



## **FINAL REPORT**

**LEGAL SERVICES CORPORATION  
Office of Compliance and Enforcement**

**Land of Lincoln Legal Assistance Foundation, Inc.**

Compliance Review  
October 7-11, 2013

Recipient No. 514050

LSC Compliance Review Team

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## **I. EXECUTIVE SUMMARY**

**Finding 1: LOLLAF'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: LOLLAF's intake procedures and case management system generally support the program's compliance related requirements.**

**Finding 3: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the documentation required by 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").**

**Finding 4: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.**

**Finding 5: One of the sampled cases evidenced non-compliance with the documentation requirements set forth in 45 CFR Part 1626 (Restrictions on legal assistance to aliens).**

**Finding 6: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the retainer requirements of 45 CFR § 1611.9.**

**Finding 7: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).**

**Finding 8: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR § 1620.3(a) (Establishing priorities) and § 1620.6 (Signed written agreement).**

**Finding 9: Sampled cases, interviews, and a review of LOLLAF's policies evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).**

**Finding 10: Sampled cases, interviews, and a review of LOLLAF's policies evidenced that its application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011).**

**Finding 11: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (timely case closing).**

**Finding 12: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2, regarding duplicate cases.**

**Finding 13: Review of the recipient's policies and interviews with staff attorneys evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).**

**Finding 14: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

**Finding 15: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).**

**Finding 16: A limited review of LOLLAF's accounting and financial records evidenced that it is in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).**

**Finding 17: LOLLAF is in substantial compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.**

**Finding 18: LOLLAF is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay certain membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.2(b)(1) which requires LSC approval for transfers of LSC funds in excess of \$25,000 to support programmatic activities.**

**Finding 19: LOLLAF is in compliance with 45 CFR Part 1635 (Timekeeping requirements).**

**Finding 20: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).**

**Finding 21: Sampled cases, documents, and policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

**Finding 22: Sampled cases, interviews, and a review of LOLLAF's policies 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).**

**Finding 24: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).**

**Finding 25: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).**

**Finding 26:** Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

**Finding 27:** Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

**Finding 28:** Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

**Finding 29:** Sampled cases, interviews, and a review of LOLLAF's policies 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:** Interviews and a limited review of procedures, practices, and documents related to TIG No. 11089 evidenced substantial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

**Finding 31:** A limited review of LOLLAF's internal control policies and procedures demonstrated that they compare 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.). However, in reviewing credit card statements, a few exceptions were noted and further improvement was required.

**Finding 32:** A limited review of Board meeting minutes and an interview with the Board Chair evidenced that LOLLAF has adequate Board oversight which is sufficient to meet the requirements of the LSC Accounting Guide.

**Finding 33:** A limited review of documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1628 (Recipient fund balances).

**Finding 34:** A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1629 (Bonding of recipients) because (1) it has adequate fidelity bond insurance coverage on employees handling cash, and (2) it abides by the requirements outlined in LSC's 2012 certification form.

**Finding 35:** A limited review of the recipient's accounting records evidenced compliance with the requirements of 45 CFR Part 1630 (Cost standards and procedures). However, the program, with Board approval, must establish a written policy and corresponding procedures detailing how its derivative income sources are allocated.

**Finding 36:** A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of the LSC Accounting Guide, § 3-5.2.

**Finding 37: A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is not in compliance with the requirements of the LSC Accounting Guide, § 3-5.7.**

## II. BACKGROUND OF REVIEW

During the week of October 7-11, 2013, the Office of Compliance and Enforcement (“OCE”) conducted an on-site Compliance Review of Land of Lincoln Legal Assistance Foundation, Inc. (“LOLLAF”), which provides legal assistance to low-income individuals throughout the southern portion of Illinois through its five (5) regional offices. These offices are the Central Regional Office, based in East St. Louis, which is also the center of operations for the administrative offices; the Western Regional Office, based in Alton; the Northern Regional Office, based in Springfield, with a satellite office in Decatur; the Eastern Regional Office, based in Champaign, with a satellite office in Charleston; and the Southern Regional Office based in Carbondale, with a satellite office in Mt. Vernon. In addition, LOLLAF has a hotline program which provides legal assistance to all 65 counties. The hotline program, known as the Legal Advice and Referral Center (“LARC”), while primarily based in the East St. Louis building, has staff throughout the service area.

LOLLAF’s expected 2013 funding from LSC is \$2,293,785. In 2012, it received \$2,398,513 from LSC; \$10,847,001 from all sources, combined. In 2011, it received \$2,741,488 from LSC; \$9,610,137 from all sources combined. In addition, LOLLAF had two (2) active Technology Initiative Grants (“TIG”) during the past five (5) years. One (1) of these TIGs was completed on March 9, 2009, and was for \$21,950; the other, which is still active, was for \$127,467. Both of the TIG projects will be discussed more fully below.

### *Scope of 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 Accounting Guide for LSC Recipients (2010 Edition) (“LSC Accounting Guide”), and the Property Acquisition and Management Manual. A team of five (5) attorneys, two (2) non-attorney analysts, and two (2) fiscal analysts conducted the review visit. OCE last reviewed LOLLAF in 2003.

The on-site review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LOLLAF has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed LOLLAF for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 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)<sup>1</sup>; 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys’ fees)<sup>2</sup>; 45 CFR Part 1630 (Cost standards and procedures);

<sup>1</sup> In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

<sup>2</sup> 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

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45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation, and military selective service act or desertion); 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 LSC Accounting Guide.

By letter dated July 18, 2013, OCE requested that LOLLAF provide a list of all cases reported to LSC in its 2011 CSR data submission (closed 2011 cases), a list of all cases reported to LSC in its 2012 CSR data submission (closed 2012 cases), a list of all cases closed between January 1, 2013, and August 15, 2013 (closed 2013 cases), and a list of all cases which remained open as of August 15, 2013 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case, and the funding code assigned to the case. OCE requested that two (2) sets of lists be compiled – one (1) for cases handled by LOLLAF staff and the other for cases handled through LOLLAF's PAI component. LOLLAF 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). LOLLAF 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.

By letter dated August 1, 2013, LOLLAF sought to use Unique Client Identifiers ("UCIs") for a group of clients who were being provided assistance through a grant that prohibited disclosure of client names pursuant to the laws of Illinois. On August 6, 2013, the Executive Director and team leader spoke by teleconference and discussed the use of UCIs in lieu of client names. For this discrete group of clients, an 8-digit number was substituted for each client's birthdate and was followed by the client's initials (for example, 04281949DW). This was formalized by a letter sent to LOLLAF on August 23, 2013. The Executive Director of LOLLAF agreed to this protocol and returned the signed Access Agreement letter on September 6, 2013. The requested information was timely received on September 6, 2013, in the form 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.

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enforcement of this regulation was therefore only for the period prior to December 16, 2009. As noted in the scope of review section, while the scope of review begins with files closed in 2011, it includes some files which were opened prior to December 16, 2009.

The sample case review period was from January 1, 2011 through August 15, 2013. During the course of the on-site visit, the OCE team reviewed approximately 790 cases, of which approximately one-fifth (1/5) were targeted files.

Access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LOLLAF agreement, LOLLAF staff maintained possession of the file and discussed with the team the nature of each 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.

In addition to case review, the OCE team interviewed members of LOLLAF's upper and middle management, staff attorneys, and support staff. LOLLAF's case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed.

### ***On-site observations***

LOLLAF's management and staff cooperated fully in the course of the review process. As discussed in greater detail below, LOLLAF was made aware of possible compliance concerns during the on-site visit. This was accomplished by informing intermediaries, as well the Executive Director, of any compliance issues uncovered during case review. It should be noted that there weren't many potential compliance issues noted and many of those that initially appeared to be concerns were resolved as non-issues during the course of the review.

At the conclusion of the visit, on October 11, 2013, OCE conducted an exit conference during which LOLLAF was provided with OCE's initial findings and was made aware of the areas in which compliance issues were identified. OCE noted compliance in the areas of 45 CFR Part 1611 (Financial eligibility policies); 45 CFR § 1611.9 (Retainer Agreements); CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided); 45 CFR Part 1636 (Client identity and statement of fact); CSR Handbook (2008 Ed., as amended 2011), Chapters VIII and IX (Case closure categories); and CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely case closing). Non-compliance was noted in the area of 45 CFR § 1626.6 (Verification of citizenship).

By letter dated April 28, 2014, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. LOLLAF was asked to review the DR and provide written comments within 30 days of its receipt. On May 27, 2014, LOLLAF's comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit.

### III. FINDINGS

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

Recipients are required to utilize automated case management systems ("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.

Since 2009, LOLLAF has utilized LegalServer Case Management Software ("LegalServer") as its ACMS. LegalServer was developed by PS Technologies and is a web-based system which allows staff access from any location with an internet connection. The system has various features that support compliance, such as system alerts that advise the user of incomplete or inconsistent data and fields critical to compliance which do not allow the user to proceed if incomplete. LSC financial eligibility is determined by the ACMS based upon information entered by the user. When a case handler obtains approval to accept a case exceeding income or asset guidelines, the ineligibility determination, based on gross annual income, must be overridden. CSR eligibility, regardless of funding source, is also determined by the system based upon responses given to four (4) questions that must be completed at case closure. Cases which should not be reported to any funding source, such as administrative error or lack of legal assistance, are closed with an "X" deselect closure category.

An Administrative Secretary in the Western Regional Office serves as the ACMS Coordinator, spending 25% of her time answering questions from staff program-wide and generating reports. She is also trained to modify portions of LegalServer, as necessary, such as designating required fields.

Based upon interviews, staff in all offices have been sufficiently trained on the ACMS and demonstrated a strong understanding of the protocols regarding key compliance fields such as the LSC eligible, funding source, problem code, income, asset, citizenship status, and case closure fields. LOLLAF has developed a detailed Intake, Case Disposition, and Timekeeping Policies and Procedures Manual ("Intake Manual"). This document is an excellent resource for staff and includes screen by screen instructions on conducting intake using LegalServer. It is electronically available to staff on a shared drive.

The ACMS does not have defaults in fields critical to compliance and is, therefore, in compliance with Program Letter 02-06.

One (1) minor issue that was identified during the review was subsequently resolved prior to the issuance of the draft report. A review of the ACMS disclosed that upon reopening a case, the original "open" date automatically changed to reflect the date on which the case was reopened. The error appeared to occur even when a case was not being officially reopened, but in situations

where the only addition to a file was a case note which might occur in instances where, for example, a client calls with a follow-up question after their case is closed. LOLLAF was aware of this issue, which is unique to LegalServer, and program policy instructed staff to change the date back to the original open date.<sup>3</sup> During the case review, two (2) cases with the aforementioned inconsistent information were identified. In both instances, the inconsistencies were found to be the reopen date.<sup>4</sup> While the review team was on-site, LOLLAF contacted PS Technologies who provided a fix to this problem. Subsequently, LOLLAF tested the fix and found that it resolved the problem.<sup>5</sup>

Several additional non-systematic exceptions were identified that were determined to have occurred as a result of human error. One (1) 2012 closed PAI file reviewed appeared to indicate a problem with the ACMS. *See* Closed 2012 Case No. 11-0206797. The case was referred to a *pro bono* attorney who was not able to take the case and it was subsequently returned to LOLLAF and closed by a staff attorney. However, the ACMS designation for the case remained listed as “PAI.” Based on a review of the case, it was concluded that the PAI designation was a data entry error and that the case handler should have changed the case designation from “PAI” to “staff.” During the course of the on-site review, LOLLAF explained that it was implementing a new case closing procedure, whereby all cases will be reviewed using a case closure checklist in order to prevent such data entry errors. This case closure checklist will be completed and signed by the advocate before the case is submitted to the Managing Attorney for closure. If, at that point, it is discovered that something is missing or a mistake has been made, the advocate will attempt to rectify the error. In the past, the managing attorneys would review cases at closure; however the level of review would differ based on the situation. By adopting the new checklist, the non-systemic human errors should be corrected or minimized.

Another data entry error was identified in two (2) files targeted as potential duplicates. *See* Closed 2012 Case Nos. 12-0228214 and 12-0228422. Although the files were determined to be separate cases, the client’s assets exceeded LOLLAF’s assets ceiling. This was not a problem as the client was represented with Title III funding, however the case handler overrode the ACMS designations indicating that the cases were non-LSC cases and they were reported to LSC in LOLLAF’s CSR when, in fact, the files were not LSC eligible and the ACMS had correctly

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<sup>3</sup> *See* LOLLAF Intake Manual, p. 18. During the onsite review, staff acknowledged that the described practice did not always occur but that they documented the action in electronic case notes. This issue was discussed with the LegalServer Coordinator and the Deputy Director for Programs and Advocacy who stated that they have taken additional action with regard to identifying cases in which the original date was not preserved. Staff are now instructed to check the open date upon case closure. They also stated that the program has created two (2) reports to identify and correct these cases. One (1) report identifies cases in which the open date is after the closed date and another identifies cases in which the open date does not match the two-digit year prefix in the case number. As noted in the text of the report, PS Technologies has developed a fix, which LOLLAF subsequently indicated was implemented.

<sup>4</sup> *See* Open Case No. 11-0209556, a divorce case with an ACMS open date of 7/17/12, though the file revealed the case was opened 8/4/11, the parties reconciled, and case was closed 3/27/12. The file was subsequently reopened on 7/17/12 when the parties separated; and Open Case No 13-0239261, a divorce case with an ACMS open date of 5/6/13, though the file revealed that the case was opened 4/12/13, closed 4/23/13, and reopened on 5/6/13. In both instances, the open date defaulted to the reopened date and should have been changed back to the original open date. The sequence of events in both cases was clearly documented in electronic case notes and it is likely that the program procedures would have caught the errors when closed.

<sup>5</sup> This was confirmed in a November 18, 2013 email from the Executive Director to the team leader.

designated them as “non-reportable.” When advised about this error, the Executive Director explained in an email message to the team leader that LOLLAF “ran a report of all 2012 ‘LSC-Eligible Yes’ cases closed during 2012, displaying the asset level and the two (2) identified cases were the only ones that had excess assets indicating that there is no systemic problem. The errors occurred due to a less experienced LARC attorney overriding the ‘LSC Eligible-No’ field in LegalServer, presumably out of confusion over how Fundor Code 4 cases are treated, and that a temp secretary copied the original file to create the second file.”

As both of the aforementioned exceptions resulted due to human errors, not systemic errors, and because LOLLAF has instituted a new procedure to use a case closing checklist which should catch errors like these, there are no recommendations or corrective actions required. In addition, the only possible systemic error, which previously had a workaround solution, has now been resolved by the reprogramming of LegalServer.

