintained by the Office Assistant in MS Excel and is password protected. Quarterly reconciliations are performed between the log and the QuickBooks deposit details. Cash disbursements are initiated when an invoice is received and date stamped by the Office Manager and forwarded to the Office Manager for payment. The invoice is then reviewed date stamped, system coded for payment, and approved by the Executive Director. This process was reviewed and evidenced with documentation.

Bank reconciliation

Bank statements for December 2011, January 2012, and March through June 2013 were sampled and reviewed for proper internal controls. The Controller receives the unopened bank statements from the Office Assistant. They are opened and dated by the Controller prior to the Controller performing the bank reconciliations. A total of four (4) bank accounts were reviewed. Two (2) of the four (4) accounts were closed as evidenced by the bank statements. All bank account reconciliations were performed monthly with appropriate and timely review and approval by the Executive Director (within 30 days). There were no outstanding checks that were not cleared in the following month. All accounts are FDIC insured with the exception of the investment “sweep” component of the checking account. The operating checking/sweep account has an investment component that is not FDIC insured. LARC’s Board has approved use of this account as evidenced in the November 14, 2012 Board minutes. LSC funds are not deposited in the operating checking/sweep (xxx6) until the end of the month when the funds become unrestricted. LSC funds are held in a separate bank account designated for LSC and is FDIC insured.

Although bank statements are prepared and reviewed by the Controller and approved by the Executive Director, the Controller’s preparation and review is not evidenced on the reconciliation. This may be addressed by implementing a stamp marked: “Prepared by, Reviewed by, Approved by, and Date” so all elements of the bank reconciliation process can be clearly identified. This was discussed on-site and the Controller agreed to implement this procedure.

Accounting for derivative income

45 CFR § 1630.12 requires that derivative income resulting from activities funded by an LSC grant be allocated to the fund in the same proportion as that expended for the activity. LARC has a Cash Receipts Policy, and cash receipts processing is addressed in the Accounting Manual, however, the treatment of derivative income and the requirements of 45 CFR § 1630.12 were not defined. It was noted that the Independent Auditor did report interest and rental income as derivative income to LSC in reports for FYE 9-30-2011 and 9-30-2012. It was recommended that the treatment of derivative income be established in LARC’s Accounting Manual.

Program travel policies and procedures

LARC’s Accounting Manual establishes documentation requirements for expenditures; however it did not define a pre-travel management approval requirement or allowable per diem and mileage rates. It was recommended that these policies be established in LARC’s Accounting Manual.

There were no required corrective actions, although it was recommended that LARC include in its Accounting Manual the following:

1. the treatment of derivative income; and
2. a definition for pre-travel management approval requirement and the allowable per diem rates.

In response to these two (2) recommendations, LARC indicated that its Accounting Manual had been revised to include derivative income treatment and a definition for pre-travel management approval, as well as the allowable per diem rates.

Finding 32: LARC's personnel/payroll policies as evidenced by sampled employee records demonstrate adequate internal controls that minimize against unauthorized leave/payments, duplicate payments, and unauthorized disbursements.

The AGLR discusses the need for adequate internal controls over a recipient's payroll and personnel systems. Personnel and payroll are two (2) areas in the AGLR that interconnect because an internal control weakness in personnel procedures and policies may directly impact the accuracy of an employee's payroll records.¹³⁶ Personnel policies establish the objective procedures regarding an employee's treatment, rights, and obligations in performance of his/her work. Although, personnel policies vary from organization to organization, it is recommended that personnel policies be in writing and require employees to take annual vacations. *See* AGLR, App. VII at § A-14 (internal control checklist inquiring whether employees are required to take annual vacations); *See also* AGLR App. VII at § B-11 (internal control checklist inquiring whether personnel policies are established in writing). According to the AGLR, personnel policies may include a nepotism policy prohibiting employment of individuals that would result in a conflict of interest. *See* AGLR, App. VII at § B-6 (internal control checklist inquiring whether personnel policies prohibit employment of individuals that would result in a conflict of interest) Therefore, while the substance of personnel policies will differ, well designed personnel policies guard against favorable treatment of one (1) employee over another employee, thereby ensuring that a recipient's payroll records are accurate and free of intentional fiscal abnormalities.

