



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

**Mid-Missouri Legal Services Corporation**  
Compliance Review  
October 21-25, 2013

Recipient No. 526041

LSC Compliance Review Team

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## **I. EXECUTIVE SUMMARY**

**Finding 1: MMLS' 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: MMLS' intake procedures and case management system generally support compliance related requirements.**

**Finding 3: MMLS maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions.**

**Finding 4: MMLS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4; however, a revision to its asset eligibility policy is warranted to demonstrate compliance with this regulation.**

**Finding 5: MMLS is in compliance with the requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens).**

**Finding 6: MMLS is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).**

**Finding 7: MMLS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).**

**Finding 8: MMLS is in compliance with the requirements of 45 CFR §§ 1620.3(a), 1620.4, and 1620.6 (Priorities in the use of resources).**

**Finding 9: MMLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).**

**Finding 10: MMLS' application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).**

**Finding 11: MMLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases).**

**Finding 12: MMLS is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases.**

**Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, MMLS should revise the caption of its 45 CFR Part 1604 policy.**

**Finding 14: A limited fiscal and sampled case review, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

**Finding 15: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).**

**Finding 16: A limited review of MMLS' accounting and financial records indicate compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds, and program integrity. However, during the period of January 2011 to August 2013, MMLS was in only substantial compliance with 45 CFR § 1610.5 (Notification). MMLS has now established a written policy to ensure compliance with 45 CFR § 1610.5 and remedial action has been taken to notify all funders of the prohibitions and conditions which apply to the funds.**

**Finding 17: MMLS is in 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. MMLS has met their required 12.5 percent PAI expenditures for the years 2011 and 2012; however, MMLS is not in compliance with 45 CFR § 1614.3(e)(1)(i) in that it has not included in its PAI allocation calculation administrative, overhead, staff, and support costs related to PAI activities.**

**Finding 18: MMLS is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants utilizing LSC funds.**

**Finding 19: Review of the recipient's policies and interviews with members of management and staff evidenced that MMLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).**

**Finding 20: Review of sampled cases, as well as interviews with management and staff members, evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).**

**Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

**Finding 22: Review of recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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:** Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

**Finding 24:** Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

**Finding 25:** Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

**Finding 26:** Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

**Finding 27:** Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

**Finding 28:** Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

**Finding 29:** Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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:** Review of MMLS' policies evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).

**Finding 31:** A limited review of MMLS' internal control policies and procedures evidenced compliance with the elements as outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.), with a few exceptions.

**Finding 32:** MMLS is in compliance with the Payroll Guidelines of the Accounting Guide as it maintains adequate personnel files, supporting documentation of payments, and corresponding reviews and approvals.

**Finding 33:** Based upon interviews with the Chairman and a Senior Member of MMLS' Board of Directors and a limited review of the Board of Directors' meeting minutes, it was

**disclosed that MMLS' Board of Directors' committees are in compliance with LSC's regulations and requirements relating to accounting and reporting practices.**

## II. BACKGROUND OF REVIEW

On October 21-24, 2013, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted an on-site Compliance Review at Mid-Missouri Legal Services Corporation ("MMLS"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of four (4) attorneys, and two (2) fiscal compliance analysts. Four (4) members of the team were OCE staff members and two (2) members were temporary employees.

MMLS is a 501(c)(3) not-for-profit civil legal services program that serves low-income people in 11 counties in central Missouri. The counties include: Audrain, Boone, Callaway, Chariton, Cole, Cooper, Howard, Miller, Moniteau, Osage, and Randolph. Its primary practice areas include family, domestic violence, health, housing, consumer, public benefits, income maintenance, education and employment law. MMLS utilizes a centralized intake system. MMLS has a staff of 13, employing nine (9) attorneys and four (4) other staff members.

In its 2012 submission to LSC, MMLS reported 1,332 closed cases. In its 2011 submission, MMLS reported 1,684 closed cases. For the year 2012, MMLS' self-inspection error rate was 0 percent. For the year 2011, MMLS' self-inspection error rate was 0.1 percent. MMLS reported a non-telephone case which lacked a citizenship attestation or documentation of alien eligibility. For the year 2010, MMLS' self-inspection rate was 0.1 percent. MMLS reported a non-telephone case which lacked a citizenship attestation or documentation of alien eligibility.

During 2011, 2012, and 2013, MMLS received LSC Basic Field Grants in the amounts of \$431,367, \$368,129, and \$375,941, respectively.

The on-site review was designed and executed to assess MMLS' compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that MMLS correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the Review Team assessed MMLS 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);

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<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 enforcement of this regulation was therefore only for the period prior to December 16, 2009.

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 Accounting Guide for LSC Recipients (2010 Ed.) ("LSC Accounting Guide").

In preparation for the visit, on July 30, 2013, OCE requested that MMLS provide certain case lists. Case lists requested included all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases reported in its 2012 CSR data submission ("closed 2012 cases"), all cases closed between January 1, 2013 and August 15, 2013 ("closed 2013 cases"), and all cases which remained open as of August 15, 2013 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by MMLS staff and the other for cases handled through MMLS' PAI component. OCE requested that each list contain the client name, the file identification number, the name of the case handler assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. MMLS was advised that OCE would seek access to case information 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). OCE instructed MMLS 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.

On August 19, 2013, MMLS responded in writing and provided documentation indicating that pursuant to Rule 4-1.6 of the Missouri Supreme Court Rules of Professional Conduct, titled "Confidentiality of Information," MMLS is prohibited from revealing information relating to the representation of a client, which has not been disclosed to an unprivileged third party, which encompasses the clients who have been provided "counsel and advice," "limited action," and "extensive service," i.e. the cases with closing codes "A," "B," and "L." MMLS suggested, and LSC agreed, that in lieu of the client's full name on case lists, MMLS would utilize a unique client identifier (hereinafter "UCI") composed of an alpha-numeric combination that was comprised of the first initial of the client's name, the first three (3) letters of the client's last name, the client's birth date, and the client's gender (F or M).

Thereafter, MMLS provided the materials in a timely manner. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately among open and closed cases. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely case closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

During the visit, MMLS cooperated fully and provided the requested materials.<sup>3</sup> MMLS afforded access to information in the case files through staff intermediaries. MMLS maintained possession of the case files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and MMLS agreement of September 11, 2013. OCE reviewed a sample of 375 cases and interviewed members of MMLS' upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed MMLS' case intake, case acceptance, case management, and case closure practices and policies for staff and PAI programs. OCE fiscal staff reviewed MMLS' compliance with the LSC grant, conducting a limited review of internal controls, assessed whether MMLS engaged in prohibited political activities, received fees from non-permissible fee-generating cases or non-permissible attorney fee awards, engaged in lobbying activity, as well as reviewing MMLS' use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, its timekeeping, cost standards and procedures, and other fiscal activities. A sampling of informational pamphlets and brochures was reviewed for compliance with 45 CFR Part 1608.

During the course of the visit, OCE advised MMLS of any compliance issues as they arose. OCE notified members of MMLS' upper and middle management and fiscal personnel of compliance issues identified during the review. OCE advised MMLS of its preliminary findings on Thursday, October 24, 2013, at the Columbia office. OCE explained to MMLS that the findings were preliminary, that OCE may make further and more detailed findings in the Draft Report ("DR"), and that MMLS would have 30 days to submit comments to the DR. MMLS was advised that a Final Report would be issued that would include MMLS' comments, where appropriate. MMLS was further advised that OCE may request additional documentation or a demonstration that the required corrective action items have been implemented.

During the exit conference, OCE advised MMLS that, with few exceptions, its staff members were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC, and that MMLS has in place policies, procedures, and practices designed to facilitate compliance-related activities.

By letter dated March 20, 2014, OCE issued a DR containing findings, as well as recommendations and required corrective actions, stemming from the on-site review. The program was given 30 days to provide written comments to the DR. On April 15, 2014, MMLS requested an extension, until April 26, 2014, to submit these comments. MMLS' comments

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<sup>3</sup> LSC had access to un-redacted financial records where the client's identity has been disclosed to an unprivileged third-party. Where, however, there has been no such disclosure, MMLS had the option of redacting the client's name and replacing it with the appropriate UCI format proposed above or MMLS had the option to leave the client's identity un-redacted on the financial records. LSC had access to un-redacted citizenship attestations where the client's identity had been disclosed to an unprivileged third-party or where there is was a signed retainer agreement. Where, however, there has been no such disclosure and/or no retainer agreement, LSC agreed to accept partial disclosure of client names in a manner that was consistent with the agreed upon UCI formats as outlined in the body of the letter of agreement of September 11, 2013, and in a manner which allowed the review team to determine compliance with Part 1626. In addition, LSC had access to un-redacted client statement of facts.

were received on April 26, 2014 and have been incorporated in this Final Report, where appropriate.

### III. FINDINGS

**Finding 1: MMLS' 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 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.

MMLS uses Kemps as its ACMS. Based on a review of the ACMS and intake interviews conducted, MMLS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. It is recommended that MMLS add a field to its ACMS to allow intake staff to indicate that it has made an inquiry regarding applicants' income prospects pursuant to 45 CFR § 1611.7(a)(1). The ACMS does not currently contain a method to verify that the screening has been conducted. It is further recommended that a procedure be developed by which excludable assets, per MMLS' policy, are not included in the "total assets" figure calculated by the ACMS. Although MMLS' intake staff and Litigation Director ("LD"), who reviews all applications and makes the final determination regarding eligibility, indicate an understanding of the asset policy, the current practice is to record even excludable assets in the ACMS assets fields. Including excludable assets in the ACMS assets fields frequently results in the "total assets" calculation appearing to exceed MMLS' assets ceiling. Intake staff is aware of the excludable assets; however, it would be prudent to develop a method of recordation of these assets which would separate them from countable assets in the ACMS.

Based on a comparison of the information elicited from the ACMS to information contained in the cases sampled, MMLS' use of its ACMS is sufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded.

There are no corrective actions or recommendations warranted.

#### MMLS' Response and LSC's Assessment

Comments to the DR stated that "MMLS agrees that its use of its ACMS ensures that information needed to effectively manage its cases is timely and accurately recorded . . . , but MMLS has revised its policies and practices in response to two comments made by the Compliance Review Team, as follows:

(a) Prospective Income: Since the Compliance Review visit in October, 2013, MMLS has upgraded its ACMS to Kemp Prime version 14.2 which has a dedicated field to capture verification of prospective income. The MMLS Intake Procedures have been revised to require

intake specialists to check that box after asking each applicant about income prospects, and intake staff have been trained in its use.

(b) Applicants for MMLS services must review and verify that their income and asset information is correct. In the past, MMLS listed all assets on the eligibility screen of its ACMS so that applicants would not be confused if ‘excludable assets’ were not listed. Because intake staff are well trained regarding asset eligibility, MMLS has had no errors in determining asset eligibility. However, MMLS understands that including "excludable assets" in total assets may create confusion to reviewers. Thus, it has amended its Intake Procedures to require staff to put the value of excludable assets in the asset description column but not in the asset value column from which total assets are automatically calculated by the ACMS.”