Based on interviews and a comparison of the information yielded by the ACMS to information contained in the case files sampled, LOLLAF’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.

In response to the DR, LOLLAF offered no comments on this Finding.

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

To assess LOLLAF’s intake procedures and case management policy for compliance with LSC requirements, intake, case handler, and management staff were interviewed. In addition, paper and electronic documents used to support the intake process were evaluated.<sup>6</sup> The review revealed that systems and beneficial redundancies have been built into the eligibility screening, case closing, and case oversight procedures resulting in accurate and consistent intake practices that support the program’s compliance related requirements.

The majority of LOLLAF’s intake is conducted by an internal unit, the Legal Advice and Referral Center (“LARC”), a telephone intake, advice and referral hotline staffed by intake specialists and attorneys. Many cases are resolved with advice provided during eligible applicants’ initial call. Other cases are referred to regional offices based upon detailed case acceptance protocols.<sup>7</sup> All regional offices conduct intake for applicants seeking Orders of Protection at outreach locations such as senior centers or courthouse based domestic violence, consumer, or landlord-tenant projects. These offices also receive referrals from domestic

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<sup>6</sup> As mentioned in Finding 1, LOLLAF has developed a detailed Intake Manual. This document is an excellent resource for staff providing detailed and accurate policy information and procedures. It is electronically available to staff on a shared drive.

<sup>7</sup> Throughout this report we will use case acceptance protocols to describe the detailed policies, scripts, and practices employed by LOLLAF to guide the staff in accepting cases and referring them to the branch offices. This is not a term of art or a term used by LOLLAF in describing these methods.

violence prevention centers in outlying counties. In addition, the Eastern Regional Office has one (1) staff person assigned to conduct intakes from senior center and Medical Legal Partnership (“MLP”) referrals, and two (2) staff persons are assigned to conduct intake for local Veteran’s Administration Corps applicants. No clinics were identified.<sup>8</sup>

### ***Legal Advice and Referral Center***

Since its establishment in 1998, a significant portion of LOLLAF’s program-wide intake is conducted telephonically by LARC. In late 2012, LOLLAF added a Legal Help for Homeowner’s Hotline (“foreclosure hotline”), which is funded by the State Attorney General. LARC is staffed by a managing attorney, a senior attorney, two (2) intake specialists, and one (1) administrative secretary, all based in the Central Regional Office, and five (5) part-time hotline attorneys based in various locations.<sup>9</sup> Four (4) attorneys work 20 hours per week and the fifth works 15 hours per week; accordingly, the hotline is staffed with five (5) attorneys on Monday, Tuesday, Wednesday, and Friday and four (4) on Thursdays. At the time of the review, a sixth position was vacant and the program had posted the position.

Many cases are resolved with advice provided during eligible applicants’ initial call. Other cases are referred to regional offices based upon detailed case acceptance policies which vary by office due to staffing and funding sources and are updated as necessary.<sup>10</sup> If a caller is determined to be eligible for a referral to a regional office, advice is generally not provided by LARC staff.

Callers to LARC are greeted by an auto-attendant that guides them to the appropriate queue. Callers with domestic violence emergencies are instructed to select zero (0) for the operator. The call goes directly to the LARC Administrative Secretary who has been trained to screen for emergency issues. If an applicant is deemed to have an emergency, the caller is referred to the appropriate regional office bypassing LARC. Applicants without emergencies are guided to the divorce or general issues queues and calls to the foreclosure hotline are transferred to the foreclosure queue.<sup>11</sup>

The divorce and foreclosure queues are answered by two (2) full-time intake specialists who conduct eligibility screening using the ACMS. Advice is not provided during these initial calls. Cases that meet LSC eligibility requirements are transferred to regional offices serving the caller’s county of residence, based upon the office’s case acceptance protocols. Callers seeking a divorce are advised to expect a call from the regional office within two (2) weeks. A review of the policies reveal that offices have detailed criteria regarding acceptance of divorce with and

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<sup>8</sup> The Southern Regional Office has scheduled *pro se* divorce class twice every other month at the Southern Illinois University School of Law. Interviews reveal that these do not include the provision of legal assistance and are counted as matters for LSC purposes.

<sup>9</sup> Two (2) of the hotline attorneys are based in the Central Regional Office, one (1) in the Eastern Regional Office and two (2) work from home (one (1) locally and one (1) in Indiana).

<sup>10</sup> Managing attorneys make changes to their office’s policies as necessary to reflect if an issue is closed for referrals or if criteria for specific case types change. Revisions are communicated to the Managing Attorney of LARC who in turn communicates them to LARC staff. Current versions are electronically accessible on a shared drive

<sup>11</sup> If a caller is in the incorrect queue, procedures are in place to transfer calls to a priority position in the proper queue.

without domestic violence, which may vary by county depending upon the availability of staff and private attorneys. Ineligible applicants, or applicants who do not meet the criteria for transfer to a local office, are provided telephone numbers to other community resources and their applications are rejected.

Applicants with foreclosure issues are screened for extended representation by regional offices pursuant to a grant from the Illinois Attorney General. Applicants must meet financial eligibility guidelines set at 80% of the area median income. These clients may or may not meet LSC financial eligibility requirements depending upon the area. If a caller appears to meet financial and legal issue eligibility, they are referred to a regional office for further consideration and advised to expect a call from that office within three (3) days. If the caller does not have a foreclosure issue that meets the referral guidelines, they are transferred to a hotline attorney who can provide legal advice.

Callers guided to the general issues queue are screened for financial eligibility by a hotline attorney using the ACMS. Interviews revealed that this process is consistent with that followed by the intake specialists. Callers determined to be financially eligible pursuant to one (1) of the program's funding sources are screened for referral to a local office for extended representation based upon the case acceptance policies. If the case does not qualify for referral, advice is provided, documented in case notes, and closed with the Counsel and Advice CSR case closure category in the ACMS.

Cases identified by intake specialists and attorneys for referral to a regional office are placed in an internal transfer queue. After the hotline closes for the day, the Managing Attorney and senior attorney share the responsibility of reviewing every call handled by LARC for that day, which are identified through the generation of reject, transfer, and daily case reports. Cases identified for transfer are reviewed to ensure they meet financial and legal issue referral guidelines and, if so, the office code is changed to reflect the applicable regional office with a ZZ prefix and the case is transferred.<sup>12</sup>

The senior attorney also generates a report of callers who indicated they have medical debt issues, which is a standard intake question. The senior attorney calls these individuals and screens them further to determine if they have debt that could potentially be discharged to determine if their case is appropriate for the Medical Debt Relief Project and, if so, a new case is opened. The majority of these cases are LSC eligible, though the project may accept persons with income over LSC guidelines using non-LSC funds. The senior attorney handles these cases which are typically closed with an A, Counsel and Advice, or B, Limited Action, CSR case closure category.

Every applicant screened by LARC receives either a reject letter, advice closing letter, which may include informational material, or a letter confirming referral to a regional office. Letters are prepared after the hotline closes, signed by the Managing Attorney, and mailed no later than the next morning. While uncommon, cases are occasionally referred back to LARC if the regional

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<sup>12</sup> For example, the office code will be ZZEaster to identify that the case was referred from LARC and needs action by the Eastern Regional Office. The regional office removes the ZZ prefix once the case is received.

office is unable to reach the applicant. In most instances, the person never received advice by LARC and, accordingly, LARC closes the case as an X, deselect.

### *Central Regional Office*

The majority of the Central Regional Office's LSC cases are received through LARC. At the end of each day, a secretary is responsible for processing these transfers, which involves changing office coding, printing the intake, and assigning the case to a case handler based upon the office's acceptance protocols. A list of the cases with staff assignments is provided to the Managing Attorney who makes changes if appropriate. Contact is initially attempted by telephone and, if that is unsuccessful, the office will follow up with a 10 day letter. As described above, cases are returned to LARC if the regional office cannot make contact with the applicant.

The Central Regional Office also conducts outreach intake at senior centers pursuant to a published schedule where appointments are set in 30-minute slots. The attorney assigned to the senior center calls in advance to obtain applicant names in order to check conflicts prior to the visit. Intake is conducted on-site with a standardized paper intake form, retainer agreement, and citizenship attestation. This program is funded by Title III for which there are no income or asset guidelines. Intake information is entered in the ACMS within three (3) days.

Another avenue for cases is the Ombudsman program, supported by Area Agency on Aging funds, which assists any resident in nursing homes regardless of income and assets. The majority of this work is non-legal in nature and, accordingly, not reported to LSC in CSRs. All persons assisted through the Ombudsman program complete a standardized paper intake application which is entered into the ACMS within three (3) days. If an applicant's issue requires legal action, further information is collected and compliance documents are executed. LSC eligible cases are reported to LSC.

Additionally, intake is conducted by an attorney and a secretary at the St. Clair County Courthouse on Monday, Tuesdays, and Wednesdays, from 8:30am-12:00pm, for plenary orders of protection. This program is funded through the Victims of Crime Act. Intake is usually conducted when applicants go to court seeking an emergency order with assistance from the Violence Prevention Center. Applicants complete a paper intake form which includes an attestation. This form differs from the paper intake form used throughout LOLLAF and was created specifically for this program to include information necessary to the special grant. On Thursdays and Fridays, when LOLLAF staff are not at the courthouse, paper intake forms are available for applicants to complete and leave at the courthouse for LOLLAF staff to pick-up the following Monday morning. Case acceptance decisions are made by the LOLLAF attorney after he/she returns to the office, runs a conflict check, and reviews the facts of the case. Generally, applicants must be LSC eligible to be accepted for representation; however, a small number of cases involving seniors who exceed LSC eligibility guidelines may also be accepted. Intake information is entered in the ACMS within three (3) days. Accepted clients will be contacted by their assigned attorney within two (2) days and applicants whose cases are rejected are sent a rejection letter.

LOLLAF's Central Regional Office also receives referrals for assistance in plenary orders of protection from two (2) local domestic violence prevention agencies covering five (5) outlying

counties. Similar to St. Clair County, the local agencies have already assisted the applicants with obtaining an emergency order. These agencies have applicants complete the same paper intake form used at the St. Clair County Courthouse described above. The LOLLAF attorney receiving the forms enters the information into the ACMS and calls the applicant to confirm the information provided and to complete the intake. During the call, the attorney decides whether extended representation is appropriate and, if not, provides advice during the call and closes the case.

Finally, secretaries in the Central Regional Office conduct telephone and walk-in intake for applicants with domestic violence or emergency issues. Applicants with other legal issues are referred to LARC. Most of the intake conducted by the secretary is done by telephone and, after a conflict check is performed, the information is entered directly into the ACMS. Citizenship documentation is obtained from applicants appearing in-person and those provided a telephone to call LARC. Cases are assigned to case handlers pursuant to the case acceptance policies. If an applicant has an emergency, the Managing Attorney determines how to proceed.

### *Northern Regional Office*

The Northern Regional Office in Springfield (and with a satellite office in Decatur) has one (1) full-time intake specialist. Although a significant number of applicants reach the office via LARC using the internal transfer procedure explained above, walk-in applicants are accepted as well. A majority of the applicants who contact this office directly are seeking assistance with a domestic violence issue and a smaller percentage of applicants are seeking assistance for emergency housing issues.

When conducting an intake, the screener first determines whether the applicant meets the residency requirements for the respective service area, confirms that the legal problem is within the office's priorities, and confirms that no conflict exists. The screener then asks questions to capture the applicant's basic information, such as citizenship, adverse party information, financial eligibility, and the facts of the case. Information gathered during screening is entered directly into the ACMS.

The intake screener does not require in-person applicants to sign a citizenship attestation during the initial intake screening. Once an applicant is deemed eligible for legal assistance, the assigned case handler obtains an executed Citizen Attestation Form. A review of this form determined that it is compliant with CSR Handbook (2008 Ed., as amended 2011), § 5.5. Non-citizens who are eligible for assistance are asked to provide appropriate documentation demonstrating their status, with the exception of those applicants who fall under the Violence Against Women Act exception. *See* Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006).

Applicants accepted for representation are assigned to an available case handler. Upon acceptance, a letter is sent informing the applicant that LOLLAF will represent them. If an applicant's case is rejected, a rejection letter is sent informing them of the decision.

Each case handler is responsible for closing their own cases, including assigning a CSR case closure category to each case closed. All closed cases are subsequently reviewed by the

Managing Attorney who ensures that all required documentation is in the case file and that the case was closed with the applicable case closure category.

### *Eastern Regional Office*

As stated above, the Eastern Regional Office intake staff consists of four (4) staff persons. As in the other regional offices, most of the intake screening is done through LARC; however, additional intake screening is conducted as follows: one (1) staff person is responsible for domestic violence applications; one (1) staff person is responsible for senior center and MLP applications; and two (2) staff persons are responsible for local Veteran's Administration Corps ("VAC") applications. Additionally, intake for VAC applicants is occasionally conducted through outreach off-site. Intake screening is done consistently by the different intake workers, with minor procedural differences.

The intake screeners determine whether applicants meet residency requirements for the respective service areas, confirm that their legal problems are within the office's priorities, and verify that there are no conflicts of interest. The screeners then ask for applicants' basic information such as citizenship status, adverse party information, financial eligibility, and facts of the case. The intake screener for domestic violence and other emergency cases enters applicants' information directly into the ACMS, whereas the intake screeners for the senior, MLP, and VAC complete a paper intake form and subsequently enter the information into the ACMS.<sup>13</sup>

As in the Northern Regional Office, the intake screener does not require in-person applicants to sign a citizen attestation during the initial intake screening. Once an applicant is deemed eligible for legal assistance, the assigned case handler obtains an executed citizenship attestation.

After an applicant is deemed eligible for legal assistance by an intake screener, the applicant's information is sent to the Managing Attorney through an "internal transfer" for review. If the Managing Attorney also determines the applicant to be eligible, she will forward the case to the appropriate case handler.

The Managing Attorney also does continuous oversight of the cases. She utilizes a tickler system to ensure that cases are appropriately opened and that open cases do not become dormant. Each case handler is responsible for closing their own cases, assigning a CSR case closure category to each case closed, and entering the closing information into the ACMS. The Managing Attorney reviews the closed cases utilizing a compliance checklist to ensure that all required documentation is in the case file and that the case was closed utilizing the appropriate case closure category.

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<sup>13</sup> This is a uniform form used throughout LOLLAF.

### *Southern Regional Office*

The majority of the Southern Regional Office's cases are received through LARC via the same transfer process as described above. Three (3) secretaries alternate the responsibility of processing the referrals.

The Mount Vernon paralegal conducts outreach intake at senior centers in several counties four (4) days per month. Seniors sign up at the centers and the office's paralegal obtains the names in advance in order to conduct a check for conflicts of interest. Intake is conducted at the senior centers using the standardized paper intake and compliance forms and the information is entered into the ACMS within three (3) days.