A recipient's payroll system and procedure should be designed to ensure that its employees are paid properly, in a timely fashion and support payroll-related reporting requirements to external agencies. Therefore, a recipient's payroll process should be administered in a manner that maintains the integrity of its accounting system and that every payment issued or leave approved is properly authorized and adequately supported with documentation. A weakness in this area may result in improper amounts withheld from employees and/or unauthorized disbursements. *See* AGLR, § 3-5.5 (explaining the key elements and criteria of a payroll process).

The on-site Review determined that LARC's personnel records are maintained by LARC's Office Administrator as required by the Accounting Manual.¹³⁷ According to LARC's Personnel Manual, employees are advised as to the use of the file and the requirement to maintain current data.¹³⁸ A random sampling of three (3) employee files found that each file contained the following information:

¹³⁶ Payroll records accumulate payroll data as required by Federal, state, and local laws. The following payroll data shall be included in each employee's payroll file: wage or salary authorization, employment contracts, Federal W-4 withholding form, State withholding form, authorization for all other payroll deductions, and authorization for all wage/salary deductions. *See* AGLR, App. II (describing accounting records).

¹³⁷ *See* LARC's Accounting Manual at page 15 (regarding personnel).

¹³⁸ *See* LARC's Personnel Manual at page 6 (regarding employee records).

1. Current hours/salary schedule;
2. Applicable direct deposit instruction;
3. Form W-4— Employee's Withholding Allowance Certificate;
4. Form I-9— Employment Eligibility Verification;
5. Photo identification— Driver's License;
6. Annual employment/salary rate letter;
7. Initial CV and employment offer; and
8. Performance reviews.

Based on the sampled employee files and the information contained therein, LARC's payroll and personnel procedures compare favorably to the AGLR, App. VII at § B-18 (internal control checklist inquiring as to whether personnel and/or payroll records include an attendance record, vacation, sick, and other excused leave records, individual payroll record form, a payroll register, notification concerning appointments, terminations, position classifications, and salary rates, and a job description).

LARC's time and attendance and payroll processes are documented in its Accounting Manual.¹³⁹ *See* AGLR, App. VII at B-11 (internal control checklist inquiring whether personnel policies are established in writing). According to the Accounting Manual, employees' time should be inputted into the LegalServer software on a daily basis and the entry should include a fund code for any time spent on a specific grant or project. Staff members interviewed demonstrated a familiarity with the timekeeping system.

Timesheets are printed from LegalServer by each employee and signed. The signed timesheets are then approved by the employee's respective supervisor and submitted weekly to the Office Administrator. *See* AGLR, App. VII at § B-12 (internal control checklist inquiring whether employees' timesheets are approved by his/her supervisor). The Office Administrator processes the approved timesheets to determine hours worked and changes in pay rates or employment status and vacation, sick, or personal hours used.

The Office Administrator then compiles the reports and provides the information to the Executive Director for approval prior to transmitting payroll to CheckMate, LARC's payroll service bureau. *See* AGLR, App. VII at § B-10 (internal control checklist inquiring whether a review of each payroll is done before processing to verify hours, rates, or other bases of payment by someone not connected with preparation or distribution of the payroll).

According to sample payroll records reviewed for April 30, 2013, all of LARC's employees receive their earnings through direct deposit and the resulting automated clearing house transactions are reconciled to LARC's bank account and to LARC's general ledger. According to LARC's Accounting Manual, LARC has a blanket prohibition regarding employee salary advances; none will be issued under any circumstance.¹⁴⁰ *See* AGLR, App. VII at § B-20 (internal control checklist inquiring whether there is a board approved policy that indicates salary advances will be made in very limited circumstances or that no salary advances will be made under any circumstances).

¹³⁹ *See* LARC's Accounting Manual at page 15 (regarding payroll preparation and timekeeping).

¹⁴⁰ *See* LARC's Accounting Manual at page 19 (regarding fiscal policy statements).

LARC's Accounting Manual and Personnel Manual describe adequate internal controls in the area of personnel and payroll. Sampled payroll evidenced internal controls that minimize against unauthorized leave/payments, duplicate payments, and unauthorized disbursements.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 32 in its response to the DR.