**Finding 2: MMLS’ intake procedures and case management system generally support compliance related requirements.**

MMLS’ intake eligibility screening processes and procedures were assessed by conducting interviews with intake staff based in the Columbia office, as well as intake staff from the Jefferson City office. Interviews were also conducted with management and staff to assess case management and oversight procedures. Lastly, the ACMS and paper forms utilized by MMLS during the intake process were reviewed and collected, where appropriate.

**MMLS Intake, Case Management and Oversight, and Closure Procedures**

MMLS maintains a centralized telephone intake system. Intake eligibility screening is conducted Monday through Friday, from 9:00 am until 3:00 pm. The Columbia office employs two (2) full-time intake staff and the Jefferson City office employs one (1) intake staff member. Applicants from counties covered by MMLS are able to call either office to apply for services. Most intake eligibility screening is conducted via telephone; however, in-person applicants with emergencies or who are unable to call due to a lack of telephone or a disability will be screened in-person by available intake staff. Applicants with time-sensitive legal matters and those whose well-being may be at risk are considered emergencies.

MMLS developed a guide titled “Intake Procedures of Mid-Missouri Legal Services” (“intake manual”) which was approved on October 16, 2013, and provided to LSC in advance of the on-site visit. The intake manual describes in detail the procedures to be used by intake staff when conducting eligibility screenings. MMLS also drafted a separate eligibility policy, which includes its Board of Directors approved financial eligibility guidelines, in order to assist staff when conducting eligibility screenings. MMLS maintains bifurcated financial eligibility limitations for LSC funded cases as follows: extended representation may be provided to individuals whose income does not exceed 100 percent of the Federal Poverty Guidelines (“FPG”) and limited services may be provided to individuals whose income does not exceed 125 percent of the FPG. MMLS’ financial eligibility policy was found to be in compliance with 45 CFR Part 1611.

MMLS’ intake staff utilize the ACMS to conduct intake eligibility screenings. MMLS does not utilize paper intake forms. The ACMS prompts and drop-down menus facilitate eligibility

screenings and intake staff ask appropriate questions while simultaneously entering the information obtained into the ACMS. Six-way conflict and duplicate case checks are conducted utilizing the ACMS after essential applicant and opposing party information is obtained. Citizenship and alien eligibility screening is then conducted, with compliant documentation obtained for in-person applicants. *See* 45 CFR Part 1611 and CSR Handbook (2008 Ed., as amended 2011), § 5.5. Financial eligibility screening, including 45 CFR § 1611.7(a)(1) required income prospects screening, follows, with drop-downs utilized to facilitate the screening for various income and asset sources. The ACMS is programmed to calculate an applicant's income and the FPG percentages as well as asset eligibility. Intake staff also utilize a drop-down menu to record expenses in the ACMS, pursuant to 45 CFR § 1611.5 income exceptions, for applicants with income between 125-200 percent of the FPG. Case handlers and support staff use the recorded information regarding expenses to complete a "Waiver of Income Limitations (45 CFR § 1611.5(b))" that is required to be signed by the Executive Director ("ED") or her designee.<sup>4</sup> Additional ACMS screens collect demographic information related to ethnicity, gender, marital status, living arrangements, military service, language, disabilities, etc., as well as information related to the applicant's legal issue.

Intake staff is authorized to inform applicants when they are clearly not eligible for services; however, if there is a question regarding financial eligibility or a potential conflict of interest, management must be consulted. Intake staff evidenced an understanding of MMLS' priorities and, additionally, utilize a MMLS Cheat Sheet, indicating an "updated" date of August 5, 2013, to guide them with regard to the types of cases that can be represented, the eligibility guidelines of MMLS' various funding sources, and to whom cases should be forwarded if the applicant is found eligible. All applicants determined to be eligible for services by intake staff are informed that their case will be reviewed at a weekly case acceptance meeting held on the Friday following their application and that they will be informed whether their case has been accepted for representation via mail. Applicants are further informed that they are welcome to call the office after 10:00 am the following Monday if they would like to know the decision sooner.

The weekly case acceptance meeting is conducted by the LD, with all staff attorneys in attendance. Based on MMLS' staff presentation and discussion of applicants' legal issues, the LD determines whether or not a case is accepted for representation. The LD and Columbia's receptionist meet after the case acceptance meeting to facilitate the placement of accepted cases. Case assignments are made based on geographic area assignments and current caseloads. All opened cases are coded in the ACMS by the receptionist as having been accepted, funding codes are applied, and each case is entered under the name of the assigned staff attorney. For rejected cases, the intake staff member who conducted the eligibility screening is responsible for sending a rejection letter to the applicant within two (2) business days of the meeting. If there is a pending hearing or a responsive pleading date connected to an application, the rejection will be done over the telephone immediately following the meeting. All rejected applicants must be informed of their right to file a grievance.

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<sup>4</sup> Although the form is styled "Waiver of Income Limitation," MMLS utilizes the authorized exceptions as outlined in 45 CFR § 1611.5.

Cases accepted for representation are sent an intake packet including an Application for Services letter, Letter of Acceptance and Mutual Responsibilities, a retainer, and an ACMS intake printout. The ACMS intake printout includes two (2) signature lines; one (1) signature line is for the applicant to attest that the information provided “is a true and accurate statement” of their “financial situation and the facts” of their legal issue and the other is a citizenship attestation. Although the attestation included on the ACMS printout is sufficient to comply with 45 CFR Part 1626, as well as the CSR Handbook (2008 Ed., as amended 2011), § 5.5, MMLS requires all in-person applicants and clients to sign a separate Citizenship Attestation Form.

The LD is responsible for conducting case oversight. Due to the small size of the program, the LD has the ability to be continuously apprised of the status of active cases. The LD indicated that she more closely monitors the cases being handled by newer attorneys and that she is able to speak with them in-person as they are all based out of the Columbia office. She further indicated that she conducts less oversight of her more experienced attorneys, including the attorney based out of the Jefferson City office. The LD stated that, in addition to the frequent in-person communication that she has with her attorneys, she also reviews open cases in the ACMS and communicates any questions she has in-person or via email (for Jefferson City) to the case handlers. The ED also conducts supplemental case oversight by running quarterly ACMS reports to check on open cases. She also indicated that a comprehensive case review is conducted at the end of each year to ensure that the year’s cases contain all necessary documentation, that they are not untimely or dormant, and to verify that they are properly coded for CSR purposes.

Case closure procedures in the Columbia and Jefferson City offices are identical. Interviews with the receptionists of both offices verified that case handlers are primarily responsible for closing their cases, but indicated that the receptionists conduct additional reviews of each closed case and are tasked with closing the cases electronically. When a case is ready for closure, case handlers draft a closing memorandum in the ACMS case notes section, and also enter closure information on “page 3” of the ACMS indicating what legal work was done on the case, the reason the case is being closed, and the CSR case closure category that should be used. Case handlers are responsible for sending closing letters, if needed, and for returning any necessary documents to their clients. After a case handler has completed the aforementioned tasks, they will forward the closed case to their receptionist who completes a Closing Check-List form which is used to ensure that all necessary documents and information are contained in the closed case. Once the Closing Check-List is completed, and the receptionist has verified that all required information and documents are contained in the case, she will proceed to close the case electronically and place the case in the appropriate cabinet.

MMLS intake staff did not have a good understanding of the applicability of the Violence Against Women Act (“VAWA”) as it relates to LSC funding. MMLS indicated that a separate source of funding would be used for applicants/clients with issues covered by VAWA. It would be prudent for MMLS to train its intake staff regarding Program Letter 06-02, Violence Against Women Act 2006 Amendments, as these cases, even if funded by a separate funding source, could be included as CSR compliant and reported to LSC in their CSRs. Also, LSC funds may be utilized for VAWA cases.

MMLS intake staff also did not have a good grasp of MMLS' procedure for accepting group cases. All intake staff interviewed indicated that they would ask their Managing Attorney about this procedure if they came across a group applicant. Interviews with the ED revealed that, although MMLS' Board of Directors has correctly included the requirements for the representation of groups in its financial eligibility policy, MMLS has not implemented the allowed practice. The ED indicated that their priorities and the need of the client population simply do not create a need to focus on the representation of group cases. *See* 45 CFR § 1611.6.

Lastly, MMLS intake staff did not have a solid understanding of MMLS' Board of Directors approved 45 CFR § 1611.4(c) exception (often referred to as the Government Benefits Exemption) detailed in its financial eligibility policy. Interviews with the ED revealed that, although MMLS' Board of Directors has included the exception in its financial eligibility policy, MMLS has not implemented the exception as part of its intake procedures. The ED indicated her preference that intake staff collect all financial eligibility information from applicants, as the information is frequently needed during the course of a representation. MMLS' financial eligibility policy correctly indicated this requirement, although the specific approved governmental programs are not included in its policy. MMLS was reminded that if it chooses to implement the exception detailed in 45 CFR § 1611.4(c) as included in its financial eligibility policy, its Board of Directors must approve the specific governmental programs it intends to include in the exemption. *See* 70 Fed. Reg. 45545, 45552 (August 8, 2005), *available at* <http://www.lsc.gov/sites/default/files/LSC/pdfs/2005-08-081611FinalRule.pdf>. Alternatively, MMLS could remove this exception from its policy.

As such, it was recommended that MMLS take measures to ensure that intake staff has a good understanding of the applicability of the VAWA Amendments to LSC funding. As discussed in more detail under Finding 3, MMLS was further advised, that if they chose to implement the MMLS Board of Directors approved financial eligibility screening exemption detailed in its financial eligibility policy per 45 CFR § 1611.4(c), its Board must approve the specific governmental programs it intends to include in the exemption.

#### *MMLS' Response and LSC's Assessment*

Comments to the DR stated that “[s]ince October 2013, MMLS has provided additional training to intake staff regarding the applicability of the Violence Against Women Act as it relates to LSC funding, and it will reinforce that training periodically. MMLS indicates in its ACMS that such VAWA cases are CSR compliant and reports them in its CSRs to LSC, regardless of the funding code.”

Further comments to the DR stated that “MMLS staff has been trained regarding eligibility criteria for ‘groups, but it has not accepted any such cases, primarily due to lack of resources. Additional training will be provided to intake staff to reinforce prior training.”

**Finding 3: MMLS maintains the income eligibility documentation required by 45 CFR Part 1611, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions.**

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>5</sup> *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

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

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

MMLS provided its Financial Eligibility Policy in advance of the review. In compliance with 45 CFR §§ 1611.3(c)(1), 1611.3(d)(1), and 1611.3(e), the policy sets forth the eligibility requirements to receive LSC funded assistance. The policy establishes an annual income ceiling of 125 percent of the FPG, provides expenses and factors to be considered for households whose incomes exceed 125 percent of the FPG, as well as noting that, when MMLS assesses the financial eligibility of a victim of domestic violence, MMLS will consider only the income and assets of an applicant and will not consider assets jointly held with the perpetrator. The policy further provides that only applicants who have been determined eligible under MMLS’ policies will be accepted for services.