For the past ten years, the Southern Regional Office has partnered with Southern Illinois Healthcare, a consortium of medical providers, to form the Medical Legal Partnership program. Staff at the medical providers are trained to identify legal problems which have a negative impact on health. When such an issue is identified, a staff member from the medical provider will fax a Health Insurance Portability and Accountability Act of 1996 ("HIPAA") release and a form with basic applicant information to the office. An LOLLAF staff attorney subsequently conducts a conflicts check and contacts the applicant by telephone to screen them for eligibility, entering the information obtained directly into the ACMS. While most of these applicants are LSC eligible, LOLLAF may serve persons who are over LSC guidelines with alternate funding. Once an applicant is deemed eligible, the case is assigned to one (1) of the three (3) staff attorneys or a part-time paralegal also working on the project based upon an internal case assignment system.

Three (3) secretaries share the responsibility of conducting intake for victims of domestic violence and applicants with emergencies. The majority of this intake is done by telephone with information obtained being entered directly into the ACMS. Walk-in intake is conducted during operating hours and applicants are provided the program's standardized paper intake form and attestation to complete. The forms are reviewed by a secretary and immediately entered into the ACMS. Cases are assigned to case handlers pursuant to the office's case acceptance policies. If an applicant has an emergency, the Managing Attorney determines how to proceed.

The Managing Attorney is responsible for supervising and conducting oversight of the Mount Vernon satellite office cases.

### *Western Regional Office*

As in all other offices, the majority of the Western Regional Office's cases are received through LARC the same transfer process described above for the Central Regional Office. The office also conducts outreach intake. On Mondays and Fridays, from 9:00am - 4:30pm, an attorney conducts intake for applicants seeking plenary orders of protection at the Madison County Courthouse. The program and process is identical to that described above for the St. Clair County program, except that in Madison County the attorney uses a laptop to access LOLLAF's ACMS in order to conduct the intake remotely and, therefore, has the ability to

contemporaneously check for conflicts of interest and make acceptance decisions. Standardized citizenship attestations, retainer agreements, and a Statements of Facts are completed on-site. As in the Central Regional Office, this office receives referrals from domestic violence prevention centers in outlying counties for applicants seeking plenary orders of protection.

A secretary in the Western Regional Office conducts in-office intake for victims of domestic violence and other emergency applicants. Other in-person applicants are referred to LARC. On rare occasions, the applicant requests a telephone to call LARC. Most intake conducted by the secretary is done by telephone and the information obtained is entered directly into the ACMS. If the intake is conducted in-person or if a telephone is provided for an applicant to call LARC, the applicant is asked to sign a citizenship attestation or produce documentation of an eligible alien status. Cases are referred to case handlers pursuant to case acceptance policies or, if the applicant has an emergency, the Managing Attorney is consulted to determine how to proceed.

### ***Financial Eligibility and Case Management***

*Compliance Forms:* LOLLAF's paper forms, including the Attestation of Citizenship, Eligible Alien Verification List, Client Retainer Agreement, Client Limited Service Agreement, and Statement of Facts, are standardized throughout the program. Most outreach and in-person intake in the regional offices is conducted using a standardized written paper form, revised on August 23, 2013, though a separate, shorter form for the Central Office's order of protection cases was identified. This shorter form contains sufficient information to determine conflicts and financial eligibility. It also includes a citizenship attestation. The shorter form is also used by domestic violence prevention centers to refer applicants to LOLLAF for a plenary order.

*Income Screening:* Although a large number of staff conduct intake, interviews and case review reveal that income eligibility screening and data recordation is done in a consistent manner. Staff demonstrated a strong understanding of the program's financial eligibility policy and the LSC funding guidelines.

*Reasonable Inquiry Regarding Income Prospects:* Recipients are required to make reasonable inquiry into each applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a). All interviewees were aware of this requirement and stated they make this inquiry as required. The ACMS contains a required field specific to this inquiry. The inquiry is also included on the two (2) paper intake forms utilized by staff.

*Authorized Exceptions to Income Ceiling:* In accordance with 45 CFR § 1611.3(c)(2), LOLLAF has adopted authorized exceptions to its annual income ceiling, consistent with 45 CFR § 1611.5. To qualify individuals with income between 125-200% of the FPG, program policy instructs staff to inquire about expenses from a list that becomes active when gross annual income is within the applicable range. The amount of an expense and its frequency are recorded in the ACMS. Although the ACMS calculates adjusted annual income by subtracting the expense from gross annual income, there is a notation in the ACMS that the calculation is for referral purposes only as the program's policy does not require that identified expenses bring an applicant's income below 125% of the FPG. The ACMS is programmed to indicate that a case is not income eligible if gross annual income is over 125% of the FPG and, accordingly, when an

expense is used to qualify such an applicant, the user must select “Override” and an “Override Reason” to reflect that the case is, in fact, income eligible.

*Asset Screening/Authorized Exceptions to Asset Ceiling:* The LOLLAF Financial Eligibility Policies set an asset ceiling of \$5,000 per household. Excluded from consideration are the following: the applicant’s or household’s principal residence; vehicles used by the applicant or household members for transportation; assets used in producing income; household goods, furnishings, and personal effects with a fair market value up to \$4,000; necessary wearing apparel; the cash value of life insurance and pension or retirement plans; and burial plots and plans. Senior management advised that several items excluded from consideration, such as household items with a fair market value of up to \$4,000, wearing apparel, cash value of life insurance, pension or retirement plans, and burial plots exclusions, are exempted under State or Federal law. The exclusions are consistent with 45 CFR 1611.3(d)(1).

*Financial Eligibility Determination of an Applicant who is a Victim of Domestic Violence:* Recipients are required to specify in financial eligibility policies that during the financial eligibility determination of an applicant who is a victim of domestic violence, only the assets and income of the applicant and household members who are not the alleged perpetrator shall be considered. Further, the income and assets of the alleged perpetrator of the domestic violence and any income or assets jointly held by the applicant or other household members with the alleged perpetrator shall not be considered. See 45 CFR § 1611.3(e). LOLLAF’s financial eligibility policies and written procedures include this required provision. Interviews evidenced that staff are aware of this provision and do not include an alleged perpetrator’s income and assets in applicant eligibility determinations.

*Government Benefits Exemption:* In accordance with 45 CFR § 1611.3(f) and 1611.4(c), a recipient's governing body is permitted to determine an applicant to be financially eligible without making an independent determination of income or assets, if the applicant's income is derived solely from a governmental program for low-income individuals or families. LOLLAF’s Financial Eligibility Policies (current or former) do not contain such an exemption.

*Group Clients:* LOLLAF’s eligibility policies permit LSC-funded assistance to groups in accordance with 45 CFR § 1611.6. Only one (1) group case was identified within the review period and an interview with the applicable managing attorney revealed that it was non-LSC funded.

*Citizenship and Eligible Alien Status Screening:* All interviewees demonstrated a sufficient understanding of the citizenship and alien eligibility documentation requirements of 45 CFR Part 1626, including those for Kennedy Amendment, T-Visa, and U-Visa cases. In most instances, citizenship status is initially assessed and recorded in the ACMS by LARC. Citizen clients screened by telephone with cases which progress to include in-person contact or extended representation, applicants screened in-person, or applicants who are provided an office telephone to call LARC are asked to sign an attestation either on the Attestation of Citizenship, Client Limited Service Agreement, or the paper intake form used for orders of protection referrals. The language of the three (3) attestations identified complies with the requirements of the CSR Handbook (2008 Ed.), § 5.5. Non-citizens are asked to provide documentation of eligible alien status when seen in-person. Staff attorneys are responsible for reviewing any alien eligibility

documentation provided, making a determination of eligibility, and completing a standardized Eligible Alien Verification List.

*Conflict Checks:* Conflict of interest screening is done program-wide using the ACMS during the first step of the initial screening process for both intake conducted by LARC and that conducted by the regional offices. In situations where intake is conducted without the ACMS, such as at an off-site location, applications are not accepted until a conflict of interest check can be performed via the ACMS. If a potential conflict is identified, it must be resolved by the LARC or regional office Managing Attorney pursuant to LOLLAF's written program policy. See LOLLAF Intake Manual, pg. 8. Interviews evidenced that staff either verbally consults the Managing Attorney or completes a Conflict Request Form, depending upon the circumstances.

*Duplicate Check:* During the conflict checks described above, screeners also determine whether the applicant has previously contacted LOLLAF. Screeners have been properly trained when to reopen a case in accordance with LSC requirements. If in doubt, the original case handler is contacted.

*Case Acceptance:* LARC attorneys are permitted to accept cases for telephone advice pursuant to program priorities. Case Acceptance Policies identify the types of cases to be transferred to regional offices for consideration for extended representation. Advice is generally not provided prior to the referral. Case acceptance meetings are not held in any of the regional offices. Referrals from LARC are distributed by support staff to staff attorneys responsible for the identified legal issue and the applicable county, with a copy of every assignment being provided to the applicable managing attorney. Intakes conducted at a regional office or at an outreach location which are found eligible and appropriate for acceptance are similarly assigned. Newly hired staff attorneys are required to review case assignments with their managing attorney. Once assigned, case handlers are responsible for contacting the client, determining the level of assistance to be provided based upon Case Acceptance Policies, obtaining compliance documentation, and completing an Opening Memo in the ACMS. Interviews evidenced that new clients are typically notified within days when their cases are accepted for extended representation. All interviewees reported that managing attorneys are available for consultation as needed.

*Oversight:* In addition to a review of closed cases, managing attorneys are required to generate a series of case management reports. On a weekly basis, the Managing Attorney is responsible for generating a list of internal transfer cases which have been on the list longer than two (2) days and determine the cause of the delay. On a quarterly basis, they are expected to generate open and closed case reports for each case handler, including duplicate case reports and a report of all cases with no time entry for 120 days. The managing attorneys are responsible for ensuring that any identified issues are addressed. Finally, managing attorneys are responsible for generating open case reports after December 31<sup>st</sup> of each year to ensure that all required cases are closed by January 20<sup>th</sup> of the following year. Appendix D of the Intake Manual lists 13 error checking reports which are pre-programmed in the reports tab of the ACMS. Offices are expected to run these reports at least once per year to ensure accurate data is being maintained. LOLLAF's Administrative Coordinator is responsible for running final error checks and preparing the annual CSR report.

*Case Closure:* LARC attorneys close their cases upon completion of the initial telephone call either as a reject, transfer, or advice-only case. When a case is ready for closure in a regional office, case handlers are responsible for preparing a closing letter and closing memo. In addition, a new step in the closing process has been added, a standardized compliance checklist. The compliance checklist is a review of all major LSC compliance requirements and requires each case handler to select a case closure category and determine if the case is LSC eligible. The closing memo is an electronic template in the ACMS and requires a description of the issue, action taken on behalf of the client, and the outcome of the case. LARC attorneys and some case handlers in regional offices close their cases on the ACMS, while other case handlers provide the case file with closing documentation to a secretary to close.

In addition to closing and outcome codes, the ACMS case closing process requires a “yes” or “no” answer to the following four (4) CSR questions: 1) Legal assistance is documented; 2) Case is closed A or B OR a retainer is in the file OR it is a PAI case; 3) Case is closed A or B and all contact was telephonic OR citizenship form or alienage documentation is in the file; and 4) Case is closed timely. After the CSR questions are answered, the ACMS determines whether the case is CSR Eligible. *See Intake Manual, pg. 70-77.*

During interviews, staff reported that cases are administratively closed in a timely manner after work is complete. As mentioned previously, managing attorneys reviewed most cases closed in their office for quality of assistance and compliance, albeit without the compliance checklist which was implemented on October 1, 2013. At LARC, the managing and senior attorneys conduct daily reviews, as described above. In the regional offices, managing attorneys review cases in batches.

In summary, there are no recommendations or required corrective actions in this section.

Comments made by LOLLAF in response to the DR have been incorporated into this Finding.

**Finding 3: Sampled cases, interviews, and a review of LOLLAF’s policies evidenced compliance with the documentation required by 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”).**

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.<sup>14</sup> *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a

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<sup>14</sup> A numerical amount must be recorded, even if it is zero (0). *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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 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, 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.

In advance of the review, LOLLAF provided its "Financial Eligibility Policy," last reviewed and approved by the LOLLAF Board of Directors on dated November 30, 2012. In the period between the time of the submission of requested materials and the commencement of the on-site review, a revised policy was issued on September 27, 2013. This new policy had two (2) minor changes – one (1) requiring the written approval of the Executive Director in order to represent a group using LSC funds; the other deleting a duplicative reference to prospective income.

All but one (1) of the sampled case files contained income eligibility documentation required by 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 FPG. Moreover, for those files reviewed in which the clients' income was in excess of the 125% FPG threshold, LOLLAF properly documented its review of the factors.

There was one (1) file reviewed in which the ACMS did not reflect the client's income; however, a review of the case file demonstrated that the client was under the 125% FPG threshold. *See* Closed 2012 Case No. 11-0215869. Specifically, there was a divorce questionnaire which indicated the client had no income and was on food stamps.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 4: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.**

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR §

1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.<sup>15</sup> *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 versions 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.

With no exceptions, case files sampled evidenced asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. As such, sampled cases evidenced compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 5: One of the sampled cases evidenced non-compliance with the documentation requirements set forth in 45 CFR Part 1626 (Restrictions on legal assistance to aliens).**

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

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<sup>15</sup> A numerical total value must be recorded, even if it is zero (0) or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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.

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.<sup>16</sup> 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, are 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.

One (1) of the sampled cases reviewed evidenced non-compliance with the documentation requirements of 45 CFR § 1626.6 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, as one (1) case failed to contain a citizen attestation when required. *See* PAI closed 2012 Case No. 12-0230267. All remaining files reviewed which required an attestation had a properly signed attestation.

In the DR, LSC advised that as a required corrective action, LOLLAF must take steps to ensure that all cases contain a signed citizen attestation when required. In response to this corrective action item, LOLLAF took action and has developed a laminated Quick Guide to Client Eligibility for all staff with clear instructions regarding citizenship or alien eligibility documentation. Also, as noted above in Finding 1, LOLLAF implemented a new Case Closing Compliance Checklist effective October 1, 2013.

There are no additional recommendations or required corrective actions.

Comments made by LOLLAF in response to the DR have been incorporated into this Finding.

**Finding 6: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the retainer requirements of 45 CFR § 1611.9.**

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from a 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).