Finding 33: Interviews with LARC Management and documents reviewed evidenced that TIG No. 07033 is in compliance with 2007 Grant Assurance No. 5, 2007 Grant Assurance No. 6, and 45 CFR § 1630.3(d).

During the onsite Review of TIGs, OCE staff examined a sampling of TIG-related activities and expenditures to ensure their compliance with certain applicable law, rules, regulations, policies, guidelines, instructions, and other LSC directives, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the AGLR (2010 Edition), 2007 LSC TIG Assurances Nos. 5-6, the PAMM, and with any amendments of the foregoing adopted before or during the period of the TIG grant. The scope of OCE's on-site review of TIGs includes all currently open TIGs, all TIGs awarded five (5) or less years before the date of the review period, and all TIGs that have been ongoing during that period, including terminated TIGs. The scope of this Compliance Review was from 2011 through April 30, 2013. Based on the materials reviewed, TIG No. 07033 fell within the scope of this Compliance Review; its purpose was to renew LARC's current website.

In 2002, LARC launched the original version of New Hampshire's state wide website. LARC elected the open source template. Over the next five (5) years, the public content was loaded, revised and expanded, as a result LARC applied for a renewal TIG. According to the application submitted by LARC dated June 13, 2007, the initial purpose of the TIG project included website template enhancements, content development and language translations, marketing and publicity, and outreach to stakeholders. The application explained that implementing the desired website enhancements would make the previous website more efficient and a more user-friendly tool for the client community and for the communities of legal service providers for whom a portion of the website would be dedicated to.

On or about September 7, 2007, LARC was awarded a TIG in the amount of \$25,000.00. According to the "TIG 2007 Acceptance of Grant Award," the TIG's start date was November 1, 2007 for a term of 24 months. However, a decision was made to migrate the previous website to the Drupal based template as it would prove a modern and more stable platform. This decision delayed the actual implementation until the spring of 2010. According to documents reviewed, the migration was performed by a third party; the written contract was executed by LARC's Executive Director on January 29, 2010. A review of the contract between LARC and the third party company indicated that work would begin February 2010 with a projected completion date of March 2010. The total cost of the services provided under the contract was \$2,375.00.

In the fall of 2010, LARC added an online application module to the website so that applicants could undergo intake screening online. As noted above, during the course of the Compliance Review, the online application process was reviewed through a test applicant.¹⁴¹ LARC completed six (6) of the TIG project's milestones:

1. Outreach to access point partner;
2. Expand Phase I and II content
3. Make quarterly reports to LSC;
4. Continue stakeholders meetings as per schedule;
5. Complete online evaluation; and
6. Submit Narrative Report.

Prior to the issuance of the last payment, the Final Report submitted by LARC was approved by LSC on June 30, 2011.

1. *It was unnecessary to determine LARC's compliance with 2007 Grant Assurance No. 5 because a limited review of fiscal records, interviews with the Deputy Director, and a review of certain applicable TIG documents indicated that TIG No. 07033 did not have any budgetary savings.*

Pursuant to 2007 TIG Grant Assurance No. 5, if the ultimate cost of implementing a TIG project is less than the award amount, a recipient may re-program the remaining funds after it has received written approval from LSC. The cost of implementing TIG No. 07033 exceeded the TIG award amount so it was unnecessary to determine compliance with 2007 TIG Grant Assurance No. 5.

According to the application dated June 13, 2007 for the renewal TIG project, LARC noted that the budget for this project amounted to \$35,000.00. However, as previously stated, LARC requested and was granted \$25,000.00 in TIG funds to complete the project. A review of LARC's accounting records reflects that the TIG project was separately accounted for with a separate Chart of Accounts listing. Total expenditures attributable to the project cost center as established in December 2007 through final report in June 30, 2011, was \$29,493.45, of which \$23,255.00 represented salaries and benefits, the majority for staff and management engaged in content development. The \$4,493.45 exceeding TIG proceeds was charged to LARC's LSC fund account.