MMLS’ Financial Eligibility Policy indicates that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC. Sampled cases reviewed for applicants whose income exceeded 125 percent of the FPG evidenced that services provided to the applicant were funded by non-LSC programs or qualified for LSC-funded services under an authorized exceptions pursuant to 45 CFR § 1611.5. Notwithstanding the program’s general

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<sup>5</sup> A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

client eligibility policies, MMLS will ordinarily provide extended legal assistance only when additional eligibility factors have been met. The purpose of this approach is to provide basic case evaluation, counsel, advice, and brief services to a broad segment of MMLS' client population. Extended services requiring more expenditure of program resources will be targeted toward eligible clients with the greatest economic and legal need, and toward cases that are consistent with MMLS' established priorities. MMLS gives special consideration to the legal needs of the elderly, institutionalized, disabled, and other special populations. MMLS will ordinarily limit extended services to those who are under 100 percent of FPG.

MMLS' group eligibility policy complies with the requirements of 45 CFR Part 1611. In addition, the program has developed procedures to ensure that groups are eligible for services in compliance with 45 CFR §§ 1611.7(a)(2),(b), and (c). MMLS may provide legal assistance to a group, corporation, association or other entity if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel and either: (1) the group, or for a non-membership group the organizing or operating body of the group, is primarily composed of individuals who would be financial eligible for LSC-funded legal assistance; or (2) the group has as a principal activity the delivery of services to those persons in the community who would be financially eligible for LSC funded legal assistance and the legal assistance sought relates to such activity.

All cases reviewed 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 does not exceed 125 percent of the FPG. As noted above, MMLS' financial eligibility policy includes the 45 CFR § 1611.4(c) (Government Benefits Exemption), however, the specific governmental programs the Board of Directors intends to include in the exemption are not listed in the policy. As also explained under Finding 2, if MMLS chooses to implement this screening exemption, its Board must approve the specific governmental programs it intends to include under the exemption.

#### *MMLS' Response and LSC's Assessment*

Comments to the DR stated that “[a]lthough the MMLS Policy Manual has authorized the use of financial eligibility ‘Governments Benefits’ exemption for many years, that policy was not implemented. The MMLS Board recently removed the financial eligibility “Government Benefits” exemption from its Policy Manual,” according to comments to the DR.

By email dated April 29, 2014, MMLS provided LSC with evidence documenting the Board of Director's removal of the “Government Benefits” exemption from it Policy Manual. Accordingly, LSC will close this Required Corrective Action.

**Finding 4: MMLS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4; however, a revision to its asset eligibility policy is warranted to demonstrate compliance with this regulation.**

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-approved asset eligibility policies.<sup>6</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 version of the regulation and 45 CFR § 1611.3(d)(1) of the revised regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the ED. The revised version allows the ED 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.

All cases reviewed contained asset screening and documentation. Accordingly, MMLS is in compliance with the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. However, MMLS' intake policy and procedures include the asset exclusion of the equity in one (1) vehicle, up to \$5,000, per applicant household, whether or not the vehicle is used for transportation. LSC Regulations, pursuant to 45 CFR § 1611.3(d)(1), allow for the exception of "vehicles used for transportation."

MMLS was required to take corrective action and amend their policy and procedure to reflect the requirement that an excluded vehicle be used for transportation, in compliance with 45 CFR § 1611.3(d)(1).

*MMLS' Response and LSC's Assessment*

Comments to the DR stated that "MMLS has amended its Policy Manual to reflect that the asset exclusion of the equity in one (1) vehicle, up to \$5,000, shall apply to a vehicle 'used for transportation.'"

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<sup>6</sup> A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

By email dated May 7, 2014, MMLS provided OCE with documentation indicating that their Policy Manual has been amended to comply with 45 CFR § 1611.3(d)(1). MMLS inserted language that mirrors the regulation, “vehicles used for transportation” and this language was approved by the Board of Directors on April 23, 2014. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close this Required Corrective Action.

**Finding 5: MMLS is in compliance with the requirements of 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; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

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>7</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, is the victims of sexual assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

All cases reviewed evidenced that the client was screened for citizenship/alien eligibility and all cases contained the requisite 45 CFR Part 1626 documentation. MMLS’ 45 CFR Part 1626 policy also comports with LSC regulations.

As such, there are no required corrective actions or recommendations.

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

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<sup>7</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

**Finding 6: MMLS is in compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).**

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.<sup>8</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

During the on-site review, extended service cases were sampled to assess whether MMLS was executing retainer agreements in accordance with 45 CFR § 1611.9.

All cases reviewed contained a retainer agreement, where required, and language identifying the client's legal issue and the nature of the services to be provided pursuant to 45 CFR § 1611.9. As such, there are no required corrective actions or recommendations.

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

**Finding 7: MMLS is in 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).

MMLS' policy is in compliance with the requirements of 45 CFR Part 1636. All cases reviewed evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of fact) as all sampled cases contained these statements, where required.

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<sup>8</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.

There are no required corrective actions or recommendations.

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

**Finding 8: MMLS is in compliance with the requirements of 45 CFR §§ 1620.3(a), 1620.4, and 1620.6 (Priorities in the use of resources).**

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.

LSC regulations further requires that staff who handle cases or matters, or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

In advance of the on-site visit, MMLS provided its 2012 Priority Statement which included Family law, Juvenile Court Proceedings, Elder law, Public Benefits, Health Access, Consumer and Utility, Employment, Housing and Education law.

All sampled cases reviewed were within MMLS' priorities in compliance with 45 CFR Part 1620. Interviews with the ED and a review of signed written agreements also evidenced that MMLS is in compliance with the requirements of 45 CFR § 1620.6.

There are no required corrective actions or recommendations.

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

**Finding 9: MMLS is in compliance with the requirements of the 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.

The on-site review evidenced that MMLS is in compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6, as all cases reviewed contained a description of legal assistance provided to the client.

There are no required corrective actions or recommendations.

MMLS did not offer any comments regarding Finding No. 9 in its response to the DR.

**Finding 10: MMLS' application of the CSR case closure categories is generally 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 closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.1.

The review assessed whether MMLS' application of the CSR case closure categories is consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). The sampled cases contained numerous examples of correctly used case closing categories, including more complex case closure categories. MMLS' application of the CSR case closure categories is generally consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011). However, the review also identified a limited pattern of error.

The pattern of error noted was the misunderstanding of the "L-Extensive Service" case closure category. MMLS was reminded that closing code "L" requires a citizenship attestation. Citizenship was noted in the cases closing in "L", but the clients never visited the office, so no attestation was obtained or required. *See* 45 CFR § 1626.6(a). Several sampled cases, such as closed 2012 Case Nos. 12E-1016294, 12E-2016037, 12E-1017253, and 12E-2014734, were cases identified in which MMLS employed the "L- Extensive Service" closure category when other case closure categories, such as "A-Counsel and Advice" or "B-Limited Action" would have been more appropriate. All other cases reviewed contained the correct closing codes consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

It was recommended that MMLS provide training to staff concerning Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011), and specifically on closing code "L-Extensive Service."

### MMLS' Response and LSC's Assessment

Comments to the DR stated that “MMLS has provided all staff with additional training since the OCE Compliance Review Visit regarding proper application of the CSR case closure categories, particularly closing code ‘L,’ consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended in 2011).” Further, comments to the DR stated that “reinforcement training will be provided, and staff will monitor closely those cases closed with an ‘L’ to ensure compliance.”

#### **Finding 11: MMLS is in compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing and dormant cases).**

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).<sup>9</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, 2008 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).

The review assessed compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3. All cases reviewed were timely closed and there were no dormant cases in compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3.

There are no required corrective actions or recommendations.

MMLS did not offer any comments regarding Finding No. 11 in its response to the DR.

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<sup>9</sup> The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

**Finding 12: MMLS is in substantial compliance with the requirements of the 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.

During the on-site review, several cases were targeted to test for duplicate reporting. Two (2) sets of duplicate cases were identified in the sampled cases: closed 2012 Case Nos. 12E-1015299 and 12E-1015297 (opened for the same client concerning the same legal matter – domestic abuse); and closed 2012 Case Nos. 12E-1015494 and 12E-1015493 (opened for the same client concerning the same legal matter – minor guardian/conservatorship).

As only two (2) sets of duplicates were identified, MMLS is in substantial compliance with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.2.

It was recommended that management develop a procedure to identify duplicate cases.

*MMLS' Response and LSC's Assessment*

Comments to the DR stated that “MMLS has amended its Intake Procedures to require staff to check the ‘unduplicated client’ field on page 2 of the new Kemp Prime version 14.2 during the intake process and has trained staff accordingly.” Further, comments to the DR stated that “intake staff determine during eligibility screening whether each applicant has had any cases with the same problem code, the same adverse party and the same set of facts at any time during the same year.”

**Finding 13: Review of the timekeeping records and interviews with full-time attorneys evidenced that MMLS is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, MMLS should revise the caption of its 45 CFR Part 1604 policy.**

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.

Interviews with management and staff members, as well as review of the recipient's policies confirmed that MMLS is not involved in any outside practice of law and is in compliance with the requirements of 45 CFR Part 1604.

Review of MMLS' Policy on Outside Practice of Law (Attorneys) evidenced that it is styled as "Outside Employment." MMLS should revise the caption of this policy to include "Outside Practice of Law." There is no prohibition against outside employment, unless the employment is a full time attorney practicing law, which was not permissible and authorized. See 45 CFR §§ 1604.1 and 1604.4. However, MMLS may prohibit outside employment if it chooses.

It was recommended that MMLS revise the caption of its 1604 policy to include "Outside Practice of Law."

#### MMLS' Response and LSC's Assessment

Comments to the DR stated that "MMLS has revised the title of its Personnel Policy regarding Outside Practice of Law (for attorneys)." MMLS' comments to the DR further stated that "the caption previously read 'Outside Employment' but now is titled 'Outside Practice of Law.'"

#### **Finding 14: A limited fiscal and sampled case review, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).**

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

MMLS has written rules prohibiting political activity as defined in 45 CFR Part 1608, contained in the MMLS Policy Manual which is available to all employees and which is used as a training document for all new staff.

A Cash Disbursement report generated from the MMLS accounting system, representing all (non-payroll) check payments to persons and entities from MMLS during the period January 1, 2011, through August 7, 2013, was scanned for disbursements to possible political entities with a negative result. Additionally, web pages of the MMLS on-line web-site (<http://www.lsmo.org/content/mid-missouri-legal-services>) and a search of on-line news articles mentioning MMLS were reviewed for indications of relationships with political activities or entities. A review of such materials found no indication of prohibited political activities.

In discussions with the ED, it was confirmed that MMLS has not been involved in any activities prohibited by 45 CFR Part 1608 during the period from January 1, 2011 to October 23, 2013.

A review of sampled cases disclosed no evidence that staff members, while engaged in legal assistance activities supported under the Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. MMLS is in compliance with the requirements of 45 CFR Part 1608.

There are no required corrective actions or recommendations.

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

**Finding 15: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, 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 cases where the case 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 ED 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 1609.3(b).

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

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.

MMLS has a written policy governing the acceptance of fee generating cases contained in the MMLS Policy Manual which is compliant with 45 CFR Part 1609 and Program Letter 10-1. The MMLS Accounting Manual defines the requirements for reporting and recording of attorneys' fees as defined by 45 CFR § 1609.4. It was also noted that the MMLS Accounting Manual includes a process for allocating derivative income (such as attorneys' fee awards).