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<sup>16</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

The retainer agreement is to be executed when representation commences or as soon thereafter as is practicable 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.<sup>17</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

LOLLAF is in compliance with the retainer agreement requirements of 45 CFR § 1611.9, as all case files reviewed which required retainer agreements had one (1) present, completed in a timely manner, and, with three (3) exceptions, contained an appropriate scope and purpose clause. Three (3) files reviewed failed to identify the nature of the client's legal issue and/or the services to be provided. *See* Closed 2012 Case Nos. 11-0209790 and 08E-1003339 and Closed 2013 Case No. 09E-1005099. Based on discussions with the staff and leadership of LOLLAF, this does not appear to be a systemic problem. It was observed that two (2) of these files were opened prior to 2010 and the other was opened in 2011. The more recently opened files had properly executed retainer agreements.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 7: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).**

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

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

Case files reviewed indicated that LOLLAF is in compliance with the requirements of 45 CFR Part 1636, as all files reviewed which required a statement of facts contained a timely document present.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

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<sup>17</sup> 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.

**Finding 8: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR § 1620.3(a) (Establishing priorities) and § 1620.6 (Signed written agreement).**

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.

LOLLAF's 2013 Statement of Priorities, adopted by the Board of Directors on November 30, 2012, was provided in advance of the review. LOLLAF's priorities include: income security; safe affordable housing; health care; family safety and stability; consumer protection; utilities; quality education; and protection of seniors and persons with disabilities. LOLLAF is in compliance with 45 CFR Part 1620 as none of the sampled files reviewed revealed cases that were outside of LOLLAF's priorities.

As part of the review, the review team requested to see a sampling of the signed written agreements wherein staff acknowledged, among other things, that they have read and are familiar with LOLLAF's priorities and emergency case acceptance procedures. Pursuant to the request, the Executive Director provided a sample of the statements signed by LOLLAF staff, which were consistent with the requirements of 45 CFR § 1620.6.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 9: Sampled cases, interviews, and a review of LOLLAF's policies 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.

Most case files reviewed were well documented; nevertheless, two (2) files, both from the Northern Regional Office, did not contain a description of the legal assistance provided. *See* Closed 2012 Case No. 12-0225231 and Closed 2011 Case No. 11-0199167. As such, sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6.

The exceptions noted were determined to be isolated mistakes and not systemic problems and, therefore, there are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 10: Sampled cases, interviews, and a review of LOLLAF's policies evidenced that its application of the CSR case closure categories is substantially consistent with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011).**

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the case closure categories 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.

Most of the case files reviewed were closed with correct case closure categories. The following two (2) exceptions were noted: (1) 2012 Case No. 12-0220604 was closed with case closure category "B" (Limited Action), but only legal advice was noted in the file and, therefore, it should have been closed with "A" (Counsel and Advice); and (2) 2013 Case No. 12-0231124 case was closed with case closure category "A" (Counsel and Advice), but the level of legal assistance indicated in the file was more consistent with "B" (Limited Action). As such, the cases reviewed evidenced substantial consistency with the requirements of Chapters VIII and IV of the CSR Handbook (2008 Ed., as amended 2011).

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 11: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (timely case closing).**

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).<sup>18</sup> There is, however, an exception for limited service cases opened 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 in the 2008 Edition, as amended 2011, of the CSR Handbook) 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).

LOLLAF is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3(a), as no untimely closed or dormant files were identified.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 12: Sampled cases, interviews, and a review of LOLLAF's policies 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.

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<sup>18</sup> The time limitation of the 2001 CSR 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 in 2011), § 3.3(a). This category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Case Closure Category "L" (Extensive Service).

None of the sampled case files reviewed were duplicates.<sup>19</sup> As such, sampled files evidenced compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 13: Review of the recipient's policies and interviews with staff attorneys evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).**

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 45 CFR Part 1604, 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.

Based on the review of the recipient's policies, LOLLAF is in compliance with the requirements of 45 CFR Part 1604. LOLLAF has developed a written policy governing the outside practice of law; this policy was adopted by the Board of Directors on September 14, 2007. The policy requires prior approval by the Executive Director (or designee) of LOLLAF. The policy is limited to full-time attorneys, consistent with the LSC regulations.

Prior to the visit, LOLLAF advised OCE that 13 attorneys engaged in the uncompensated outside practice of law during the period 2011 through 2013. LOLLAF reported no instances of compensated outside practice of law. Interviews with all but two (2) of the attorneys identified confirmed the details of their outside practice.<sup>20</sup> Each of the interviewed attorneys confirmed that they are employed full-time by LOLLAF, they engaged in the uncompensated outside practice of law during the period of 2011 through 2013, and their outside practice was approved by LOLLAF's Executive Director. Further, all attorneys interviewed indicated that they did not identify LOLLAF with the outside practice, nor did they use any LOLLAF resources for the outside practice.

Pursuant to LOLLAF policy, attorneys are permitted to accumulate up to 24 hours of compensatory time per quarter and may carry the time over to the next quarter. They are allowed to use up to 24 hours of the compensatory time during each quarter and, due to this, attorneys have been instructed to use the compensatory time, or other leave, when performing outside practice of law in the office or during work hours, and to record it on their time sheets. Nevertheless, most of the attorneys interviewed indicated that they performed their approved outside practice of law outside of the office and on their own time.

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<sup>19</sup> As noted previously, several files were targeted and tested for possible duplication – in each case, the files were found to not be duplicates as the cases related either to different legal issues or different opposing parties or both.

<sup>20</sup> The two (2) attorneys who were not interviewed are no longer with LOLLAF.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 14: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

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

Sampled files and interviews with staff evidenced that LOLLAF is not involved in such activity. Additionally, a review of the recipient's policies evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1608.

LOLLAF has an established written policy entitled Political and Restricted Activities Policy which was last revised in 1986. The policy is available on the internal network to all LOLLAF employees to ensure that they are aware of, and comply with, LSC requirements regarding political activities as set forth in 45 CFR Part 1608 and imposes similar restrictions on the program's employees. In addition, the policy follows the 45 CFR Part 1618 enforcement regulations. Sampled files and interviews demonstrated that staff in all LOLLAF offices visited have knowledge of and understand the policy and procedures related to prohibited political activities.

A brief review of LOLLAF's master vendor list showed no signs of vendor names pertaining to any partisan organizations. However, LOLLAF's master vendor list did contain names of vendors that were inactive for a period of time (this will be discussed below). Also, a sample of LOLLAF's cash receipts and disbursement journal for the first six (6) months in 2011 and 2013, and the last six (6) months of 2012, was examined and indicated that LOLLAF did not receive, collect, or disburse any funds to/from any partisan organizations. Likewise, LOLLAF's 990 Tax returns for 2011 and 2012 indicated that LOLLAF had no direct or indirect involvement in any political party activities on behalf of or in opposition to candidates for public office in accordance with 45 CFR § 1608.3(b). Moreover, observations of LOLLAF's webpage and main office showed no signs of any other material that would be considered a violation of LSC's regulation.

A comprehensive review of LOLLAF's pamphlets, brochures, flyers, guides, bulletin boards, and other public space was conducted in all offices visited and were found to be free of any prohibited political message, expression, symbol, image, or allusion in compliance with 45 CFR Part 1608. The brochures published by LOLLAF were descriptions of program services or information regarding specific legal topics. The remaining brochures were produced by other government agencies and provided information and descriptions of available services.

Finally, LOLLAF's Executive Director indicated that no employees have intentionally supported or promoted LOLLAF with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office. This is supported by the LOLLAF's written policy, which contains policies and procedures similar to those outlined in 45 CFR Part 1608.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 15: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).**

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

Recipients may provide legal assistance in such a case if it has been rejected by the local lawyer referral service or two (2) private attorneys; neither the referral service nor two (2) 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 (1) that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and (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).

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained, attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009, will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

All of the case files reviewed evidenced compliance with the requirements of 45 CFR Part 1609 in each of its iterations. The LOLLAF policies were last revised on June 22, 2012, and no deficiencies were noted. Discussions with the staff also confirmed that LOLLAF is not involved in any restricted fee-generating cases.

A review of LOLLAF's fee-generating case forms, prepared by program attorneys, evidenced the possible acceptance of fee-generating cases. These forms were structured in a way to ensure compliance with 45 CFR Part 1609 and no deficiencies in the form were noted. A physical count of the fee-generating case forms was conducted and, as a result, it was determined that LOLLAF potentially accepted 164 fee-generating cases in 2011, 54 fee-generating cases in 2012, and 65 fee-generating cases as of August 31, 2013. The review, and physical count, revealed that LOLLAF accepted these cases after the program, as well as the client, was unable to find private attorneys to accept them. Accordingly, it was determined that the identified cases meet one (1) of the approved exceptions defined in 45 CFR § 1609.3.

A review of LOLLAF's cash receipts log and cash receipts journal, along with supporting documentation, indicated that attorneys' fees received or collected during the review period were from cases filed after December 16, 2009. An examination of the 2012 audited financial statements and June 30, 2013 interim financial statements evidenced that LOLLAF allocates 100% of their attorneys' fees to the LSC Basic Field fund. Although LOLLAF allocates 100% of the fees to the Basic Field fund, it must establish a written policy and procedures detailing the allocation process for attorneys' fees. In addition, the review of the 2012 audited financial statements revealed that LOLLAF reported attorneys' fees in the amount of \$13,790 in the wrong accounting period. The attorneys' fees were received and collected in January 2013, but reported in December 2012. The LSC Accounting Guide, § 2-2.6 and LSC regulations, at 45 CFR § 1609.4, require that attorneys' fees be reported in the period in which they are received or collected. LOLLAF may wish to consult with its Independent Public Accountants ("IPA") regarding the materiality of this reporting error.

According to the Executive Director and Deputy Director of Programs and Advocacy, LOLLAF may provide legal assistance in fee-generating cases that have been rejected by the local lawyer referral service or two (2) private attorneys and where neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee. The Deputy Director of Finance and Administration also indicated that LOLLAF allocates 100% of their attorneys' fees to the Basic Field fund. As noted above, these assertions were confirmed, as the review evidenced the preparation of fee-generating forms, where appropriate, and audited financial statements revealed receipt of attorneys' fees. These procedures are further supported by the LOLLAF's written policy, which contains policies and procedures that comply with 45 CFR Part 1609. Furthermore, the Executive Director indicated that this policy is reinforced for staff through the initial employment orientation, webinars, and by way of internal access to documents on LOLLAF's shared drive.

While no recommendations were made in the DR, there were two (2) required corrective actions. First, LOLLAF was advised that it should consult with its IPA to determine how to correct the reporting error. In response to this, LOLLAF advised that it has provided the DR to the IPA and is attempting to determine how to correct this error. As noted below, LSC would appreciate

follow-up on this. Second, the DR advised that LOLLAF must develop a formal written policy describing how attorneys' fees are allocated between LSC and non-LSC funds, in accordance with 45 CFR § 1630.12. The new policy will require Board approval. In its response, LOLLAF indicated it intended to draft new policies and procedures by August 31, 2014. As with the prior item, LSC will follow-up on this.

**Finding 16: A limited review of LOLLAF's accounting and financial records evidenced that it is in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).**

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 an independent organization receives a transfer of LSC funds, whether such funds subsidize restricted activities, and whether the LSC recipient is legally, physically, and financially separate from the organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and is determined by the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one (1) 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*, Office of Program Operations ("OPO") Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

From the limited review of LOLLAF's policies and procedures, cash receipts and cash disbursement journals, chart of accounts, funding codes, vendors list, grants, contracts, webpage, observations made in the main office at East Saint Louis, and interviews, it was determined that LOLLAF does not engaged in any restricted activity which would present 45 CFR Part 1610

compliance issues. LOLLAF's Board of Directors has certified compliance with 45 CFR § 1610.8(b) by executing the annual program integrity letter.

A limited review of LOLLAF's policies and procedures and fiscal activities identified no instance where non-LSC funds were used for any purpose prohibited by the LSC Act. A review of the cash receipts and cash disbursement journals for the review period identified no inappropriate transfers of LSC funds, as defined by 45 CFR § 1610.7, or authorized expenditures of non-LSC funds, as defined by 45 CFR § 1610.4. LOLLAF's cost allocation methodology for direct costs is based on costs allocated to a particular grant to the degree that the costs were incurred to achieve the objectives of the grant. Costs that are fund-specific are allocated directly to the relevant funding source(s) at the transaction level when entered into the accounting system.

LOLLAF utilizes a customized accounting software system in its financial operations which is comprised of several modules. The general ledger module is a multi-fund, multi-fiscal period, double-entry fund accounting system which has the capability of providing fund based accounting and/or cost accounting. LOLLAF uses the double-entry method for recording all transactions and the chart of accounts (including funding codes) which has been designed so that funds received from sources other than LSC are accounted for as separate and distinct receipts and disbursements in the manner directed by 45 CFR § 1610.9.

The LSC regulations, at 45 CFR § 1610.5, provide that no recipient may accept funds from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds. LOLLAF solicits for contributions and applies for funding on-line, via mail-ins, by application, and through fundraising from individuals, grants, contracts, foundations, law firms, and other public and private organizations. Review of LOLLAF's contribution list for 2011, 2012, and 2013 indicated that LOLLAF is familiar with the requirements of 45 CFR § 1610.5. For each year under review, the names of five (5) contributors were selected for sampling and it was determined that each contributor of \$250 or more received written notification (a funding source update letter) informing them of the regulatory restrictions that apply to their contribution due to the recipient's LSC funding. Also, a small sample of other funders, randomly selected from the 2012 audited financial statements (with comparatives), indicated that these funding sources received written notification of LSC's restrictions. However, prior to October 10, 2013, LOLLAF's webpage failed to inform on-line contributors of the LSC restrictions. LOLLAF was informed of this omission during the onsite visit. Prior to the conclusion of the compliance visit, LOLLAF updated its webpage to notify contributors making on-line contributions of the restrictions imposed by 45 CFR § 1610.5.

According to the Director of Development, Deputy Director of Finance and Administration, and Executive Director, LOLLAF provides all donors and funders who contribute \$250 or more written notification of the prohibitions and conditions which apply to the funds. These assertions are supported by LOLLAF's written policy, which contains policies and procedures that comply with 45 CFR § 1610.5.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 17: LOLLAF is in substantial compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve 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 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 be reported separately in a 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).

To assess compliance with 45 CFR Part 1614, PAI staff were interviewed and documents were reviewed, including the 2011, 2012, and 2013 PAI Plans provided in advance of the review, as well as materials provided to the review team by LOLLAF while on-site, including a *Pro Bono* Handbook, undated, and a Compensated Private Bar Involvement Program manual, revised in June 2011. The manuals are written for participating attorneys and are updated periodically. They are available to staff on a shared electronic drive and provided to private attorneys when they are recruited. In addition, both closed and open PAI cases were reviewed.