2. *Based on information reviewed, LARC is in compliance with 2007 Grant Assurance No. 6 requiring that LARC bear sole responsibility for any funding obligations that exceed the grant award amount.*

Pursuant to 2007 Grant Assurance No. 6, a recipient has the sole responsibility for any funding obligations that exceed the grant award amount. According to documents reviewed, the grant award amount for TIG No. 07033 was \$25,000.00. As demonstrated above, the cost to implement TIG No. 07033 exceeded this award amount. Therefore, pursuant to 2007 Grant Assurance No. 6, LARC was responsible for any balance over \$25,000.00. The Deputy Director

¹⁴¹ See Finding No. 2 for a discussion as to how online applicants are screened.

indicated that the remaining balance was charged to the recipient's LSC basic field funds. As it was permissible for recipients to use basic field funds towards any TIGs, LARC is in compliance with 2007 Grant Assurance No. 6.

3. *Based on interviews with the Deputy Director and two (2) sampled time records, it appears that LARC maintained timekeeping records for TIG No. 07033.*

Pursuant to 45 CFR § 1630.3(d), direct costs are those charges that can be specifically identified as belonging to a particular grant award or project. Therefore, these costs should be charged to the applicable grant award or project. Examples of direct costs include, but are not limited to, salaries and wages of recipient staff who work on cases or matters. In addition, salaries charged directly to Corporation grants and contracts must be supported by personnel activity reports.

The Deputy Director, in an email dated September 10, 2013, indicated that timekeeping records were maintained for work performed in connection with TIG No. 07033. Subsequent to the on-site review, LARC provided time records for March 2008 and July 26-28, 2010 for review. The sampled timekeeping records noted the date the activity occurred, the time spent conducting the activity, the fund account the activity was charged to, and a brief description of the activity.

There are no recommendations or required corrective actions.

LARC did not offer any comments regarding Finding No. 33 in its response to the DR.

IV. RECOMMENDATIONS¹⁴²

Consistent with the findings of this Report, it was recommended that:

1. LARC review with intake screening staff required financial eligibility documentation/information when applying authorized exceptions to LARC's annual income ceiling.

In response to this recommendation, LARC indicated that staff had been provided training in this area during a staff meeting held on February 12, 2014.

2. LARC review with staff responsible for providing applicants with referrals to other organizations, the appropriate procedures for handling a "Matter."

In response to this recommendation, LARC indicated that staff had been provided training in this area during a staff meeting held on February 12, 2014.

3. LARC review with staff proper application of closing code "A," counsel and advice. In addition it is recommended that LARC review with staff and provide Pro-Bono with guidance, as applicable, as to the proper application of extended service codes:

- "F," negotiated settlement without litigation versus "G," negotiated settlement with litigation;
- "G," negotiated settlement with litigation versus "I(b)," contested court decisions; and
- "K," other versus LARC's de-selection code.

In response to these two (2) recommendations, LARC, indicated that staff and Pro-Bono had been provided the recommended training.

4. LARC conduct periodic reviews of case management reports on open and closed cases, particularly those limited service files that remain open for an extended period of time, to ensure against dormancy and the reporting of untimely closed cases.

In response to this recommendation, LARC indicated that periodic reviews would be conducted in order to ensure against dormancy and the reporting of untimely closed cases.

¹⁴² Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

5. LARC seek to edit the notifying language so that it is clear that certain LSC prohibitions apply to funds from all funding sources.

In response to this recommendation, LARC indicated that CLS had been advised to edit the notifying language so that it is more consistent with 45 CFR § 1610.5. According to LARC, CLS implemented use of the revised language in its funder notifications as of March 2014.

6. LARC, in order to promote clarity, include in its sub-grant agreement, provisions outlining each party's responsibilities as it relates to case oversight and follow-up.

In response to this recommendation, LARC indicated that subsequent sub-grant agreements would include provisions outlining each party's responsibilities as it relates to case oversight and follow-up.

7. LARC include in its Accounting Manual the following:

- the treatment of derivative income;
- a full description of the policies and processes used to allocate and record PAI direct and indirect costs and the use of non-LSC funds attributable to the PAI effort be established in the LARC's Accounting Manual; and
- a definition for pre-travel management approval and the allowable per diem rates.