During the period January 2011 through September 2013 MMLS received no Attorney fees. It has however been the recipient of court ordered Cy Pres awards relating to cases with which it has had no relationship. These awards have provided MMLS with unrestricted funds, including an award for over \$50,000 during 2013.<sup>10</sup>

There were no cases reviewed involving fee-generating cases and MMLS appears to be in compliance with 45 CFR Part 1609.

There are no required corrective actions or recommendations.

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

**Finding 16: A limited review of MMLS' accounting and financial records indicate compliance with 45 CFR Part 1610 in regard to the use of non-LSC funds, transfers of LSC funds, and program integrity. However, during the period of January 2011 to August 2013, MMLS was in only substantial compliance with 45 CFR § 1610.5 (Notification). MMLS has now established a written policy to ensure compliance with 45 CFR § 1610.5 and remedial action has been taken to notify all funders of the prohibitions and conditions which apply to the funds.**

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

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

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

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<sup>10</sup> The award was the result of a \$7.8 million class action lawsuit settlement from the case Allen & Lande v. UMB Bank which included nearly \$800,000 being distributed to legal service organizations as Cy Pres awards.

such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

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

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

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

Under 45 CFR § 1610.5, no recipient may accept funds of \$250 or more 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.

A review of MMLS' accounting and financial records including the operating account check register for the period January 2011 through August 2013, and the general ledger for 2012, found

no transfers of LSC or non-LSC funds or any subgrants. There were no indications of payments to organizations identified as participating in restricted activities in compliance with 45 CFR Part 1610.

A review of MMLS' Cash Receipts for the period January 2011 through August 2013, reflect the receipt of public and private funds in contracts, grants, and donations which required notification of the grantor of the conditions placed on the use of such funds. It was revealed that up until September 2013, MMLS had sent appropriate notification letters to independent public donors, however it had not sent such notification to grantors or contractors. MMLS sets out the 45 CFR § 1610.5 notification requirement in the MMLS Accounting Manual.

MMLS has taken corrective action to meet 45 CFR § 1610.5 requirements by revising the notification letter contained in the MMLS Accounting Manual Appendix Schedule A- Letters to Donors/Funders. In October 2013, MMLS sent retroactive notification letters using the Schedule A format to all donors and funders who had provided funding during the last three (3) years. During this visit, OCE was provided copies of the letters and they were found to be in compliance with 45 CFR § 1610.5.

Accordingly, MMLS is now in compliance with 45 CFR § 1610.5 and no further action is required.

MMLS did not offer any comments regarding Finding No. 16 in its response to the DR.

**Finding 17: MMLS is in 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. MMLS has met their required 12.5 percent PAI expenditures for the years 2011 and 2012; however, MMLS is not in compliance with 45 CFR § 1614.3(e)(1)(i) in that it has not included in its PAI allocation calculation administrative, overhead, staff, and support costs related to PAI activities.**

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5 percent 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 must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to

implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

Recipients are required to develop a PAI Plan and budget. *See* 45 CFR § 1614.4(a). The annual plan shall take into consideration the legal needs of eligible clients in the geographical area, the delivery mechanisms potentially available to provide the opportunity for private attorneys to meet legal needs, and the results of consultation with significant segments of the client community, private attorneys and bar associations, including minority and women's bar associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and expenses relating to the PAI effort in its year-end audit.

MMLS' 2011 through 2013 PAI plans were designed to ensure that MMLS involves private attorneys in the delivery of legal assistance to eligible clients through both pro bono and compensated mechanisms, via a staff administered Pro Bono Program and a Judicare Program in which MMLS contracts with private attorneys and law firms on a reduced fee plan which includes established maximum fees. MMLS has documented its PAI activities in separate Pro Bono and Judicare manuals.

The Audited Financial Statement ("AFS") for Fiscal Year Ending 2012 reported, in the schedule of expenditures dedicated to the PAI effort, the amounts of \$57,113 for 2011 and \$49,950 for 2012, which translates to 13.2 percent and 13.6 percent respectively of MMLS' total basic field grant in each of those years. These amounts exceeded the 12.5 percent PAI requirement.

Review of the schedule of PAI costs reflected in the AFS for 2012, as compared to supporting documents for PAI expenditures, disclosed that MMLS correctly allocates the salaries of attorneys and paralegals in actual time as reported in their timekeeping records and as required by 45 CFR § 1614.3(e)(1)(i). MMLS employees utilize Kemps Prime ACMS for timekeeping purposes and contemporaneously record PAI cases, matters and supporting activities. This time is coded and reported biweekly for payroll purposes. A test of the system was made by generating a salary summary for each employee for the current year (January-September 2013) reflecting PAI time and costs by pay-period. Two (2) employees were selected at random and a Kemps report generated, reflecting all PAI time the two (2) employees charged in 2013. The Kemps report also included cases/matters/support names or descriptions, times, and activities. A comparison of time slip charges to payroll reflected complete accuracy.

A review of MMLS' Judicare contracts and payments to private attorneys or law firms for the period January 2011 through August 2013 revealed that all attorneys receiving payments had contracts in force with established rates and billing requirements.

It was noted that MMLS' annual reporting of PAI costs were limited to direct personnel costs and Judicare contract costs. MMLS has a PAI cost allocation basis defined in its Accounting Manual which properly defines the process for determining certain appropriate overhead and indirect costs as defined in 45 CFR § 1614.3(e)(1)(i), however they have not included these costs in their annual reporting. Pursuant to 45 CFR § 1614.3(e)(1)(i), systems and records shall meet the requirements of the LSC Accounting Guide and shall accurately identify and account for the recipient's administrative, overhead, staff, and support costs related to PAI activities. MMLS must take corrective action and ensure that it includes in its PAI allocation the administrative, overhead, staff, and support costs related to PAI activities pursuant to 45 CFR § 1614.3(e)(1)(i).

MMLS has two (2) general projects that attorneys can participate; its Pro Bono Project or its Judicare Project. For attorneys participating in the Judicare Project, reimbursement is fixed at an hourly rate, and reimbursement caps are imposed by MMLS. Local attorneys are surveyed periodically to determine hourly fees and total case fees in the MMLS service area, and the Board of Directors reviews the fees and establishes maximum fees for particular cases. Fees paid may not exceed 50 percent of the average fee charged by local attorneys, and the Board of Directors reviews bi-annually whether fees are less than or equal to market value.

All applicants are interviewed by MMLS to determine eligibility. The intake screening process for PAI is no different for intake process for a staff case as discussed in Finding 2. If an applicant qualifies for services and has a legal issue that is within MMLS' priorities, the case is reviewed to determine whether it will be handled by a Judicare attorney or a Pro Bono attorney. Each case is distributed randomly to an attorney who has agreed to handle a particular type of case and to serve clients in the particular county.

Case oversight is provided by MMLS' LD and the PAI Coordinator. Case progress reports are obtained 30 days after referral, and every 90 days thereafter. If a case is open for more than six (6) months, the ED reviews its status. When a PAI case is closed, the PAI attorney must provide a closing report containing a brief description of the case, the outcome and reason closed, service hours spent on the case, and the regular fee the attorney would have charged for handling the case. MMLS provides a survey form letter that is mailed to each client to determine the level of satisfaction with the services provided. All CSR closing codes are assigned by the PAI Coordinator.

### Clinics

Uncontested Divorce Clinic (UDC): MMLS conducts an UDC at its Columbia office two (2) to three (3) times per month, based on demand. Pro Bono attorneys assist pro se litigants who have neither children nor assets from the marriage. All applicants are screened for eligibility as outlined in Finding 2. These cases are CSR eligible and closed as either "counsel and advice" or "limited services."

Power of Attorney Clinics: MMLS conducts power of attorney clinics in September and October each year as part of its Pro Bono activities with the Missouri University Law School ("MU"). This clinic involves a MMLS attorney and several law students who visit senior centers and low-

income housing projects to draft and execute health care directives with elderly and disabled people.

In order to more fully evaluate the clinics' compliance with LSC requirements, MMLS was asked to provide the following information with its comments to the DR: (1) the role MMLS' attorneys and MU students play in drafting the Power of Attorney documents; (2) an explanation as to whether individual attention and legal advice is provided to the participants, and if so, by whom; and (3) an explanation as to whether legal information that is being provided by lectures, brochures, seminars, etc., and if so, by whom. MMLS was also asked to provide any forms, documents, brochures, etc. that would help OCE better understand the work being done at these clinics.

In response to this request, MMLS provided the following comments to the DR:

MMLS has conducted power of attorney clinics periodically over the past few years. The Clinics are conducted in two parts because, generally, clients who attend the informational session does not have the names/addresses of their proposed agents with them at the informational meeting. The two-part process is as follows:

1. An MMLS attorney makes an informational presentation at a low-income senior housing project, using a power point, a copy of which is provided herewith. The attorney provides additional information if audience members have questions, but the attorney does not reply to legal or client-specific questions during the public session. At the end of the presentation, attendees who have client-specific questions and/or want to create and execute a health care power of attorney provide MMLS with their name, telephone number and time to be reached so that MMLS intake staff can call and screen them for financial eligibility. MMLS business cards also are made available to all attendees. Each person who wants to be screened is given a "POA Information Sheet" to fill out before their individual meetings with MMLS.

The list of interested applicants is given to MMLS intake staff who call and screen them for eligibility. Almost all applicants are eligible because most live in the HUD-housing projects visited by MMLS. The intake staff reminds the accepted clients to return their POA Information Sheet to the Resident Services Coordinator in their building and also provides them with the day and time that MMLS will return to the facility to help them finalize their HCPOA. That appointment is confirmed in a letter to the clients. The clients, usually with the assistance of their Resident Services Coordinator at the Senior Housing Project, return their POA information sheet to MMLS by fax. MMLS staff or volunteer law students type the information received for each client onto the Health Care POA forms.

2. The MMLS attorney returns to the facility, usually two weeks after the initial presentation, and volunteer attorneys and law students meet with each client at their scheduled time to review the health care power of attorney, complete it and notarize it. At that time, specific questions are answered and legal advice is given. The facilities allow MMLS to use their copy machines so that clients will have a sufficient number of copies for their agents, physicians and hospitals. After the meetings, the MMLS attorney sends a closing letter to each client, and clients are advised that MMLS retains a scanned version of their HCPOA if they need it in the future.

This information satisfies OCE's compliance concerns. The applicants are screened for financial eligibility, citizenship/alien eligibility and legal assistance is provided and documented. In addition, all cases are within MMLS' priorities.

Veteran's Clinic at Truman V.A. Hospital, Columbia: The MMLS Volunteer Lawyer Project Director ("VLPD"), works on-site at the Truman VA Hospital every Tuesday. The VLPD meets with the veterans who are referred by the VA Hospital. All veterans are screened for eligibility. For those veterans who are eligible and have legal problems within MMLS' priorities, they may be provided with advice immediately or for cases involving extended representation, referred to MMLS for assignment to a staff or PAI attorney during the weekly MMLS case conference. If immediate advice is provided by the VLPD or if the veteran is referred to an MMLS staff attorney for assistance, the case is closed as a staff case and reported in MMLS' CSR report. If the case is referred to a Pro Bono attorney, the case is closed as a PAI case and reported in the CSRs.