LOLLAF involves private attorneys in the direct delivery of legal assistance by referring cases to *pro bono* and compensated attorneys. Compensated attorneys are recruited in the counties furthest from regional offices which are generally rural in nature. These attorneys are also asked to accept at least one (1) *pro bono* case per year. In addition, a retired attorney works as an in-house attorney at the Mount Vernon satellite office approximately ten to fifteen hours per week.

The *pro bono* component of the PAI program is managed by a *pro bono* coordinator in each regional office responsible for coordinating with bar associations and administering the program in the counties served by office. Managing attorneys in each office are responsible for supervision. A *Pro Bono* Task Force Coordinator, based in the Eastern Regional Office, is responsible for program-wide recruitment and retention of *pro bono* attorneys.<sup>21</sup>

The majority of cases which are referred to private attorneys, whether *pro bono* or compensated, go through the hotline screening at LARC. Each intake person at LARC has a printout of the offices that handle PAI cases and a priority list outlining the types of cases that will be accepted as PAI referrals.

Interviews, document review, and case review in all offices found substantial compliance with 45 CFR § 1614.3(d)(3), which requires oversight. Sampled case review evidenced adequate documentation of oversight through contact with the client and/or private attorney or a search of the online court databases. Only two (2) minor exceptions were identified by the PAI file review and both were discrepancies between the ACMS and the file information. As described in Finding 1 above, the ACMS reflected incorrect open dates.

### *Description of Models*

#### *Pro Bono Component*

All of the regional offices operate *pro bono* PAI components. In the Northern,<sup>22</sup> Southern, and Western Regional Offices, the components are administered by the administrative secretaries with supervision by the managing attorneys.<sup>23</sup> In the Central Regional Office the component is administered by the Managing Attorney and the senior supervising attorney. In the Eastern Regional Office, which handles both *pro bono* and reduced fee cases, case management is performed by the supervising attorney, a staff attorney, and two (2) administrative staff.

Cases appropriate for referral are identified through regular intake conducted by LARC or by the regional offices. Regional office support staff processing LARC referrals or conducting office intake refer cases to the *pro bono* coordinators based upon the Case Acceptance Policies.

Occasionally, referrals are made by staff attorneys with clients in need of legal assistance in subject matter areas that *pro bono* attorneys have agreed to accept. Additionally, referrals can be made by staff attorneys seeking the assistance of an “expert” in a particular area of a case. For example, if a case involves technical issues that are not normally seen in divorce cases handled

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<sup>21</sup> The Eastern Regional Office serves 14 different counties. Currently, there are 207 *pro bono* attorneys listed on Eastern Regional Office’s active *pro bono* list. While the Eastern Regional Office does have a compensated PAI component, there are currently only three (3) attorneys accepting clients on a reduced fee basis. The Eastern Regional Office is currently only handling PAI referrals. The Carbondale (Southern Regional) office manages the contracts for the three (3) reduced fee attorneys, which includes timekeeping, billing, payments, and case status.

<sup>22</sup> Currently, the Northern Regional Office has 123 participating *pro bono* attorneys. Cases closed by the Northern Regional Office for 2011 totaled 17; for 2012 totaled 21; and to date for 2013 totaled 13.

<sup>23</sup> PAI is only a portion of the administrative secretaries’ responsibilities. Each reported appropriate timekeeping when conducting PAI activities.

by staff, a *pro bono* attorney may be recruited to help with that particular item. *Pro bono* attorneys do not currently participate in clinics. Intake for *pro bono* cases may open and close depending on the availability of the *pro bono* attorneys. If intake is closed, clients who would be eligible for referral to a *pro bono* attorney are informed to call back at a later date.

Regional office coordinators maintain *pro bono* panels by case type for the counties they serve.<sup>24</sup> The majority of the referrals are uncontested divorces, adoption, wills, powers of attorney, and some consumer issues. To place cases, coordinators contact attorneys by telephone or e-mail depending upon the preference of the attorney.<sup>25</sup> Once a case is placed, letters are sent to the client and attorney. Attorneys are asked to obtain citizenship attestations and LOLLAF retainer agreements reflecting the referral to a private attorney.<sup>26</sup> These are the same forms used program-wide for staff cases. After their initial interview with a referred client, private attorneys are asked to return the signed compliance paperwork and an Interview Disposition Form and, when all legal work is concluded, a Closing Memorandum. The Closing Memorandum requests that private attorneys provide supporting documentation for cases closed with an extended service disposition code. It is noted that these forms do not provide space for the private attorney to describe any limited assistance provided to the client. However, case review and interviews in the Western and Southern regional offices evidenced that the PAI coordinators document limited assistance, as described by the private attorney verbally or by letter, in the electronic case notes. These forms were found to be standardized in the regional offices reviewed. See Appendices 1-5, *Pro Bono* Program Handbook.

Coordinators begin tracking referred cases on the ACMS at the point of referral and follow-up with attorneys quarterly if they have not received case status or closing information. Follow-up is done by telephone or e-mail and, if no response received, additional efforts are made to determine the status of the case. Most counties also have online databases that can be used to assess the progression of a case. On rare occasions, a managing attorney will call an attorney if

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<sup>24</sup> Annual recruitment of *pro bono* attorneys is generally handled by sending letters to new lawyers and also through personal relationships staff members have with private attorneys in the Northern Regional Office service areas. The office also occasionally sends out update letters to *pro bono* attorneys ensuring that they have current information on the types of cases they are willing to accept.

<sup>25</sup> When the office receives a referral, the Managing Attorney reviews it to ensure that it properly fits within all the current requirements. If so, a packet of forms is sent to the client for review and completion. Some of the documents must be filled out and/or signed and returned to the program. The client has up to two (2) weeks to return the documents and if they are not received, they are taken off of the referral list. Once the documents are returned, they are reviewed by the office and, if everything is appropriate, a referral is attempted. Currently, the administrators enter the client's name, case type, and county in which the case will be heard into LegalServer. LegalServer will then formulate a list for the administrators of *pro bono* attorneys in the applicable county who have agreed to accept that type of case. If they are able to place the case with a *pro bono* attorney, a packet of documents is sent to the attorney and a letter is sent to the client including the name and contact information of the attorney.

<sup>26</sup> In LSC's experience, the practice of referring cases prior to obtaining citizenship attestations and/or eligible alien documentation and statements of facts, when required, may lead to a pattern of non-compliance. The majority of the cases referred to private attorneys are screened by telephone and the clients are, accordingly, not seen by LOLLAF in-person prior to the referral. On occasion a case will be screened in-person and, in such circumstances, LOLLAF obtains compliance documentation. Nevertheless, the practice of having the private attorneys obtain the attestations appears to be working well. The coordinators have easily obtained this documentation from the participating private attorneys and files reviewed evidenced that the private attorneys are obtaining signed attestations during the first in-person meeting.

the status of a case cannot be determined. All interactions with attorneys or clients are documented in ACMS case notes. On a quarterly basis, the managing attorneys also review the PAI cases and document such review in case notes.

Once closing documentation is received, the coordinator completes the compliance checklist used for staff cases and prepares the file for closure. The coordinators in each of the Regional Offices report closing cases in the ACMS within days, and no longer than a week, after receiving complete documentation. The managing attorneys review all closed cases.

### *Compensated Component*

To increase access to services for eligible persons in the largely rural counties furthest from regional offices, LOLLAF has implemented PAI components in the Eastern, Western, and Southern regional offices. Attorneys are compensated for their services at a reduced fee. The managing attorneys of these offices serve as the “private bar coordinators” (*see below*) and are assisted in day-to-day activities by the staff who serve as *pro bono* coordinators.

Attorneys recruited to the program sign annual contracts reflecting a reduced fee hourly rate of \$67.50. Cases are initially capped at 10 billable hours; however, an attorney may request a waiver from the private bar coordinator in unusual circumstances.

Cases are identified for referral through LARC or by the regional offices. Judicare referrals are for high priority cases and follow the regional office's case acceptance policies. Domestic violence divorces would be one example of the types of cases referred. Regional office support staff refer cases to the private bar coordinators for consideration. If approved, cases are given to the *pro bono* coordinators, who also assist with the compensated program, to refer cases to private attorneys whom have signed contracts. On a rotating basis, referral requests with basic client information sufficient for a conflicts check are sent by e-mail to a particular contract attorney depending on the case type and venue. The attorney is asked to respond by e-mail or telephone. Once a case is placed, letters are sent to the client and attorney. Attorneys are asked to obtain citizenship attestations and LOLLAF retainer agreements reflecting the referral to a private attorney. These are the same forms used program-wide for staff cases. After the initial interview with a client, contract attorneys are asked to return the signed compliance paperwork and a Notification to Project Administrator form. This provides an explanation of whether the applicant failed to show, was rejected, or provided with brief advice. If the case is accepted, this form estimates the number of hours necessary to provide representation and indicates whether any additional assistance will be needed from LOLLAF. *See Compensated Private Bar Involvement Program Manual at Appendix G.*

When work is concluded, attorneys are required to submit a Closing Memorandum, itemized bill, and a file stamped copy of the final order if applicable. The Closing Memorandum is the same document used for *pro bono* cases. Bills are reviewed by the coordinator and the Managing Attorney. Once approved, a statement of services is signed by the Managing Attorney and submitted to Administration for payment. The coordinator completes the compliance checklist and prepares the file for closure. In the Western Regional Office, the coordinator typically

closes cases on the ACMS within days after receiving complete documentation. In the Eastern and Southern Regional Offices, secretaries also typically close cases on the ACMS within days.<sup>27</sup>

Procedures and forms used in the compensated component are standardized in all regional offices. Coordinators track compensated cases and conduct follow-up in same manner described above for *pro bono* cases.

#### *In-House Counsel Program*

Periodically, regional offices use volunteer attorneys as in-house counsel. In the past, the Central, Southern, and Western Regional Offices have recruited newly licensed attorneys, and retired judges and attorneys to volunteer in-house.

At the time of the review, a retired attorney was volunteering at the Mount Vernon satellite office approximately 10 to 15 hours per week. Cases are referred to the volunteer by the Southern Regional Office Managing Attorney or Mount Vernon Senior Supervisory Attorney and coded as *pro bono*. Oversight for these cases is conducted in accordance with the Southern Regional Office's procedures for staff cases described in Finding 2.

#### *Financial Component of PAI*

LOLLAF's audited financial statements indicate that LOLLAF met its 12.5% PAI requirement in 2011 and 2012<sup>28</sup>, using LSC and non-LSC funds.

LOLLAF has developed an annual PAI plan and budget to meet its PAI requirements. They have also established PAI as a fund in their accounting system and as a time use designation in their Case and Time Management system (LegalServer), which are used to identify and accumulate costs related to PAI activity. The program's allocation method is documented in its Administrative & Accounting Manual within Appendix II which covers the allocation of program expenses.

The LOLLAF Private Bar Allocations policy states:

Because most of the time devoted to the support of the private bar referral system is performed by support staff, expense based on timekeeping is calculated and booked for all program personnel. The expenses booked as internal program PBI charges are generally determined in the same manner as allocation by timekeeping.<sup>[29]</sup> The difference is that the value of all PBI salary expenses (by

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<sup>27</sup> One (1) additional aspect of the *pro bono* component in the Eastern Regional Office is that once a reduced fee attorney has been referred 10 cases, they are required to take one (1) *pro bono* case.

<sup>28</sup> LSC's Office of Inspector General has issued a Notice of Proposed Disbarment to the IPA, Diak & Diak, P.C., due to substantial deficiencies found in the audit work performed in connection with the annual audit of LOLLAF for the period ending December 31, 2011. The final decision has not been issued.

<sup>29</sup> Under this method, the amount of allowable time devoted to fund specific activity by a service provider is divided by the total hours worked by that service provider. This calculation is performed on a monthly basis and excludes

*This footnote is continued on the next page.*

office) is determined and that value is divided by the total value of office salary expense. The resulting percentage figures are applied against fringe benefit cost of the individual office to determine a personnel expense value. That resulting value is keypunched. The system will use the value to automatically calculate an overhead expense percentage and apply that percentage against the office monthly overhead charges to determine the monthly office allocated overhead expense. The individual office (cost center) amounts are added to determine a program PBI expense total for an accounting month.

An interview of the accountant who performs the PAI allocations disclosed that he calculates the hours worked on PAI efforts for the month by hand. He manually enters the hours worked into a ledger and the accounting system. The accounting system completes an auto-allocation of indirect costs. The journal entries are reviewed and posted.

A limited review of allocations made for staff salaries to the PAI efforts was conducted. A sample of salary and fringe benefits was reviewed for staff in the Western Region for July 2013 and for staff in the Eastern Region for November 2012. The review found the allocations to be accurate and performed as prescribed in the allocation policy.

It appears that LOLLAF pays its private attorneys fees at a rate of less than 50% of the local prevailing market rate. A survey was taken of the prevailing hourly rate charged by private attorneys in the LOLLAF service area in 2006. From this study, the average market rate for all counties was determined to be \$155.80. Subsequently, the LOLLAF Board of Directors increased the then hourly private bar involvement ("PBI") compensation rate of \$50 per hour to \$62.50 per hour. No surveys have been completed since that time. In 2011, the hourly rate was increased to \$67.50. It is recommended that the program conduct another survey of the hourly rate charged by private attorneys in the LOLLAF service area.

An examination of the terms of LOLLAF's private bar involvement program participating attorney contract revealed that the program has adequate systems in place for contractual payments to individuals and/or organizations that provide administrative, support, and/or direct client services on behalf of the recipient. However, it is recommended that the program revise the contract to include a section on the reimbursement of expenses incurred by the participating attorney.

In summary, while there were no required corrective action items in this section, there were three (3) recommendations. In response to these recommendations, LOLLAF took the following actions:

1. LOLLAF revised the PAI closing memorandum so that all pro bono or compensated attorneys are able to provide or attach a brief summary of advice given or assistance provided for those cases closed with an "A" or "B" closing code. The revised form has

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*This footnote is continued from the prior page.*

leave time. The resulting percentage is multiplied by the service provider's pay to determine chargeable salary expense.

been posted on the shared drive and sent to all Managing Attorneys and other PAI staff. By taking this action, LOLLAF will strengthen its compliance with CSR Handbook (2008 Ed., as amended 2011) requirements of documentation of legal advice provided as required in §§ 5.6 and 10.5;

2. The Administrative Office will coordinate with the Regional Offices to conduct a new survey of the hourly rate charged by private attorneys in the LOLLAF service area. It anticipates that the survey will be completed by the end of the year; and
3. The Executive Management Team is revising LOLLAF's private bar involvement participating attorney contract to include a section on the reimbursement of expenses incurred by the participating attorney. It anticipates completing these revisions by December 31, 2014.