In response to these recommendations, LARC indicated that the Accounting Manual had been revised to include derivative income treatment, PAI policies and processes, and a definition for pre-travel management approval, as well as the allowable per diem rates.¹⁴³

¹⁴³ LARC indicated in an email dated March 10, 2014 that the cost allocation policy is located in its Accounting Manual.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this Report, LARC was required to take the following corrective actions:

1. Pursuant to 45 CFR § 1614.3(d)(3), develop effective oversight and follow-up systems that provide periodic status information regarding open cases that have been referred to Pro-Bono pursuant to an LSC approved sub-grant agreement. The oversight and follow-up may be conducted by either Pro-Bono and/or LARC, but oversight and follow-up should include procedures that are sufficient to track the timely referral, follow-up, and disposition of referred cases. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.4.

The procedures should at *minimum* articulate:

- a. a specified time period after referral to Pro-Bono where the case is either sent back to LARC when referral has been unsuccessful or the applicant is advised that legal assistance cannot be provided and LARC is notified of same; and
- b. procedures that identify and periodically follow-up on all open PAI cases; and administratively close untimely or dormant cases so that they are not included in future CSRs.

See CSR Handbook (2008 Ed., as amended 2011), § 10.4.

In response to this Required Corrective Action, LARC submitted a document titled “Pro Bono Timeframes” to OCE for review.¹⁴⁴ The submitted document memorializes an agreement between LARC and Pro-Bono, in which the two (2) organizations, agree to follow specific time frames for referrals and procedures for follow-up on PAI cases. OCE finds that LARC has taken sufficient action to satisfy Required Corrective Action item 1. No additional information is required.

2. Pursuant to 45 CFR § 1614.3(e)(1)(i), clearly document all methods of allocating common PAI costs.

LARC utilizes a system of accounting for PAI related costs which generally complies with the requirements of 45 CFR § 1614.3(e) and these procedures are fully documented as evidenced by the cost allocation methodology policy reviewed while on-site and subsequent to the Review. LARC’s “Indirect Cost Allocation Methodology” requires that indirect costs are allocated to each grant or program using the formula of the actual salaries for each grant or program as a percentage of total salaries. OCE finds that LARC has taken sufficient action to satisfy Required Corrective Action item 2. No additional information is required.

¹⁴⁴ This document was submitted to OCE via email dated February 27, 2014. In a response dated March 4, 2014, OCE advised LARC that the procedures outlined in the document were consistent to the requirements of CSR Handbook (2008 Ed., as amended 2011), § 10.4 regarding a specific time period for referrals and follow-up procedures. However, this approval is limited to the document itself and not to its application as the agreement was drafted subsequent to the Review.

Sent Via Electronic and US Mail

February 14, 2014

Lora Rath, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW, 3rd Floor
Washington, DC 20007-3522

Re: Legal Services Corporation Office of Compliance and Enforcement Reply to Report of Compliance Review for On-Sight Visit July 9-12, 2013 for Legal Advice and Referral Center, Recipient No. 130010

Dear Ms. Rath:

This constitutes the Legal Advice and Referral Center (LARC) reply to the subject report. Our reply is responsive to the Recommendations and Required Corrective Actions which appear beginning on page 70 of the Report.

RECOMMENDATIONS

1. LARC review with intake screening staff required financial eligibility documentation/information when applying authorized exceptions to LARC's annual income ceiling.

At a staff meeting held on February 12, 2014, Deputy Director, Breckie Hayes-Snow, reviewed with intake screening and other staff the income ceiling exceptions.

2. LARC review with staff responsible for providing applicants with referrals to other organizations, the appropriate procedures for handling a "Matter."

At a staff meeting held on February 12, 2014, Deputy Director, Breckie Hayes-Snow, reviewed with staff the appropriate procedures for handling a "Matter."

3. LARC review with staff proper application of closing code "A," counsel and advice. In addition it is recommended that LARC review with staff and provide Pro-Bono with

guidance, as applicable, as to the proper application of extended service codes, F, G and K.