Housing and Domestic Violence Practicums: Although identified as a clinic, the practicum simply brings in MU law students to assist staff attorney with active housing and domestic violence cases. Cases worked on as part of the practicum are those that have been assigned to MMLS staff attorneys through the normal course of the intake process and are coded and closed in the same manner as all cases.

LSC requires recipients to create oversight and follow-up systems and procedures that are sufficient to track the timely referral, follow-up, and disposition of PAI cases. *See* 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4. MMLS has systems and practices in place to track PAI activities to ensure that PAI cases have effective oversight and follow-up which has led to a high rate of compliance. Interviews, case review, and review of PAI oversight documentation provided during the on-site review evidenced that MMLS is in compliance with 45 CFR § 1614.3(d)(3) and CSR Handbook (2008 Ed., as amended 2011), § 10.4.

All sampled PAI cases reviewed were in compliance with LSC regulations and the CSR Handbook (2008 Ed., as amended 2011).

MMLS was instructed to take corrective action to ensure that its PAI allocation includes administrative, overhead, staff, and support costs related to PAI activities pursuant to 45 CFR § 1614.3(e)(1)(i), and ensure that in 2013, and subsequent years, the Independent Public Auditors report reflects the full costs of its PAI activity, including direct and indirect costs as required by 45 CFR § 1614.3(e)(1)(i).

*MMLS' Response and LSC's Assessment*

MMLS was required to ensure that its PAI allocation includes administrative, overhead, staff, and support costs related to PAI activities pursuant to 45 CFR § 1614.3(e)(1)(i), and ensure that in 2013, and subsequent years, the Independent Public Auditors report reflects the full costs of its PAI activity, including direct and indirect costs as required by 45 CFR § 1614.3(e)(1)(i).

Comments to the DR stated that “[i]n order to fully comply with 45 CFR § 1614.3(e)(1)(i), MMLS shall include an indirect cost allocation in the PAI budget and in its annual reporting of PAI costs.” Further, comments to the DR stated that “[s]uch indirect costs are reflected in the 2013 Independent Public Auditors report and will be included in all future Audit reports.”

A review of MMLS' Audited Financial Statement for years ending December 31, 2013 and 2012 evidenced indirect and direct PAI cost being reflected as required by 45 CFR § 1614.3(e)(1)(i). LSC will therefore close this Required Corrective Action.

**Finding 18: MMLS is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and regulates the requirements for all subgrants utilizing LSC funds.**

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>11</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).

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<sup>11</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.

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

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

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

A review of accounting records and detailed general ledger for calendar year January 2011 through August 2013 disclosed that MMLS is in compliance with 45 CFR § 1627.4(a). It has been MMLS' practice to allocate costs to LSC funding at year-end (with the exception of PAI contract and personnel costs). In the allocation process, Chart of Accounts Code 47550-1 – Dues and Subscriptions, is fully charged (including Bar and registration fees required to practice law) to non-LSC funding as a precautionary method of ensuring compliance with 45 CFR § 1627.4(a).

MMLS is in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval for payments to attorneys in excess of \$25,000. Review of the MMLS General Ledger and payments to Judicare contract attorneys for the period 2011 through August 2013, found that MMLS paid no contract attorneys amounts reaching a \$25,000 annual limit, in compliance with 45 CFR § 1627.3. MMLS has no subgrants and they are otherwise in compliance with 45 CFR § 1627.3.

Accordingly, there are no required corrective actions or recommendations.

MMLS did not offer any comments regarding Finding No. 18 in its response to the DR.

**Finding 19: Review of the recipient's policies and interviews with members of management and staff evidenced that MMLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).**

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

to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability 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. 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.

MMLS utilizes the Kemps Prime Case Management System, a web based software which is capable of fully meeting the requirements of 45 CFR § 1635.3. As utilized, MMLS has made use of the Kemps system an integral part of the payroll system, which has ensured the contemporaneous recording of staff time within the system.

The review of two (2) advocates timekeeping records for the two (2) pay periods in January 2012 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).

There are no required corrective actions or recommendations.

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

**Finding 20: Review of sampled cases, as well as interviews with management and staff members, 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 correct and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.<sup>12</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.

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<sup>12</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).

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 December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. 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).

Review of sampled cases, as well as interviews with management and staff evidenced MMLS' compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

There are no required corrective actions or recommendations.

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

**Finding 21: Review of sampled cases, as well as interviews with members of management and staff, evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

The purpose of 45 CFR Part 1612 is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying activity, grassroots lobbying, participation in rulemaking, public demonstrations, advocacy training, and certain organizing activities. This part also provides guidance on when recipients may participate in public rulemaking or in efforts to encourage State or local governments to make funds available to support recipient activities, and when they may respond to requests of legislative and administrative officials.

MMLS has a written policy regarding 45 CFR Part 1612 in the MMLS Policy Manual (October 2013) -Prohibited Activities -Section III - Restrictions on Lobbying and Certain other Activities, which defines advocacy as allowed/prohibited by MMLS. These policies are reinforced in the MMLS Personnel Manual Part VIII-E - Employment Standards, which define compliance with 45 CFR Part 1612 and by the MMLS Attorney Performance Standards, Standard 12 - Legislative and Administrative Advocacy by Practitioners.

Review of MMLS' general ledger related financial records and sampled cases evidenced neither any permitted nor prohibited 45 CFR Part 1612 activities. Discussions with the ED confirmed that MMLS had not been involved in any 45 CFR Part 1612 activity during the period January 2011 through August 31, 2013.

There are no required corrective actions or recommendations.

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

**Finding 22: Review of recipient’s policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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.

MMLS’ Policy on Criminal Proceedings comports with 45 CFR Parts 1613 and 1615. None of the sampled cases reviewed involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction. Interviews with management and staff members also confirmed that MMLS is not involved in this prohibited activity.

There are no required corrective actions or recommendations.

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

**Finding 23: Review of the recipient’s policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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 as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations 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>13</sup>

MMLS’ Policy on Class Actions comports with 45 CFR Part 1617. None of the sampled cases reviewed involved initiation or participation in a class action. Interviews with management and staff members also confirmed that MMLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1617.

There are no required corrective actions or recommendations.

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

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<sup>13</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: Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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 sampled cases reviewed involved initiation or participation in redistricting activities. Interviews with management and staff members confirmed that MMLS is not involved in this prohibited activity.

MMLS has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures which are in compliance with the LSC regulation. Interviews and sampled cases reviewed confirmed compliance with this regulation.

There are no required corrective actions or recommendations.

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

**Finding 25: Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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 the person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

MMLS has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633 and it is in compliance with this regulation. None of the sampled cases reviewed involved defense of any such eviction proceeding. Interviews with management and staff members also confirmed that MMLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

There are no required corrective actions or recommendations.

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

**Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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.

MMLS' Policy on Representation of Incarcerated Persons comports with 45 CFR Part 1637. None of the sampled cases reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff members confirmed that MMLS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There is no required corrective action needed or recommendations.

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

**Finding 27: Review of the recipient's policies and sampled files, as well as interviews with members of management and staff, evidenced that MMLS is in 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. *See* Section 504(a)(18). 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: "[t]his part is designed to ensure that recipients and their employees do not solicit clients."

MMLS has a written policy governing the restrictions on solicitation as required by 45 CFR Part 1638 which comports with this regulation. None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that MMLS is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1638.

There are no required corrective actions or recommendations.

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

**Finding 28: Review of the recipient's policies and sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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, or mercy killing of any individual. Nor may LSC funds be used to bring suit to assert, or case handler, a legal right to suicide, euthanasia, or mercy killing, or case handler, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

MMLS' Policy on Restrictions on Assisted Suicide, Euthanasia, and Mercy Killing comports with 45 CFR Part 1643. None of the sampled cases reviewed evidenced involvement in these activities. Interviews with management and staff members confirmed that MMLS is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

There are no required corrective actions or recommendations.

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

**Finding 29: Review of sampled cases, as well as interviews with members of management and staff, evidenced that MMLS is in 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.

None of the sampled cases evidenced involvement with these prohibited activities. Interviews with management and staff members confirmed that MMLS is not involved in the aforementioned prohibited activities and is in compliance with these requirements. There are no required corrective actions or recommendations.

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

**Finding 30: Review of MMLS' policies evidenced compliance with the requirements of 45 CFR Part 1644 (Disclosure of case information).**

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. Under 45 CFR § 1644.4, the following information must be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

- a. the name and full address of each party to a case, unless the information is protected by an order or rule of court or by State or Federal law, or the recipient's attorney reasonably believes that revealing such information would put the client of the recipient at risk of physical harm;
- b. the cause of action;
- c. the name and full address of the court where the case is filed; and
- d. the case number assigned to the case by the court.

MMLS' Policy on Disclosure of Case Information comports with 45 CFR Part 1644.

There are no required corrective actions or recommendations.

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

**Finding 31: A limited review of MMLS' internal control policies and procedures evidenced compliance with the elements as outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.), with a few exceptions.**

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines,

instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, the LSC Accounting Guide, the CSR Handbook, the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process effected by an entity's governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) Effectiveness and efficiency of operations; (2) Reliability of financial reporting; and (3) Compliance with applicable laws and regulations. *See* Chapter 3 of the LSC Accounting Guide.

The LSC Accounting Guide provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Control Checklist that provides guidance to programs on how accounting procedures and internal control can be strengthened and improved with the goal of eliminating, or at least reducing as much as reasonably possible, opportunities for fraudulent activities to occur.

#### Segregation of Duties

A review of the Internal Segregation of Duties Worksheet, a matrix of internal controls submitted to MMLS and completed by MMLS' ED, disclosed that an adequate segregation of duties has been achieved by MMLS in most instances.

Since MMLS has one (1) Bookkeeper on the financial staff, it has required the ED to perform many of the internal control procedures, including approving all purchase orders, although checks equal to or over \$1,000 must be signed by two (2) employees. The challenge MMLS faces in ensuring proper segregation of duties with only one (1) Bookkeeper on staff was discussed with the Chairman of the Board of Directors ("Chairman") during the interview conducted while on-site. The Chairman understands that there are internal control risks due to only having one (1) Bookkeeper and that the ED is performing internal control procedures to help mitigate this fact. The Chairman stated that the Board of Directors was willing to have a certain degree of internal control risk. The Board of Directors believes that the benefit of employing additional financial staff to further reduce the risk would not be cost effective.

A limited review of disbursements, which included a review of nine (9) expense reports, also disclosed that the ED's expense reports are approved by the LD who reports directly to the ED. This presents a weak link in the segregation of duties since the approval of the ED's expense reports are conducted by a subordinate, the LD. Strong internal controls require that a supervisor approve an employee's expense reports. *See* LSC Accounting Guide, Chapter 3, §§ 3-4.3 and 3-4.4 (Internal Controls Structure). Therefore, MMLS was advised that the Board of Directors, which supervises the ED, should review the ED's expense reports. The Board of Directors' review and approval of the ED's expense reports could be conducted after the LD's review.

## Cash Receipts and Cash Disbursements

A review of cash receipts for the operating account and the client trust accounts for the month of June and July of 2013 disclosed compliance with MMLS' Accounting Manual Policies and Procedures, and the LSC Accounting Guide recommendations for internal control procedures for cash receipts.