**Finding 18: LOLLAF is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay certain membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.2(b)(1) which requires LSC approval for transfers of LSC funds in excess of \$25,000 to support programmatic activities.**

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, 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.<sup>30</sup> 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 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

Additionally, 45 CFR § 1627.4 states that:

(a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.

(b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

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<sup>30</sup> 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 is included.

A review of LOLLAF's audited financial statements and LSC's records indicated that LOLLAF had two (2) approved subgrant agreements in 2012 that were renewed for 2013. The subgrants related to services contracted to be performed as part of LOLLAF's Technology Initiative Grants ("TIG"), and are discussed in more detail below. However, in reviewing the notes to the 2012 audited financial statements, it was determined that LOLLAF failed to disclose the nature of these two (2) subgrants, and their relationship with the subgrantees, as is required by the LSC Accounting Guide § 2-2.9. That section states "[w]here a relationship with a subrecipient exists, the notes to the financial statements of the recipient and subrecipient should fully disclose the nature of that relationship." Upon the conclusion of the review, this was communicated to LOLLAF management which consulted with the IPA to ensure this would be corrected in the 2013 audited financial statement. To ensure this correction is made, LSC respectfully requests that LOLLAF provide it with copies of the relevant pages of the 2013 audited financial statement when it is issued.

According to the Deputy Director of Finance and Administration, contract attorneys' fees exceeding \$25,000 were paid with non-LSC. Additionally, the Deputy Director of Finance and Administration indicated that the LOLLAF uses non-LSC funds to pay mandated and non-mandated (organizational) fees or dues. This statement is supported by the LOLLAF's written policy, which contains policies and procedures that comply with 45 CFR Part 1627.

LOLLAF's 1099-Miscellaneous Income Statements were examined to assess if any PAI contract attorneys received payments of more than \$25,000. From that examination, it was determined that one (1) PAI contract attorney was paid more than \$25,000 in 2011 and 2012. In each year, the payment amount exceeding \$25,000 was paid using non-LSC funds and, as a result, this PAI contract is not considered a subgrant under 45 CFR Part 1627.

LOLLAF's June 30, 2013 interim financial statements were also examined to assess if LOLLAF used LSC funds to pay for non-mandated membership fees or dues. From that review, it was determined that LOLLAF used only non-LSC funds to pay mandated and non-mandated (organizational) dues or fees.

There are no recommendations; the only required corrective action set forth in the DR was that LOLLAF should provide a copy of the relevant page or pages from the 2013 audited financial statement with the notes reflecting the disclosure of the two (2) TIG subgrants. In its response, LOLLAF provided the requested information.

Based on the information provided by LOLLAF, OCE finds that the actions taken sufficiently satisfy this Required Corrective Action and that no further action is needed.

**Finding 19: LOLLAF is in compliance with 45 CFR Part 1635 (Timekeeping requirements).**

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant

to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

LOLLAF has adopted a written policy to guide its staff in complying with 45 CFR Part 1635. Under the policy, all employees shall maintain time and attendance records in accordance with LSC and/or other funding source requirements, for each semi-monthly pay period to be approved by the employee's supervisor and submitted to the Administrative Office. Attorneys and paralegals must contemporaneously record job activities in one-tenth hour segments. The policy is consistent with 45 CFR Part 1635.

The sampling of attorney and paralegal timekeeping records selected from LOLLAF offices for the time periods of September – October 2011, November – December 2012, and March – April 2013, disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter, or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c).

Quarterly Certification for Part-time Case Handlers forms were completed and maintained by LOLLAF for attorneys and/or paralegals who work part-time for LOLLAF and part-time for an organization that engages in restricted activities.

There are no recommendations or corrective actions required.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 20: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of former 45 CFR 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.<sup>31</sup> However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting, or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting, or retaining attorneys' fees. Accordingly, effective March 15, 2010, recipients may claim, collect, and retain attorneys' fees for work performed, regardless of when such work was performed.

LSC further determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained, attorneys' fees during the period of December 16, 2009 through March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009, may, however, result in enforcement action. As well, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action. *See* LSC Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010).

According to the Executive Director, Deputy Director of Programs and Advocacy, and Deputy Director of Finance and Administration, during the review period, LOLLAF did not receive or collect attorneys' fees for cases filed prior to December 16, 2009.

A review of financial records (the audited and interim financial statements and cash receipts journal, along with supporting documentation) confirmed that attorneys' fees received or collected during the review period were from cases filed after December 16, 2009.

None of the files reviewed evidenced non-compliance with this Part.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 21: Sampled cases, documents, and policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

The purpose of this part is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct

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<sup>31</sup> The regulations defined "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).

lobbying activities, 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.

LOLLAF has an established written policy on 45 CFR Part 1612 which was adopted on September 15, 1997, and is consistent with Part 1612. This policy is available to all LOLLAF employees via the internal network to ensure that they are aware of and comply with LSC requirements regarding legislative and administrative activities, including restrictions and prohibitions.

A limited review of LOLLAF's fiscal records provided no indication that the program was involved in restricted activities during the review period. The Executive Director also confirmed that LOLLAF and its staff were not involved in any restricted public rulemaking or lobbying activities.

According to the Deputy Director of Programs and Advocacy, Deputy Director of Finance and Administration, and Executive Director, LOLLAF maintains separate records documenting the expenditure of non-LSC funds for L & R activities. This is supported by the LOLLAF's written policy, which includes policies and procedures that comply with 45 CFR § 1612.10. Also, according to the Executive Director, this policy is reinforced to staff, through orientations, and by way of internal access to documents on LOLLAF's shared drive.

A review of LOLLAF's financial records (semi-annual reports for 2011, 2012, and for the first six (6) months of 2013) indicated that LOLLAF had several employees (participants), who participated in Legislative and Rulemaking ("L & R") activities. An examination of these participant's timekeeping records and expense reports evidenced that the records support their time or hours worked, as well as related expenses associated with their participation or involvement in L & R activities. This was also evidenced by LOLLAF's financial reports, which show that the LOLLAF maintains separate records documenting the expenditure of non-LSC funds for L & R activities, and supported by the LOLLAF's 990 Tax Return for 2012.

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

There are no recommendations or required corrective actions.

Comments made by LOLLAF in response to the DR have been incorporated into this Finding.

**Finding 22: Sampled cases, interviews, and a review of LOLLAF’s policies 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 files reviewed, interviews conducted, or policies examined involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).**

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed, or otherwise declared by a court of competent jurisdiction, as a class action pursuant to Federal Rules of Civil Procedure, Rule 23, or a comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also 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).<sup>32</sup>

A review of the program’s 45 CFR Part 1617 class action policy disclosed that it was adopted on February 21, 1997, and is consistent with Part 1617. None of the files reviewed or interviews conducted showed that LOLLAF initiated or participated in a class action.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

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<sup>32</sup> 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).

**Finding 24: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).**

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

None of the files reviewed, interviews conducted, or policies examined revealed participation in litigation related to redistricting.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 25: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).**

Recipients are prohibited from defending any person in a proceeding to evict that person from 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 files reviewed, interviews conducted, or policies examined involved defense of any such eviction proceeding.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 26: Sampled cases, interviews, and a review of LOLLAF's policies 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 files reviewed, interviews conducted, or policies examined involved participation in civil litigation or administrative proceedings on behalf of an incarcerated person.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 27: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).**

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.<sup>33</sup> This restriction has been contained in all subsequent appropriations acts. 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."

The key provision in the prohibition is in the definition of "unsolicited advice" at 45 CFR §1638.2(b) which states:

- (b) Unsolicited advice means advice to obtain counsel or take legal action given by a recipient or its employee to an individual who did not seek the advice and with whom the recipient does not have an attorney-client relationship.

As further noted in the regulation, at 45 CFR § 1638.4(a),

- (a) This part does not prohibit recipients or their employees from providing information regarding legal rights and responsibilities or providing information regarding the recipient's services and intake procedures through community legal education activities such as outreach, public service announcements, maintaining an ongoing presence in a courthouse to provide advice at the invitation of the court, disseminating community legal education publications, and giving presentations to groups that request them.

None of the files reviewed, interviews conducted, or policies examined indicated program involvement in such activity.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 28: Sampled cases, interviews, and a review of LOLLAF's policies evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).**

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia,

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<sup>33</sup> See Section 504(a)(18).

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 to advocate for any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the files reviewed, interviews conducted, or policies examined involved such activity.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 29: Sampled cases, interviews, and a review of LOLLAF's policies 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.

Interviews reveal that staff are trained on statutory prohibitions when hired and are provided copies of relevant policies. In addition, program policies are electronically available to all staff. Updates to policies are distributed by senior management to local office managing attorneys who are responsible for distributing the information to staff.

None of the files reviewed, interviews conducted, or policies examined evidenced non-compliance with the above LSC statutory prohibitions.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 30: Interviews and a limited review of procedures, practices, and documents related to TIG No. 11089 evidenced substantial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.**

TIG projects and funds are subject to TIG contract terms, the provisions of the LSC Act and regulations and any other laws, including appropriations provisions which apply to LSC funds. During the onsite review of TIGs, OCE staff examines a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of LSC, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the LSC Accounting Guide, certain LSC TIG Assurances, the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

The LSC Conflicts of Interest Policy, dated September 30, 2011, was provided to all LOLLAF Board members and the Board was advised that all its members were required to acknowledge receipt of this policy and to disclose any conflicts. A review of the “Disclosure of Interests for Determination of Conflicts Acknowledgement and Disclosure Form” was conducted and all sampled forms were found to be fully and properly executed by, among others, the Executive Director, the Deputy Director, and all members of the Board. There were no conflicts disclosed.

*Purpose*

The purpose of TIG No. 11089 was to enable LOLLAF to improve access to legal services for lower-income and vulnerable Illinois residents and increase efficiencies among legal aid programs. LOLLAF and its project partners developed the “Statewide Online Access System,” a virtual entryway to the Illinois legal services delivery system.

*Procedures and Practices*

Review of LOLLAF’s policies and procedures indicated that LOLLAF has adequate systems in place to carry out proper oversight for TIG No. 11089. Subgrantees’ performances are monitored, reports are timely prepared, and invoices are reviewed, processed, and authorized prior to payment to vendors, contractors, and subgrantees.

*Grant Assurances*

Review of LOLLAF’s TIG grant assurances Nos. 7, 8, 9, and 15 indicated no signs of non-compliance. All funds disbursed by LSC were used solely for this TIG project, and all costs were in line with budget.

### *Subgrant Agreements*

Review of LOLLAF's contracts and invoices, as well as related payments made to subgrantees, indicated that LOLLAF is in compliance with 45 CFR § 1627.3, because its two (2) subgrant agreements related to TIG activity are considered programmatic in nature and were approved by LSC prior to being executed with the subgrantees.

### *Recipient Fund Balance*

From the review of the approved grant award letter dated October 1, 2011, it was determined LOLLAF received a TIG award from LSC in the amount of \$127,467. The term date and period was from October 2011 – March 2014 (30 months), with the first payment of \$51,950 made on November 22, 2011. At the end of 2012, LOLLAF's TIG fund balance, indicated TIG revenues (including grant receivables of \$2,670) and expenses, received and incurred, earned and spent, resulted in a fund balance of zero (0). As of June 30, 2013, LOLLAF reported no TIG revenue or expenses. However, according to the Office of Program Performance ("OPP") payment schedule, LOLLAF should have reported TIG grant revenues of \$12,586 from a TIG payment made by OPP on March 11, 2013. Based on this finding, LOLLAF should have reported on its June 30, 2013, year-to-date interim financial statements TIG revenue of \$12,586. As a result, LOLLAF must provide an accurate accounting of its TIG revenue and expenses, to be included in its 2013 annual audit.

### *Timekeeping*

Based on interviews with the Deputy Director of Finance and Administration and the Deputy Director of Programs and Advocacy, as well as a review of related timekeeping records, LOLLAF is in compliance with the requirements of 45 CFR § 1610.2(b)(6) and 45 CFR Part 1635. Specifically, it was determined that subgrantees and staff members maintained their time either through a project summary report and/or LOLLAF's timekeeping system using a source or fund code to identify time spent working on the TIG grant and related costs.

### *Property Acquisition and Management Manual ("PAMM")*

A review of asset acquisitions in relationship to TIG No. 11089, indicated that LOLLAF was in compliance with the PAMM and 45 CFR Part 1630. No TIG funds were used to purchase or acquire assets between October 1, 2011 and June 30, 2013.

### *LSC Accounting Guide*

Review of LOLLAF's 2012 audited financial statements and June 30, 2013, interim financial statements revealed that TIG No. 11089 was separately reported in accordance with the LSC Accounting Guide, § 2-2.1, and 45 CFR § 1628.3(g).

It is recommended that the LOLLAF share the findings identified in this report with its IPA.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 31: A limited review of LOLLAF's internal control policies and procedures demonstrated that they compare 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.). However, in reviewing credit card statements, a few exceptions were noted and further improvement was required.**

Recipients are required to establish and maintain adequate accounting records and fiscal control procedures. Each recipient's governing body has a fiduciary responsibility to the program and is responsible for reviewing and approving accounting and control policies and making recommendations for changes and improvements. LSC promulgates regulations that govern recipients' use of Corporation funds. These regulations appear in 45 CFR § 1600 et seq. As a condition of their grants, recipients are required to adopt accounting policies and procedures that meet the requirements of these regulations and to modify those policies and procedures as necessary when any of the regulations are amended or when new regulations are issued.

Recipients must adhere to the requirements of the LSC Accounting Guide, including LSC's "Fundamental Criteria of an Accounting and Financial Reporting System." This sets forth financial accounting and reporting standards for recipients of LSC funds and describes the accounting policies, records, and internal control procedures to be maintained by recipients to ensure the integrity of accounting, reporting, and financial systems.

The LSC Accounting Guide contains suggested guidelines for ensuring adequate controls over purchase approvals. Purchase approval should be required at an appropriate level of management before a commitment of resources is made. *See* LSC Accounting Guide, § 3-5.4.

LOLLAF has two (2) corporate credit cards. The cards are issued to the Executive Director and the Deputy Director of Finance and Administration. The monthly credit card statements are stamped and coded the day they are received by the accountant. The credit card transactions are matched with the appropriate invoices or other documentation prior to the processing of payments when available. The credit card statements and corresponding payments are approved by the Executive Director and the Deputy Director of Finance and Administration.

A limited review of LOLLAF credit card statements disclosed that, in practice, there are adequate controls in place to monitor credit card usage. However, there is no written credit card policy and corresponding procedure. *See* LSC Accounting Guide, Appendix VII, § G. In addition, the review evidenced that there is minimal to no supporting documentation for charges made using the company credit cards. In response to the DR, LOLLAF indicates that it is drafting such a policy; LSC requests that LOLLAF advise OCE as to the status of this policy within 60 days of the issuance of the final report.