At a staff meeting held on February 12, 2014, Deputy Director, Breckie Hayes-Snow, reviewed with staff the appropriate procedures for case closings. Breckie Hayes-Snow provided guidance to the Pro-Bono Program about these codes.

4. LARC conduct periodic reviews of case management reports on open and closed cases, particularly those limited service files that remain open for an extended period of time, to ensure against dormancy and the reporting of untimely closed cases.

LARC will conduct such periodic reviews.

5. LARC seek to edit the notifying language so that it is clear that certain LSC prohibitions apply to funds from all funding sources.

LARC notified the Campaign for Legal Services Development Director about the changed language and the new language will apply to all donations from March 2014 thereafter.

6. LARC, in order to promote clarity, include in its sub-grant agreement, provisions outlining each party's responsibilities as it relates to case oversight and follow-up.

LARC will include in its next sub-grant agreement filing provisions outlining each party's responsibilities as it relates to case oversight and follow-up.

7. LARC include in its Accounting Manual the following:

- A. the treatment of derivative income;

LARC's Board of Directors approved revisions to its Accounting Manual on derivative income at a Board meeting held on February 12, 2014. The revised language was reviewed with an OCE staff member before seeking Board approval.

- B. a full description of the policies and processes used to allocate and record PAI direct and indirect costs and the use of non-LSC funds attributable to the PAI effort be established in the LARC's Accounting Manual; and

On October 15, 2013 LARC's Audit Committee approved changes to the Accounting Manual documenting the allocations methods for PAI and all other grants. Copies of the minutes approving this language were submitted to OCE staff. Curiously, this same issue appears as a Required Corrective Action in addition to a Recommendation.

- C. a definition for pre-travel management and allowable per diem rates.

LARC's Board of Directors approved revisions to its Accounting Manual on pre-travel management and allowable per diem rates at a Board meeting held on February 12, 2014. The revised language was reviewed with an OCE staff member before submitting for Board approval.

REQUIRED CORRECTIVE ACTIONS

1. Pursuant to 45 CFR section 1614.3 (d)(3), develop effective oversight and follow-up systems that provide periodic status information regarding open cases that have been referred to Pro-Bono pursuant to an LSC approved sub-grant agreement. The oversight and follow-up may be conducted by either Pro-Bono and/or LARC, but oversight and follow-up should include procedures that are sufficient to track the timely referral, follow-up, and disposition of referred cases. *See* CSR Handbook (2008 Ed., as amended 2011), section 10.4.

The procedures should at *a minimum* articulate:

- a. A specified time period after referral to Pro-Bono where the case is either sent back to LARC when referral has been unsuccessful or the applicant is advised that legal assistance cannot be provided and LARC is notified of same;
- b. procedures that identify and periodically follow-up on all open PAI cases; and administratively close untimely or dormant cases so that they are not included in future CSRs.

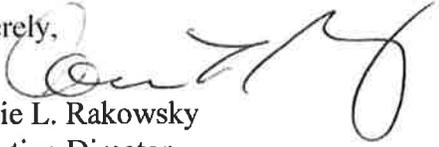
LARC and Pro Bono are working together to develop oversight and follow-up systems to provide the periodic status information, include procedures sufficient to track timely referral, follow-up and disposition of referred cases. The responsibility for these procedures will be included in the systems developed.

2. Pursuant to 45 CFR section 1614.3 (e)(1)(i), clearly document all methods of allocating common PAI costs. LARC may document these methods in the manner it deems most effective, however, as noted in the section above, it is recommended that a full description of the policies and processes used to allocate and record PAI direct and indirect costs and the use of non-LSC funds attributable to its PAI efforts be established in the LARC's Accounting Manual.

On October 15, 2013 LARC's Audit Committee approved changes to the Accounting Manual documenting the allocations methods for PAI and all other grants. Copies of the minutes approving this language were submitted to OCE staff. Curiously, this same issue appears as a Recommendation in addition to a Required Corrective Action.

Please feel free to contact me with any questions or comments respecting this matter.

Sincerely,


Connie L. Rakowsky
Executive Director

G:\FUNDING\SC\SC VISITS, EVALUATIONS AND INSPECTIONS -OPP, OUP AND
OTHERWISE Draft reply to oec.docx