A review of cash disbursements for MMLS' operating account and client trust accounts for the months of June and July 2013 also disclosed compliance with MMLS's Accounting Manual Policies and Procedures, as well as compliance with internal control procedures.

Additionally, it was noted during the review of the expense reports that MMLS does not use its tax exempt status for non-profits to reduce its costs. Hotel invoices were paid where the state tax was charged (approximately \$44.00) even though MMLS is exempt from such taxes. Also, it was disclosed that there were instances where a personal credit card receipt was used to support travel expenses instead of an itemized receipt. Requiring itemized receipts will ensure that travel expenses are not for prohibited items.

It was recommended that MMLS take advantage of its tax exempt status to reduce costs when it purchases goods or services, and require use of its tax exempt status when purchasing goods or services over a certain amount. It was also recommended that MMLS should also require that expenses be supported by adequate documentation. *See* LSC Accounting Guide, Chapter 3, § 3-5.4 (Cash Disbursements); *See* also LSC Accounting Guide, Appendix VII, § G3 (Controls Over Cash Disbursements – Credit/Debit Cards).

## Accounting Manual

A review of MMLS' Accounting Manual indicated that it does not appear to include all of the required provisions. For example, MMLS' policy on fixed assets in its Accounting Manual does not require that identification numbers be assigned to fixed assets. *See e.g.*, LSC Accounting Guide, Chapter 3, § 3-5.4(c) (Cash Disbursements – Recordkeeping).

It was recommended that MMLS should compare its Accounting Manual policies to the Fundamental Criteria outlined in the LSC Accounting Guide to ensure that its Accounting Manual includes all applicable and necessary internal control procedures. *See* LSC Accounting Guide, Chapter 3, § 3-4 (Internal Control Structure). It was also recommended that MMLS review Appendix VII of the LSC Accounting Guide to review the various policies and procedures LSC recommends recipients implement in order to successfully implement the required internal controls.

Additionally, the review of the Accounting Manual disclosed that not all of the accounting policies and procedures for MMLS were included. Some accounting and financial policies and procedures were included in the Office Procedures Manual. For example, the Office Procedures Manual requires that all checks over \$1,000 have two (2) signatures. This requirement was not included in the Accounting Manual. It was recommended that, for ease of reference, all accounting and financial policies and procedures be included in the Accounting Manual.

Also, it was noted in the Accounting Manual that a form must be completed for each check written. In practice, however, this form is no longer required. MMLS was advised to either enforce its accounting procedures as written, or review its Accounting Manual to ensure that it mirrors current accounting and financial practices and procedures and remove outdated and obsolete procedures.

#### Vendor Listing, Charts of Accounts, and General Ledger

The LSC Accounting Guide, Chapter 3, § 3.5-4, (Cash Disbursements) requires that recipients timely review and pay vendor charge account transactions, in order to avoid finance charges and late fees, and to maintain such supporting documentation that will validate disbursements. Appendix VII, §§ G (Controls Over Cash Disbursements) and G3 (which specifically addresses credit/debit cards) contain examples of the related accounting policies and procedures LSC recommends recipients implement to ensure adequate internal controls are in place for these processes.

The ED stated that MMLS does not use credit or debit cards and this was confirmed by the Chairman of the Board of Directors during the interview. Additionally, MMLS' Accounting Manual also states that "No credit or debit cards will be requested or obtained or issued in the name of Mid-Missouri Legal Services."

A limited review of cash disbursements in June and July of 2013 disclosed no payments were made for credit or debit card purchases. Further, a review of the chart of accounts and general ledger disclosed no accounts for credit or debit card activities and no credit card or debit card vendors were listed on the vendor listing. Based upon review of the accounting records, it was confirmed that MMLS does not have any credit or debit cards issued in its name.

#### Fixed Asset Records

A review of the fixed asset ledger and observation of the fixed assets disclosed that MMLS has assigned identification tags to assets that exceed \$5,000 for easy identification with asset records as required by the LSC Accounting Guide, Chapter 3, § 3-5.4(c) (Cash Disbursements – Recordkeeping). See Appendix VII § C (Property Control) for examples of the related accounting policies and procedures LSC recommends recipients implement to ensure adequate internal controls are in place for processes related to fixed assets. There was only one (1) asset that exceeded \$5,000 that required tagging, a photocopy machine. MMLS completed this corrective action by tagging the photocopier while the OCE team was still on-site.

#### Bank Reconciliation Controls

The LSC Accounting Guide, Chapter 3, § 3-5.2(d) (Annual Financial Statements and Audit Reports - Reconciliations) requires that bank statement reconciliations to the general ledger be conducted on a monthly basis and be reviewed and approved by a responsible individual. Such review must be appropriately documented, signed, and dated.

A review of the bank reconciliations for the operating account and client trust account for June and July 2013 disclosed that they were in compliance with MMLS' Accounting Manual and in general compliance with the requirements of the LSC Accounting Guide, Chapter 3, § 3-5.2(d) (Annual Financial Statements and Audit Reports – Reconciliations) and the recommended policies and procedures contained in Appendix VII, § I (Bank Reconciliation Procedures). The Bookkeeper, due to the small staff at MMLS, prepares the bank reconciliations and has bookkeeping duties. However, the ED reviews and performs certain internal controls, such as reviewing the processed checks for agreement with the check register as to number, date, payee and amount. The ED also reviews the endorsements and agrees the bank deposits to the bank statement and the reconciled bank statement to the general ledger.

Additionally, MMLS' bank reconciliation procedures do not require that checks outstanding for over six (6) months be resolved as recommended in the LSC Accounting Guide. It was recommended that MMLS investigate and resolve checks outstanding over six (6) months old and include this procedure in its reconciliation policy. *See* LSC Accounting Guide, Appendix VII, § I (Bank Reconciliation Procedures).

#### MMLS' Electronic Bank Transfer Policy and Electronic Transfers

MMLS' electronic transfer policy requires that two (2) individuals be involved to complete the payroll preparation and authorization process. The bookkeeper prepares the electronic disbursement report and, after the ED reviews and approves the report, the payroll electronic funds transfers will be initiated by the Bookkeeper and completed/executed by the ED. The policies and procedures outlined above are considered adequate due to the limited use of electronic banking by MMLS.

The electronic funds transfers were reviewed for June and July of 2013 and found to adhere to MMLS' policy and LSC's requirements.

It was recommended that MMLS:

- Take advantage of its tax exempt status to reduce costs when it purchases goods or services, and require use of its tax exempt status when purchasing goods or services over a certain amount;
- Investigate and resolve checks outstanding over six (6) months old and include this procedure in its reconciliation policy. *See* LSC Accounting Guide, Appendix VII, § I (Bank Reconciliation Procedures);
- Include, for ease of reference, all accounting and financial policies and procedures in its Accounting Manual; and
- Review its Accounting Manual to ensure that it mirrors current accounting and financial practices and procedures, removing old requirements that are no longer employed.

As required corrective actions, MMLS was required to:

- Compare its Accounting Manual policies, and other related policies not contained in that document, to the requirements contained in the LSC Accounting Guide to ensure that MMLS has a mechanism in place for all applicable and necessary internal control procedures. *See* LSC Accounting Guide, Chapter 3, § 3-4 (Internal Control Structure).
- Either enforce its accounting procedures as written, or revise its Accounting Manual to ensure that it mirrors current accounting and financial practices and procedures by removing outdated and obsolete procedures.
- Require that expenses be supported by adequate documentation before paying invoices or reimbursing expenses. *See* LSC Accounting Guide, Chapter 3, § 3-5.4 (Cash Disbursements); *see also* LSC Accounting Guide, Appendix. VII, § G3 (Controls Over Case Disbursements – Credit/Debit Cards).

#### MMLS' Response and LSC's Assessment

In response to the above-listed recommendations, comments to the DR stated that “MMLS will be more vigilant to ensure that it takes full advantage of its tax exempt status to reduce costs when purchasing goods or services, consistent with LSC Accounting Guide, Appendix VI, p. 83, and the MMLS Accounting Manual.” Further comments to the DR stated that “[t]he reconciliation policy in the MMLS Accounting Manual has been amended to require that checks outstanding for over six months must be resolved.” Additional comments to the DR stated that the “MMLS Accounting Manual was revised in December, 2013, to require that the Executive Director's expense reports be approved by a Board member in order to ensure complete segregation of duties.”

In response to the above-listed required corrective actions, comments to the DR stated as follows:

The MMLS Accounting Manual has been amended to require itemized receipts for reimbursement of travel or other expenses advanced by an employee, rather than copies of a credit card statement.

\* \* \*

All MMLS' accounting and financial policies have been transferred from other MMLS policy/procedure manuals to the MMLS Accounting Manual. MMLS has reviewed the LSC Accounting Guide to ensure that it has a mechanism in place for all applicable and necessary internal control procedures.

The MMLS Accounting Manual has been reviewed and revised to ensure that outdated and obsolete procedures have been removed from it. The Accounting

Manual accurately mirrors the current accounting and financial practices and Procedures of MMLS.

By email dated May 7, 2014, MMLS has provided LSC with evidence documenting the changes to its Accounting Manual, addressing the Required Corrective Actions as outlined above and approved by the Board on December 11, 2013 and April 23, 2014. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close these Required Corrective Actions.

**Finding 32: MMLS is in compliance with the Payroll Guidelines of the Accounting Guide as it maintains adequate personnel files, supporting documentation of payments, and corresponding reviews and approvals.**

The Accounting Guide for LSC Recipients provides guidance to programs for Personnel/Payroll functions. *See* LSC Accounting Guide, Appendix VII, § B (Personnel and Payroll). In addition, the LSC Accounting Guide, Chapter 3, § 3-5.5(a) requires that payroll records list all payments to employees by name, check number, gross pay, withholdings, and net pay. An attendance record or time record shall be maintained for each employee and shall be approved by the employee's supervisor. Each employee shall have a payroll/personnel file which includes, among other things, documentation concerning appointments, position reclassifications, salary information, evaluations, promotions, and terminations. *See* LSC Accounting Guide, Chapter 3, § 3.5.5(a) (Payroll – Records).

Payroll payments require that salary and wage rates be approved in writing by an authorized individual and adjustments to payroll disbursement be approved by an authorized individual, independent of payroll preparation. Payrolls should be disbursed from an imprest bank account restricted for that purpose. Deposits to the payroll account should be controlled by an authorizing procedure which prevents duplicate deposits and over deposits. *See* LSC Accounting Guide, Chapter 3, § 3.5.5(b) (Payroll – Controlling Payments).

MMLS, with its limited staffing, utilizes the position of ED to establish segregation of duties within the Personnel/Payroll functions. Upon hire, the ED is responsible for obtaining required employment documents, *i.e.*, original employment application, resume/CV, contract/salary rate, IRS Forms W-4, Employment Eligibility Form I-9, E-Verify results, Missouri Department of Revenue employment documents, direct deposit authorization, insurance applications, etc. Any employee position change or change in salary rate is documented through the Employee Status Change procedure. The MMLS Personnel Policies Manual Part II-B contains the hiring policy and documentation process. Employees are required to acknowledge in writing the receipt of the MMLS confidentially agreement and MMLS' Program Priorities.<sup>14</sup>

All payroll changes from hire, probation, promotion, pay change, and termination must be approved by the ED prior to being routed to the contract Bookkeeper for entry into the

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<sup>14</sup> Examination of two (2) randomly selected personnel files found no deviations from the MMLS required documentation and approvals.

accounting system. MMLS payroll is bi-weekly. MMLS employees submit a payroll timesheet reflecting all work and leave which must be approved by a supervisor. From the employee submissions, a comprehensive payroll register is compiled. Based on the payroll register totals, a fund transfer is made to the payroll imprest account. The payroll register is approved by the ED prior to it being forwarded to the bank for processing as direct deposits to the employee's designated account(s).