The LSC Accounting Guide, Appendix VII. F, contains suggested guidelines for ensuring adequate internal controls over travel costs. The guidelines include formal written travel policies, including policies regarding prior approval for travel, ensuring receipt of sufficient documentation from travelers prior to reimbursement, ensuring adequate controls over the

accounting for travel advances and reimbursements, review of prior payments before reimbursing travelers to avoid duplication, etc.

The LOLLAF Travel Reimbursement Policies and Procedures authorize reimbursement of necessary, reasonable travel expenses incurred while traveling on official business. The policy requires that an out-of-town travel expense report or a local travel expense report be submitted within 60 days after the earliest travel date shown on the travel form. Reimbursements of travel expenses (e.g. lodging, air fare, ground transportation, parking, taxi) require original receipts. Receipts for meals are not required.

A limited review of travel expenses disclosed that LOLLAF has adequate policies and procedures which include proper internal controls surrounding travel reimbursement.

As noted above, a review of the master vendor list conducted as part of the 1608 review evidenced names of vendors that were inactive for a period of time, which, as indicated in the DR, could be an indication of weaknesses in LOLLAF's internal controls. In response to a recommendation in the DR, LOLLAF explained that it will be updating and correcting the master vendor list as part of its acquisition of a new accounting system.

In summary, the DR indicated that LOLLAF must develop a formal written policy that requires supporting documentation (e.g., receipts and registration confirmation) for credit card usage. As noted above, LOLLAF is in the process of doing so. It was further recommended that LOLLAF review its vendor list for any duplication of vendor names and make corrections as necessary. LOLLAF is also taking action on this recommendation as discussed above.

**Finding 32: A limited review of Board meeting minutes and an interview with the Board Chair evidenced that LOLLAF has adequate Board oversight which is sufficient to meet the requirements of the LSC Accounting Guide.**

The LSC Accounting Guide defines a governing body's fiduciary responsibility to the program, including the establishment of a Finance Committees which should, at a minimum (subject to any requirements of state law): review and revise budgets and make recommendations to the full Board of Directors; review monthly financial management reports with the chief financial officer, controller, and/or CPA; review accounting and control policies; review the audited financial statements, management letter, and senior staff's response with staff and auditor; regularly review and make recommendations about investment policies; coordinate Board training on financial matters; and act as liaison between the Board and staff on fiscal matters. *See LSC Accounting Guide, § 1-7.*

The LSC Accounting Guide also recommends that a program have an Audit Committee which should (subject to any requirements of state law) be involved in: hiring the auditor; setting the compensation of the auditor; overseeing the auditor's activities; setting rules and processes for complaints concerning accounting practices and internal control practices; reviewing the annual IRS Form 990 for completeness, accuracy, and on-time filing; providing assurances of compliance to the full Board; and ensuring the recipient's operations are conducted and managed

in a manner that emphasizes ethical and honest behavior, compliance with applicable laws, regulations, and policies, effective management of the recipient's resources and risks, and accountability of persons within the organization. *See* LSC Accounting Guide, § 1-7.

While it is recognized that some boards, due to their small size and other considerations, will decide not to have a separate audit committee, nevertheless it is generally considered a best practice for governing bodies to have both a finance committee and a separate audit committee. The critical point is that all of the finance and audit committee duties listed above must be performed by a financial oversight committee(s). It is also critical, and considered a best practice, that the financial oversight committee(s) have at least one (1) member who is a financial expert or for the Board to have access to a financial expert.

During the visit, OCE interviewed LOLLAF's Board Chair, who also serves as Chair of the Financial Oversight Committee, concerning the level of financial oversight exercised by the LOLLAF Board of Directors. At the time of the on-site review, the LOLLAF Board of Directors had a combined Financial Oversight Committee. However, on December 6, 2013 the Board approved new by-laws which, among other things, provide for two (2) separate Committees, the Financial Oversight Committee and the Audit Committee. Further, the by-laws permit only one overlapping member between the two committees.

The Board also has the benefit of an advisory member who serves as the President of a local bank and advises the Board on financial matters. The Financial Oversight Committee's duties include reviewing the budget and making recommendations and it also plays an active role in hiring LOLLAF's IPA.

OCE was advised that the Board of Directors receives financial and accounting reports at its quarterly meetings and reviews the annual 990. At the Board meeting held September 27, 2013, the Board was provided Financial Statements as of July 31, 2013, for review and also approved a revision of the LOLLAF Accounting Manual.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 33: A limited review of documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1628 (Recipient fund balances).**

The purpose of this part is to set out the Corporation's policies and procedures applicable to recipient fund balances. LSC's fund balance policies are intended to ensure the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance.

A review of LOLLAF's audited financial statements indicated that LOLLAF ended the 2011 and 2012 fiscal years with fund balances of \$11,220 and \$0, respectively. For both years,

LOLLAF's fund balances were less than 10 % of LSC's total support. Therefore, LOLLAF was in compliance with 45 CFR § 1628.3 for that time period.

There are no recommendations or required corrective actions.

In response to the DR, LOLLAF offered no comments on this Finding.

**Finding 34: A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of 45 CFR Part 1629 (Bonding of recipients) because (1) it has adequate fidelity bond insurance coverage on employees handling cash, and (2) it abides by the requirements outlined in LSC's 2012 certification form.**

LSC regulations require recipients to carry fidelity bond coverage at a minimum level of 10 percent of the program's annualized LSC funding from the previous fiscal year, or of the initial grant or contract, if the program is a new grantee or contractor. No coverage carried pursuant to this part shall be at a level less than \$50,000. *See* 45 CFR Part 1629.

According to LOLLAF's financial records (2012 grant award letter and audited financial statements), LOLLAF was awarded and received Basic Field (\$2,331,529) and TIG (\$67,206) grant funds totaling \$2,398,735. In accordance with LSC's requirement and LSC's 2012 certification form, LOLLAF is required to maintain bond coverage on its crime policy at a level of at least 10 % of its Basic Field award from the previous year. Review of LOLLAF's current crime policy indicated that LOLLAF exceeded the minimum level by maintaining bond coverage in the amount of \$500,000, well above the requirements outlined in the LSC Accounting Guide, § 3-5.13, 45 CFR § 1629.1, and LOLLAF's 2012 certification form submitted to LSC.

In the DR, OCE recommended that LOLLAF meet annually with its insurance broker to determine if the program carries adequate levels of coverage for all its insurance needs. In its response to the DR, LOLLAF advised that the new Deputy Director of Finance and Administration met with the LOLLAF insurance broker on November 25, 2013 for a complete audit and will continue this practice on an annual basis.

There are no corrective actions required.

**Finding 35: A limited review of the recipient's accounting records evidenced compliance with the requirements of 45 CFR Part 1630 (Cost standards and procedures). However, the program, with Board approval, must establish a written policy and corresponding procedures detailing how its derivative income sources are allocated.**

The purpose of 45 CFR Part 1630 is to provide uniform standards for allowability of costs, as recipient costs are required to be adequately and contemporaneously documented in business records accessible to LSC. *See* 45 CFR §§ 1630.1 and 1630.3(a)(9). Accordingly, any derivative income resulting from LSC funding shall be allocated to the fund in which the recipient's LSC grant is recorded. *See* 45 CFR § 1630.12(a). *See* also LSC Accounting Guide, § 2-2.7.

Review of financial records (the 2012 audited financial statements, June 30, 2013, interim financial statements, and cash receipts journal, and supporting documentation) indicated that the LOLLAF received interest income from investments and other banking sources. According to one (1) program accountant and the Deputy Director of Finance and Administration, LOLLAF proportionately allocates interest income between LSC and non-LSC funds based on a percentage of the total fund balance to the non-LSC fund balance at the end of each month with the remaining balance, or difference, allocated to the LSC fund. This was supported by a review of its financial reports for June 30, 2013.

An examination of LOLLAF's informal methodology and allocation procedures for distributing LSC and non-LSC funds proportionally appears to be reasonable. However, the DR noted that LOLLAF, with Board approval, must establish a formal written policy and corresponding procedure detailing how its derivative income sources are allocated (i.e., interest earned, rental income, etc.). See 45 CFR § 1630.12 and LSC Accounting Guide, § 2-2.7. In response to the DR, LOLLAF concurs and advises LSC that it intends to draft a formal written policy and corresponding procedure detailing the allocation of derivative income between LSC and non-LSC funds. It has established an October 30, 2014 deadline for this draft.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report, indicating the status of the draft policy. Thereafter, we would appreciate an update every 60 days until the LOLLAF Board has approved this policy and it has been implemented.

**Finding 36: A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is in compliance with the requirements of the LSC Accounting Guide, § 3-5.2.**

Bank statements shall be reconciled monthly to the general ledger by a person who has no access to cash, who is not a regular check signer, and has no cash bookkeeping duties. Reconciliation procedures shall be documented to ensure timeliness and accuracy. Proper reconciliation procedures will substantially increase the likelihood of irregular disbursements and recording errors being discovered on a timely basis. Reconciliation procedures are a fundamental control technique and failure to use them may be interpreted as negligence, especially in an environment where a complete segregation of duties is not practicable.

A limited review of LOLLAF's financial records (cash receipts logs, monthly deposits, cash receipts and disbursement journals, bank statements, bank reconciliations, and the general ledger) determined that LOLLAF has adequate bank reconciliation procedures. A sampling of banking transactions from seven (7) bank accounts indicated that the transactions were reconciled to the general ledger, the bank reconciliations were performed on a monthly basis, outstanding checks were promptly investigated, and control duties were properly delegated.

According to a program accountant and the Deputy Director of Finance and Administration, LOLLAF performs bank reconciliations timely on a monthly basis and assignments are properly carried out during the reconciliation process. The review, however, evidenced that LOLLAF's

bank reconciliations were not always signed and dated by the preparers and, due to this inconsistency, it could not be determined if LOLLAF timely performed its monthly bank reconciliations. In the DR, LSC advised that LOLLAF must ensure that its bank reconciliations are signed and dated each month by the preparer and reviewer. In response, LOLLAF advised that the Deputy Director of Finance and Administration will ensure that bank statement reconciliations are signed and dated by both the preparer and the reviewer. In addition, the DR recommended that LOLLAF include the disbursement date on its bank reconciliation form for all outstanding checks. *See* LSC Accounting Guide, Appendix VII, § I(6). In its response to the DR, LOLLAF indicated that it will determine whether the new accounting software can generate reports with the disbursements dates for outstanding checks on these bank reconciliation forms.

No additional action is required with respect to this finding.

Comments made by LOLLAF in response to the DR have been incorporated into this Finding.

**Finding 37: A limited review of fiscal documents and interviews with staff evidenced that LOLLAF is not in compliance with the requirements of the LSC Accounting Guide, § 3-5.7.**

Client trust funds are funds received from or on behalf of a client. A separate escrow bank account must be opened and designated solely for client trust funds. A separate client trust record must be maintained for each client to document the receipt and disbursement of client funds. The total indicated on the individual client trust records must equal the cash balance in the escrow bank account's corresponding liability accounts. Client trust funds are not the property of the recipient and should not be reflected in the statement of activity. However, the cash balance in the escrow bank account, and an offsetting liability balance, is reported on the statement of financial position and changes in the amount of client trust funds are reported in the statement of cash flows.

Recipients should consult with their local bar associations to determine what is required for the proper handling of client trust funds. State escheat laws govern the disposition of unclaimed client trust funds. *See* LSC Accounting Guide, Appendix V -- Accounting for Client Trust Funds.

A review of LOLLAF's client trust accounts practices indicated a need for improved internal controls. Several employees failed to follow LOLLAF's policy by accepting cash payments from clients in several offices. In addition, it was determined that the review conducted by the main office of the client trust bank account reconciliations was untimely. It was further determined that LOLLAF had a weakness in its segregation of duties, because the administrative secretary in each office not only recorded the receipt of client payments to the individual client ledger account, but also made the client trust deposits and prepared the monthly bank reconciliation for the client trust accounts. This lack of segregation of duties allowed for the theft of client funds in one (1) of the offices. By the time the client trust bank reconciliations were reviewed by the administrative office and it was determined that one (1) client trust account was imbalanced, several months had elapsed. According to LOLLAF's client trust policy, cash related to client funds are not to be accepted. In the branch office where the theft occurred, one

(1) client made cash payments on numerous occasions. It is recommended that LOLLAF follow its own policy related to the receipt and collection of cash intended for the client trust account.

According to a program accountant and the Deputy Director of Finance and Administration, during the administrative review of one (1) client's individual client ledger account in June 2013, it was determined that the account was imbalanced. Upon further review, the imbalance was attributed to a specific client whose funds, in the amount of \$617.44, were reported as being deposited on December 5, 2011, according to their individual client ledger account. However, it was determined that the funds were never actually deposited (as reported) in the client trust bank account even though the corresponding December 2011 client trust account bank reconciliation indicated that the account was balanced. Upon discovery of the theft, LOLLAF filed a timely report with the LSC Office of Inspector General; however, it failed to notify the local police department. In the future, it is recommended that LOLLAF notify its local police department upon discovery of an employee theft. Furthermore, two (2) attorneys interviewed as part of the review were unaware of LOLLAF's client trust policy regarding the receipt and collection of cash payments made by clients. It is recommended that LOLLAF provide training to all staff involved in the client trust fund process.

Prior to the on-site compliance review, LOLLAF initiated training of some staff involved in the client trust process. In the DR, LOLLAF was requested to provide training to all staff involved in the client trust fund process. It was also recommended that all staff be trained on the basic theory of segregation of duties, particularly in the handling of client trust funds; such an understanding will enable staff to work as a team to safeguard these funds. Finally, although LOLLAF's main office conducts a review of the client trust account bank reconciliations prepared by each branch office, the reviews should be conducted on a timely basis. *See* LSC Accounting Guide, § 3-5.7(c) ("The total of the individual client funds held should be reconciled to the general ledger bank account balance and general ledger liability balance on a monthly basis.")

In response to the DR, LOLLAF noted that it was already in the process of updating the policies and procedures pertaining to the segregation of duties for client trust accounts. It has set a July 31, 2014 deadline for this draft. In addition, the program accountants had already started the process of retraining all staff on the process of accepting cash payments. LOLLAF states that its staff are only authorized to accept cash payments in very limited circumstances. It further advised that it will continue to monitor this on a regular basis.