The MMLS Personnel Policy Manual establishes hiring and selection policies, as well as the method by which compensation is established. The ED makes an annual recommendation to the Board of Directors regarding the salary and pay grade structure. The Board of Directors approves any changes to the salary plan and such approvals are reflected in Board of Directors minutes. The current Salary Scale was implemented following the December 14, 2011 Board of Directors meeting. The Salary Scale and associated data, which included the result of its application to each employee and impact on the program's budget, was presented in executive session. In returning to open session, the minutes reflect a motion and approval of the proposed Budget for 2012. There are no corrective actions or recommendations.

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

**Finding 33: Based upon interviews with the Chairman and a Senior Member of MMLS' Board of Directors and a limited review of the Board of Directors' meeting minutes, it was disclosed that MMLS' Board of Directors' committees are in compliance with LSC's regulations and requirements relating to accounting and reporting practices.**

The interview with the Chairman and a Senior Member of MMLS' Board of Directors concerning the Responsibilities of the Financial Oversight Committees (as outlined in the LSC Accounting Guide, Chapter 1, § 1-7) and review of the minutes of the Board of Directors meetings disclosed that the Board of Directors does adhere to LSC regulations and requirements.

MMLS has an Executive Committee which has and may exercise authority in the management of the business and affairs of MMLS. MMLS also has audit and finance committees which provide assistance to the Board of Directors in fulfilling its fiduciary responsibilities and duties in accordance with LSC's regulations and requirements relating to accounting and reporting practices by:

- Guiding the process of selecting MMLS' auditor and recommending the selection of a particular auditor to the full Board of Directors.
- Meeting with the auditor for an exit conference at the completion of each audit.
- Reviewing the expenditure budget in detail and recommending approval to the full Board of Directors.
- Maintaining communications between the Board of Directors and the auditor and meeting with the auditor to discuss and/or inquire about audit reports, financial statements, and the effectiveness of MMLS' management of accounting and financial functions.
- Hiring the auditor and setting the auditors compensation.

- Overseeing the auditor's activities.
- Setting rules and processes for complaints concerning:
  - a) Accounting practices.
  - b) Internal control practices.
- Instituting any changes necessary to ensure proper oversight and control of funds.
- Reviewing the IRS 990 for completeness, accuracy, and on time filing.
- Reviewing and approving MMLS' annual budget.
- Reviewing monthly management reports (including budget and actual income and expensed, variances, and statement of cash on hand with the ED).
- Coordinating board training on financial matters.
- Ensuring that MMLS' operations are conducted and managed in a manner that emphasizes ethical and honest behavior, compliance with applicable laws, regulations and policies, effective management of MMLS' resources and risks, and accountability of persons within the organization.

The Board of Directors has three (3) members who are considered financial experts by MMLS due to their involvement in local businesses. Additionally, the governing body resolutions for the financial and audit committees define their duties and responsibilities.

There are no required corrective actions or recommendations.

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

#### IV. RECOMMENDATIONS<sup>15</sup>

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

1. Ensure that its intake staff has an understanding of the applicability of the VAWA Amendments to LSC funding. *See* Program Letter 06-02, Violence Against Women Act 2006 Amendments, February 21, 2006 (Finding 2);

Comments to the DR stated that “[s]ince October 2013, MMLS has provided additional training to intake staff regarding the applicability of the Violence Against Women Act as it relates to LSC funding, and it will reinforce that training periodically. MMLS indicates in its ACMS that such VAWA cases are CSR compliant and reports them in its CSRs to LSC, regardless of the funding code.”

2. Provide training to staff concerning Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011) (case closure categories) as it relates to closing code “L-Extensive Service” (Finding 10);

Comments to the DR stated that “MMLS has provided all staff with additional training since the OCE Compliance Review Visit regarding proper application of the CSR case closure categories, particularly closing code ‘L,’ consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended in 2011).” Further comments to the DR stated that “reinforcement training will be provided, and staff will monitor closely those cases closed with an ‘L’ to ensure compliance.”

3. Develop a procedure to help ensure that duplicate cases are not reported to LSC in the CSRs pursuant to the CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Finding 12);

Comments to the DR stated that “MMLS has amended its Intake Procedures to require staff to check the ‘unduplicated client’ field on page 2 of the new Kemp Prime version 14.2 during the intake process and has trained staff accordingly.” Further comments to the DR stated that “intake staff determine during eligibility screening whether each applicant has had any cases with the same problem code, the same adverse party and the same set of facts at any time during the same year.”

4. Investigate and resolve checks outstanding over six (6) months old and include this procedure in its reconciliation policy. *See* LSC Accounting Guide, Appendix VII, § I (Bank Reconciliation Procedures) (Finding 31);

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<sup>15</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. By contrast, the items listed in “Required Corrective Actions” (“RCA”) must be addressed by the program, and will be enforced by LSC.

Comments to the DR stated that “[t]he reconciliation policy in the MMLS Accounting Manual has been amended to require that checks outstanding for over six (6) months must be resolved.”

5. Take advantage of its tax exempt status to reduce costs when it purchases goods or services. *See* LSC Accounting Guide, Appendix VI, p. 83 (Finding 31);

Comments to the DR stated that “MMLS will be more vigilant to ensure that it takes full advantage of its tax exempt status to reduce costs when purchasing goods or services, consistent with LSC Accounting Guide, Appendix VI, p. 83, and the MMLS Accounting Manual.”

6. MMLS should revise the caption styled “Outside Employment” and include “Outside Practice of Law” pursuant to 45 CFR Part 1604 (Finding 13);

Comments to the DR stated that “MMLS has revised the title of its Personnel Policy regarding Outside Practice of Law (for attorneys).” MMLS’ comments to the DR further stated that “the caption previously read ‘Outside Employment’ but now is titled ‘Outside Practice of Law.’”

7. Include, for ease of reference, all accounting and financial policies and procedures in its Accounting Manual (Finding 31); and

Comments to the DR stated that “the MMLS Accounting Manual has been reviewed and revised to ensure that outdated and obsolete procedures have been removed from it.”

8. Review its Accounting Manual to ensure that it mirrors current accounting and financial practices and procedures, removing old requirements that are no longer employed. (Finding 31).

Comments to DR stated that “the MMLS Accounting Manual has been reviewed and revised to ensure that outdated and obsolete procedures have been removed from it. The Accounting Manual accurately mirrors the current accounting and financial practices and procedures of MMLS.”

## V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, MMLS is required to take the following corrective action:

1. Ensure that it amends its intake and financial eligibility policies and procedures by inserting the language that mirrors the regulation pursuant to 45 CFR § 1611.3(d)(1), i.e., “vehicles used for transportation.” (Finding 4);

Comments to the DR stated that “MMLS has amended its Policy Manual to reflect that the asset exclusion of the equity in one (1) vehicle, up to \$5,000, shall apply to a vehicle ‘used for transportation.’”

By e-mail dated April 29, 2014, MMLS provided OCE with documentation indicating that their Policy Manual has been amended to comply with 45 CFR § 1611.3(d)(1). MMLS inserted language that mirrors the regulation, “vehicles used for transportation” and this language was approved by the Board on April 23, 2014. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close this Required Corrective Action.

2. Ensure that it includes in its PAI allocation administrative, overhead, staff, and support costs related to PAI activities pursuant to 45 CFR § 1614.3(e)(1)(i) (Finding 17);

Comments to the DR stated that “[i]n order to fully comply with 45 CFR § 1614.3(e)(1)(i), MMLS shall include an indirect cost allocation in the PAI budget and in its annual reporting of PAI costs.” Further comments to the DR stated that “[s]uch indirect costs are reflected in the 2013 Independent Public Auditors report and will be included in all future Audit reports.”

A review of MMLS’ Audited Financial Statement for years ending December 31, 2013 and 2012 evidenced indirect and direct PAI cost being reflected as required by 45 CFR § 1614.3(e)(1)(i). LSC will therefore close this Required Corrective Action.

3. Ensure that in 2013 and subsequent years, the Independent Public Auditors report reflects the full costs of its PAI activity, including direct and indirect costs as required by 45 CFR § 1614.3(e)(1)(i) (Finding 17);

Comments to the DR stated that “[i]n order to fully comply with 45 CFR § 1614.3(e)(1)(i), MMLS shall include an indirect cost allocation in the PAI budget and in its annual reporting of PAI costs.” Further, comments to the DR stated that “[s]uch indirect costs are reflected in the 2013 Independent Public Auditors report and will be included in all future Audit reports.”

A review of MMLS’ Audited Financial Statement for years ending December 31, 2013 and 2012 evidenced indirect and direct PAI cost being reflected as required by 45 CFR § 1614.3(e)(1)(i). LSC will therefore close this Required Corrective Action.

4. Require that expenses be supported by adequate documentation prior to payment. *See* LSC Accounting Guide, Chapter 3, § 3-5.4 (Cash Disbursements) (Finding 31);

Comments to the DR stated that “the MMLS Accounting Manual has been amended to require itemized receipts for reimbursement of travel or other expenses advanced by an employee, rather than copies of a credit card statement.”

By e-mail dated May 7, 2014, MMLS provided LSC with evidence documenting the changes to its Accounting Manual, addressing this Required Corrective Action as outlined above and approved by the Board on April 23, 2014. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close this Required Corrective Action.

5. Compare its Accounting Manual policies, and other related documents, to the requirements outlined in the LSC Accounting Guide for Recipients to ensure that its Accounting Manual includes all of internal control procedures listed. *See* Accounting Guide for LSC Recipients (2010 Edition) Chapter 3, § 3-4 (Internal Control Structure) (Finding 31);

Comments to the DR stated that “[a]ll MMLS’ accounting and financial policies have been transferred from other MMLS policy/procedure manuals to the MMLS Accounting manual. MMLS has reviewed the LSC Accounting Guide to ensure that it has a mechanism in place for all applicable and necessary internal control procedures.”

By e-mail dated May 7, 2014, MMLS provided LSC with evidence documenting the changes to its Accounting Manual, addressing the Required Corrective Actions as outlined above and approved by the Board on December 11, 2013. Accordingly, LSC will close this Required Corrective Actions.

6. Require, pursuant to implementing a strong internal control structure, that only supervisors approve an employee’s expense reports. *See* LSC Accounting Guide, Chapter 3, §§ 3-4.3 and 3-4.4 (Internal Control Structure). The Board of Directors, which supervises the ED, should review the ED’s expense reports (Finding 31); and

Comments to the DR stated that the “MMLS Accounting Manual was revised in December, 2013, to require that the Executive Director's expense reports be approved by a Board member in order to ensure complete segregation of duties.”