#### IV. RECOMMENDATIONS<sup>34</sup>

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

1. Review its PAI closing memorandum to ensure that *pro bono* and compensated attorneys are able to include a description of the legal advice given and the brief service provided to the client to ensure compliance with the CSR Handbook, §§ 5.6 and 10.5, requirements regarding the documentation of legal advice provided; (Finding 17)

In its comments to the DR, LOLLAF indicates it has revised the PAI closing memorandum so that all *pro bono* or compensated attorneys are able to provide or attach a brief summary of advice given or assistance provided for those cases closed with an “A” or “B” closing code. The revised form has been posted on the shared drive and sent to all Managing Attorneys and other PAI staff.

2. Conduct a survey of the hourly rate charged by private attorneys in the LOLLAF service area; (Finding 17)

In response to the DR, LOLLAF advises that the Administrative Office will coordinate with the Regional Offices to conduct a new survey of the hourly rate charged by private attorneys in the LOLLAF service area. It anticipates that the survey will be completed by the end of the year.

3. Revise the private bar involvement participating attorney contract to include a section on the reimbursement of expenses incurred by the participating attorney; (Finding 17)

In response to the DR, LOLLAF advises that the Executive Management Team is revising its private bar involvement participating attorney contract to include a section on the reimbursement of expenses incurred by the participating attorney. It anticipates completing these revisions by December 31, 2014.

4. Review its vendor list for any duplication of vendor names and make corrections as necessary. In addition, it should consider placing vendors who are no longer in use on inactive status; (Finding 31)

With respect to this item, LOLLAF explained that it will acquire a new accounting system. When it does this, it will update and correct the list of vendors.

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<sup>34</sup> 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. Annually meet with its insurance broker to determine if the program carries adequate levels of coverage for all its insurance needs; (Finding 34); and

In its comments to the DR, LOLLAF advised that the new Deputy Director of Finance and Administration met with the LOLLAF insurance broker for a complete audit and will continue this practice on an annual basis.

6. Consider including the disbursement date for all outstanding checks on its bank reconciliation form (Finding 36).

In its response to the DR, LOLLAF indicated that it will determine whether the new accounting software can generate reports with the disbursements dates for outstanding checks on these bank reconciliation forms.

## V. REQUIRED CORRECTIVE ACTIONS

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

1. Ensure it obtains the required level of documentation necessary to evidence citizenship or alien eligibility pursuant to 45 CFR Part 1626; (Finding 5)

In response to this corrective action item, LOLLAF took action and has developed a laminated Quick Guide to Client Eligibility for all staff with clear instructions regarding citizenship or alien eligibility documentation. Also, as noted above, LOLLAF has instituted a new Case Closing Compliance Checklist effective October 1, 2013.

No additional action is required.

2. LOLLAF must report and record attorneys' fees received during the accounting period in which the money from the fee award is actually received. It should consult with its IPA to determine how to report the error described above in Finding 15; (Finding 15)

In response to this corrective action item, LOLLAF forwarded OCE's Findings to its IPA to determine how to report the error.

Accordingly, OCE respectfully requests that LOLLAF provide updates to OCE, within 60 days of receipt of this report, regarding how it will report the error described in Finding 15.

3. LOLLAF must develop a formal written policy and corresponding procedure describing how attorneys' fees are to be allocated between LSC and non-LSC funds, in accordance with 45 CFR § 1630.12; (Finding 15)

In response to the DR, LOLLAF advised that it will draft these policies and procedures regarding the allocation of attorneys' fees by August 31, 2014.

Accordingly, OCE requests LOLLAF submit a status report on this required corrective action by September 15, 2014. The report should include a copy of the policy and documentation showing it has been adopted and implemented.

4. LOLLAF must provide a copy of the relevant page or pages from the 2013 audited financial statement with the notes reflecting the disclosure of the two (2) TIG subgrants; (Finding 18)

In response to this request, LOLLAF provided the requested information in the 2013 audited financial statement disclosing the TIG subgrants.

Based on the information provided by LOLLAF, OCE finds that the actions taken sufficiently satisfy this Required Corrective Action and that no further action is needed.

5. LOLLAF must develop a formal written policy that requires supporting documentation (e.g., receipts and registration confirmation) for credit card usage consistent with the LSC Accounting Guide, Appendix VII, § I(6); (Finding 31)

In response to the DR, LOLLAF concurs and advises LSC that it intends to draft a formal written policy requiring supporting documentation for credit card usage. It has set a June 30, 2014 deadline for this draft.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report, indicating the status of the draft policy. The report should include a copy of the policy and documentation showing it has been adopted and implemented.

6. LOLLAF must develop a formal written policy and corresponding procedure, with Board approval, describing how each of its derivative income sources are allocated between LSC and non-LSC funds, in accordance with 45 CFR § 1630.12; (Finding 35)

In response to the DR, LOLLAF concurs and advises LSC that it intends to draft a formal written policy and corresponding procedure detailing the allocation of derivative income between LSC and non-LSC funds. It has established an October 30, 2014 deadline for this draft.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report, indicating the status of the draft policy. Thereafter, we would appreciate an update every 60 days until the LOLLAF Board has approved this policy and it has been implemented.

7. LOLLAF's bank statement reconciliations must be signed and dated by the preparer and reviewer, in accordance with § 3-5.2(d) of the LSC Accounting Guide; (Finding 36)

In response to this corrective action item, LOLLAF advised that the Deputy Director of Finance and Administration will ensure that bank statement reconciliations are signed and dated by both the preparer and the reviewer.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report regarding any written changes to LOLLAF's bank reconciliation policies and procedures to reflect how LOLLAF will ensure the necessary actions taken place.

8. LOLLAF must have adequate segregation of duties in place to ensure that fiscal responsibilities are separated by physical control and recordkeeping so that the duties of posting or recording the client trust funds to the individual client trust account, depositing the client trust funds, and preparing the client trust account bank reconciliations are assigned to different employees. No one (1) employee should have the authority to initiate, execute, and record financial transactions; (Finding 37) and

In response to the DR, LOLLAF agreed and noted that it was already in the process of updating these policies and procedures. It has set a July 31, 2014 deadline for this draft.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report, indicating the status of the draft policy its implementation. LOLLAF is also requested to provide OCE with a copy of the policy when it has been drafted.

9. Ensure the client trust policy regarding the handling of cash is enforced and conduct staff training regarding the process of accepting cash payments. (Finding 37)

In response to the DR, LOLLAF explains that program accountants had already started the process of retraining all staff on the process of accepting cash payments. LOLLAF states that its staff are only authorized to accept cash payments in very limited circumstances. It further advised that it will continue to monitor this on a regular basis.

Accordingly, OCE respectfully requests that LOLLAF provide an update to OCE, within 60 days of receipt of this report, indicating the status of these training sessions.



**REGIONAL OFFICES:**

**EASTERN:**  
CHAMPAIGN  
SATELLITE: CHARLESTON

**NORTHERN:**  
SPRINGFIELD  
SATELLITE: DECATUR

**ADMINISTRATIVE OFFICE**  
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**SOUTHERN:**  
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**WESTERN:**  
ALTON

**CENTRAL**  
EAST ST. LOUIS

May 27, 2014

Ms. Lora M. Rath  
Director  
Office of Compliance and Enforcement  
Legal Services Corporation  
3333 K Street NW 3<sup>rd</sup> Floor  
Washington, DC 20007-3522

RE: Compliance Review Visit, Recipient No. 514050

Dear Ms. Rath:

Thank you for the opportunity to provide comments on the Draft Report of the compliance review your team conducted last fall. As you already know, the long term employee serving as Deputy Director of Finance & Administration at the time of the audit retired on December 31, 2013. His successor, who was present for the audit process, found the audit exit conference quite useful in planning which issues would be addressed first during 2014. Before commenting on the specific recommendations and required corrective actions made in the draft report, we would like to clarify a couple of things mentioned in the text of the report.

Clarifications

In the fourth sentence of the last paragraph on page 10 you write, "In addition, the Central, Southern, and Western Regional Offices conduct intake for applicants..." The sentence should read, "In addition, all regional offices conduct intake for applicants seeking Orders of Protection, and at outreach locations such as senior centers or courthouse based domestic violence, consumer or landlord-tenant projects."

In the last sentence on page 10, going into page 11 you write, "In addition, the Western Regional Office has one (1) staff person..." That should read, "In addition, the Eastern Regional Office..."



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In the second sentence of the first full paragraph on page 12 you write, Applicants must meet financial eligibility guidelines set at 80% of the area median income, which may or may not...” That should be two separate sentences reading, “Applicants must meet financial eligibility guidelines set at 80% of the area median income. These clients may or may not meet LSC financial eligibility requirements.”

In the first sentence of the first full paragraph on page 13, “LSC” should be added so that the sentence should read, “The majority of the Central Regional Office’s LSC cases are received through LARC.”

In the last part of the second sentence of the third full paragraph on page 20 you write: “...which was implemented after the review.” It should read, “...which was implemented on October 1, 2013.”

The last two sentences of the third paragraph on page 35 beginning “If LOLLAF cannot immediately place a case...” should be replaced with the following language which is more accurate: “Intake for pro bono divorce cases may open and close depending on the availability of pro bono attorneys. If intake is closed, clients who would be eligible for referral to a pro bono attorney are informed to call back at a later date.”

The second sentence on page 37 is incorrect. It should read, “Judicare referrals are for high priority cases and follow the regional office’s case acceptance policies. Domestic violence divorces would be one example of the types of cases referred.”

The word “webinars” should be removed from the last sentence of the fourth paragraph under Finding 21 on page 43.

RECOMMENDATIONS (Land of Lincoln concurs with all 6 recommendations).

Recommendation 1: The PAI Closing Memorandum has been revised so that all pro bono or compensated attorneys are able to provide or attach a brief summary of advice given or of services provided for cases closed as A or B. The revised form has been posted and sent to all Managing Attorneys and other PAI staff.

Recommendation 2: The Administrative Office will coordinate with the Regional Offices to conduct a new survey of hourly rates charged by private attorneys in our service area. Completion of the survey is targeted for the end of this calendar year.

Recommendation 3: The Executive Management Team is revising the private bar involvement participating attorney contract to include a section on the reimbursement of expenses incurred by the participating attorney. Completion of the contract revisions is targeted for December 31, 2014.



Recommendation 4: As part of a recommendation from the LSC-OIG, Land of Lincoln will be acquiring a new accounting system. Updating and correcting vendors will be a required part of that process.

Recommendation 5: Since the compliance review visit, the new Deputy Director of Finance and Administration held a meeting with our insurance broker on November 25, 2013 for a complete insurance audit, and will continue to do so once a year.

Recommendation 6: Land of Lincoln will determine if disbursement dates for outstanding checks can be incorporated into the reports generated in new accounting software.

### REQUIRED CORRECTIVE ACTIONS

Corrective Action 1: Land of Lincoln has developed a laminated Quick Guide to Client Eligibility for all staff with clear instructions regarding citizenship or alien eligibility documentation and has instituted a new Case Closing Compliance Checklist effective October 1, 2013.

Corrective Action 2: Land of Lincoln has already forwarded the relevant pages of this draft report to its IPA to determine how to report the error noted in Finding 15.

Corrective Action 3: It is Land of Lincoln's intention to have the policies and procedures regarding the allocation of attorneys' fees drafted by August 31, 2014.

Corrective Action 4: Copies of 2013 audit pages containing the notes reflecting the disclosure of the two (2) TIG subgrants are included with this response.

Corrective Action 5: It is Land of Lincoln's intention to have a policy and procedures that require supporting documentation for credit card usage consistent with the LSC Accounting Guide drafted by June 30, 2014.

Corrective Action 6: It is Land of Lincoln's intention to have a policy and procedures that detail how its derivative income sources are allocated between LSC and non-LSC funds by October 30, 2014.

Corrective Action 7: Deputy Director of Finance and Administration will make certain that bank statement reconciliations are signed and dated by both the preparer and the reviewer.

Corrective Action 8: With respect to segregation of duties for client trust accounts, Land of Lincoln was already in the process of updating its policies and procedures. It is Land of Lincoln's intention to have adequate segregation of duties drafted by July 31, 2014.

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Corrective Action 9: Prior to the receipt of this draft report, program accountants had already begun re-training of staff regarding the process of accepting cash payments. Land of Lincoln staff are only authorized to accept cash payments in very limited circumstances, and this process is being monitored on a regular basis.

We look forward to receiving your final report.

Sincerely,

*Lois Wood Christopher A. Dain*

Lois Wood  
Executive Director

Christopher A. Dain  
Deputy Director of Finance & Administration



**LAND OF LINCOLN LEGAL ASSISTANCE FOUNDATION, INC.**  
**NOTES TO FINANCIAL STATEMENTS (CONTINUED)**

For fiscal year 2013, LOLLAF was awarded attorney fees in two cases totaling \$1,300. The details of the two awards are provided below.

<u>Case Name</u>	<u>Type of Case</u>	<u>Amount of Award</u>
Kelly Jean McFall vs Joanne Coltrin	Landlord/Tenant	\$ 450
U. D. Earvin vs Reverse Mortgage Solutions, Inc.	Consumer	<u>850</u>
		<u>\$ 1,300</u>

LOLLAF anticipates an annualized basic field grant from LSC of \$2,459,258 for the twelve-month period ending December 31, 2014. The LSC grant is temporarily restricted for purposes authorized under the Legal Services Corporation Act of 1974, as amended.

The Legal Services Corporation also awards Technology Initiative Grants (TIG's) to LSC programs across the country. These grants provided funds necessary for programs to acquire and utilize more technologically advanced equipment and services. A new 30 month LSC Technology grant was received in 2011, effective October 1, 2011. LOLLAF has LSC-approved subgrants each with Legal Assistance Foundation of Metropolitan Chicago and Prairie State Legal Services, Inc. The purpose of these subgrants is to assist in developing a statewide online access and intake system through the statewide website.

Aging Agency Contracts - Contracts from the Area Agency on Aging of Southwestern Illinois, Area Agency on Aging for Lincolnland, Area Agency on Aging for East Central Illinois, and Midland Area Agency on Aging were provided to Land Of Lincoln during 2013 and 2012. The purpose of these contracts were to provide free legal services to senior citizens and long term care facility resident in the served counties of Central and Southern Illinois.

VOCA Grants - VOCA Grant Agreements with the IL Criminal Justice Information Authority and LOLLAF started in 1997 and continued during 2013. Their purpose is to provide free legal services to victims of domestic violence.

Attorney General Grants - Grants from the Attorney General of Illinois were awarded to LOLLAF under the Violent Crime Victims Assistance Act Elder Abuse and Domestic Violence Program. The purpose of these grants was to provide services to victims in LOLLAF's Elder Abuse and Domestic Violence projects in Central and Southern Illinois. In addition, the Attorney General of Illinois awarded a grant to LOLLAF for foreclosure proceedings during 2013.