By e-mail dated May 7, 2014, MMLS provided LSC with evidence documenting the changes to its Accounting Manual, addressing the Required Corrective Actions as outlined above and approved by the Board on December 11, 2013. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close this Required Corrective Actions.

7. If MMLS chooses to implement the exception detailed in 45 CFR § 1611.4(c) found in its financial eligibility policy, its Board of Directors must approve the specific governmental programs it intends to include in the exemption. *See* 70 Fed. Reg. 45545, 45552 (August 8, 2005), *available at* <http://www.lsc.gov/sites/default/files/LSC/pdfs/2005-08-081611FinalRule.pdf> (Finding 3).

Comments to the DR stated that “[a]lthough the MMLS Policy Manual has authorized the use of financial eligibility ‘Governments Benefits’ exemption for many years, that policy was not implemented. The MMLS Board recently removed the financial eligibility “Government Benefits” exemption from its Policy Manual.”

By e-mail dated April 29, 2014, MMLS provided LSC with evidence documenting the Board’s removal of the ‘Government Benefits’ exemption from its Policy Manual approved by the Board on April 23, 2014. OCE has reviewed the changes and finds them sufficient to address the noted compliance concerns. Accordingly, LSC will close this Required Corrective Action.



**MID-MISSOURI LEGAL SERVICES  
CORPORATION**  
1201 WEST BROADWAY  
COLUMBIA, MISSOURI 65203

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<b>Executive Director</b>	<b>Staff Attorneys:</b>	<b>Columbia Office</b>	<b>Jefferson City Office</b>
Susan K. Lutton	Steven M. Kuntz Jeffrey K. Basinger M. Nichole George Michael T. Carney David Ma Danielle McAfee	1201 West Broadway Columbia, MO 65203 (573) 442-0116 (573) 875-0173 fax (800) 568-4931	428 E. Capitol, Ste #200 Jefferson City, MO 65101 (573) 634-4545 (573) 634-2973 fax (888) 476-4545
<b>Litigation Director</b> Angela L. Peterson			
<b>VLP Coordinator</b> Michael A. Matthews			

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April 24, 2014

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

RE: Compliance Review Visit, Recipient No. 526041

Dear Ms. Rath:

This letter is in response to your March 20, 2014 letter enclosing the Draft Report of the Office of Compliance and Enforcement based upon its October 21-25, 2013 on-site Compliance Review Visit of Mid-Missouri Legal Services Corporation ("MMLS"), LSC Recipient No. 526041.

On behalf of the MMLS Board and Staff, please accept our sincere thanks for the work conducted by the six-member Compliance Review team led by Joseph Green. The team conducted a rigorous review of our files and policies in a respectful and professional manner. We particularly appreciate the team's significant efforts and cooperation in maintaining our clients' confidentiality.

We have reviewed the Report thoroughly and thank the team for the time and care it has taken to guide MMLS in ensuring that its policies and practices comply with regulations and foster accountability and stewardship to LSC and other funders.

Attached please find the responses of MMLS to the findings, recommendations and corrective actions identified by the LSC Compliance Review Team.

Sincere regards,

Susan K. Lutton  
Executive Director

**COMMENTS ON THE DRAFT REPORT OF THE LEGAL SERVICES CORPORATION  
OFFICE OF COMPLIANCE AND ENFORCEMENT FOR THE COMPLIANCE REVIEW  
OF MID-MISSOURI LEGAL SERVICES, OCTOBER 21-25, 2013**

**COMMENTS TO FINDINGS:**

I. Mid-Missouri Legal Services Corporation ("MMLS") agrees with the following OCE Findings set forth in the Draft Report and, therefore, has no comments or responses to them:

Findings 5, 6, 7, 8, 9, 11, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32 and 33.

II. MMLS comments, as follows, to particular Draft Report Findings, Recommendations and Required Corrective Actions, including:

Findings	Recom- menda- tions	Required Corrective Actions	Comments of MMLS
1			<p>MMLS agrees that its use of its ACMS ensures that information needed to effectively manage its cases is timely and accurately recorded. No corrective actions or recommendations were identified in the Draft Report, but MMLS has revised its policies and practices in response to two comments made by the Compliance Review Team, as follows:</p> <p>(a) Prospective Income: Since the Compliance Review visit in October, 2013, MMLS has upgraded its ACMS to Kemp Prime version 14.2 which has a dedicated field to capture verification of prospective income. The MMLS Intake Procedures have been revised to require intake specialists to check that box after asking each applicant about income prospects, and intake staff have been trained in its use.</p> <p>(b) Applicants for MMLS services must review and verify that their income and asset information is correct. In the past, MMLS listed all assets on the eligibility screen of its ACMS so that applicants would not be confused if "excludable assets" were not listed. Because intake staff are well trained regarding asset eligibility, MMLS has had no errors in determining asset eligibility. However, MMLS understands that including "excludable assets" in total assets may create confusion to reviewers. Thus, it has amended its Intake Procedures to require staff to put the value of excludable assets in the asset description column but not in the asset value column from which total assets are automatically calculated by the ACMS.</p>

Findings	Recom- menda- tions	Required Corrective Actions	Comments of MMLS
2			<p>(a) MMLS would like to correct Finding 2 to reflect that it has had "Intake Procedures" for many years but that those Procedures were last updated on October 16, 2013.</p> <p>(b) MMLS also would like to correct Finding 2 to reflect that weekly case acceptance meetings are conducted by the Litigation Director and the Supervising Intake Specialist. Prior to August 2010, attorneys participated in weekly case conference meetings, but the practice was changed gradually following the August 2010 OPP Program Quality Visit, based upon suggestions from the OPP team. Staff attorneys now participate in the case acceptance meeting approximately once monthly so that new attorneys receive training reinforcement, and so that seasoned attorneys remain aware, of the eligibility determination and merit assessment process. Because the case acceptance meetings are not lengthy, the remaining meeting time is used to either provide training regarding substantive law areas, LSC regulations/publications and MMLS policies or to discuss difficult cases, successes and "learning experiences," as time permits.</p>
2	1		<p>(c) Since October 2013, MMLS has provided additional training to intake staff regarding the applicability of the Violence Against Women Act as it relates to LSC funding, and it will reinforce that training periodically. MMLS indicates in its ACMS that such VAWA cases are CSR compliant and reports them in its CSRs to LSC, regardless of funding code.</p>
2			<p>(d) MMLS staff has been trained regarding eligibility criteria for "groups," but it has not accepted any such cases, primarily due to lack of resources. Additional training will be provided to intake staff to reinforce prior training.</p>
3		7	<p>MMLS agrees with Finding 3 that it maintains required income eligibility documentation. Although the MMLS Policy Manual has authorized the use of a financial eligibility "Government Benefits" exemption for many years, that policy was not implemented. The MMLS Board recently removed the financial eligibility "Government Benefits" exemption from its Policy Manual.</p>

Findings	Recommendations	Required Corrective Actions	Comments of MMLS
4		1	MMLS has amended its Policy Manual to reflect that the asset exclusion of the equity in one (1) vehicle, up to \$5,000, shall apply only to a vehicle "used for transportation."
10	2		MMLS has provided all staff with additional training since the OCE Compliance Review Visit regarding proper application of the CSR case closure categories, particularly closing code "L", consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended in 2011). Reinforcement training will be provided, and staff will monitor closely those cases closed with an "L" to ensure compliance.
12	3		MMLS has amended its Intake Procedures to require staff to check the "unduplicated client" field on page 2 of the new Kemp Prime version 14.2 during the intake process and has trained staff accordingly. Intake staff determine during eligibility screening whether each applicant has had any cases with the same problem code, the same adverse party and the same set of facts at any time during the same year.
13	6		MMLS has revised the title of its Personnel Policy regarding the Outside Practice of Law (for attorneys). The caption previously read "Outside Employment" but now is titled "Outside Practice of Law."
17		2, 3	<p>MMLS agrees that it has appropriately budgeted direct personnel costs and Judicare contract costs and has included those costs in its annual reporting of PAI costs. MMLS also agrees that it has defined in its Accounting Manual a cost allocation basis which properly defines the process for determining appropriate overhead and indirect costs as defined in 45 CFR §1614.3(e)(1)(i). In order to fully comply with 45 CFR § 1614.3(e)(1)(i), MMLS shall include an indirect cost allocation in the PAI budget and in its annual reporting of PAI costs. Such indirect costs are reflected in the 2013 Independent Public Auditors report and will be included in all future Audit reports.</p> <p>Please refer to Section III at the end of these Comments for a description of the power of attorney clinics conducted by MMLS.</p>

Findings	Recommendations	Required Corrective Actions	Comments of MMLS
31		6	(a) The MMLS Accounting Manual was revised in December, 2013, to require that the Executive Director's expense reports be approved by a Board member in order to ensure complete segregation of duties.
31	5		(b) MMLS will be more vigilant to ensure that it takes full advantage of its tax exempt status to reduce costs when purchasing goods or services, consistent with LSC Accounting Guide, Appendix VI, p. 83, and the MMLS Accounting Manual.
31		4	(c) The MMLS Accounting Manual has been amended to require itemized receipts for reimbursement of travel or other expenses advanced by an employee, rather than copies of a credit card statement.
31		5	(e) The MMLS Accounting Manual has been revised to require the use of a fixed asset identification number.
31	4		(f) The reconciliation policy in the MMLS Accounting Manual has been amended to require that checks outstanding for over six months must be resolved.
31	7	5	(g) All MMLS accounting and financial policies have been transferred from other MMLS policy/procedure manuals to the MMLS Accounting Manual. MMLS has reviewed the LSC Accounting Guide to ensure that it has a mechanism in place for all applicable and necessary internal control procedures.
31	8		(h) The MMLS Accounting Manual has been reviewed and revised to ensure that outdated and obsolete procedures have been removed from it. The Accounting Manual accurately mirrors the current accounting and financial practices and procedures of MMLS.

### III. ADDITIONAL INFORMATION REQUESTED IN FINDING 17:

#### Description of Power of Attorney Clinics:

MMLS has conducted power of attorney clinics periodically over the past few years. The Clinics are conducted in two parts because, generally, clients who attend the informational session do not have the names/addresses of their proposed agents with them at the informational meeting. The two-part process is as follows:

1. An MMLS attorney makes an informational presentation at a low-income senior housing project, using a power point, a copy of which is provided herewith. The attorney provides additional information if audience members have questions, but the attorney does not reply to legal or client-specific questions during the public session. At the end of the presentation, attendees who have client-specific questions and/or want to create and execute a health care power of attorney provide MMLS with their name, telephone number and time to be reached so that MMLS intake staff can call and screen them for financial eligibility. MMLS business cards also are made available to all attendees. Each person who wants to be screened is given a "POA Information Sheet" to fill out before their individual meetings with MMLS.

The list of interested applicants is given to MMLS intake staff who call and screen them for eligibility. Almost all applicants are eligible because most live in the HUD-housing projects visited by MMLS. The intake staff reminds the accepted clients to return their POA Information Sheet to the Resident Services Coordinator in their building and also provides them with the day and time that MMLS will return to the facility to help them finalize their HCPOA. That appointment is confirmed in a letter to the clients. The clients, usually with the assistance of their Resident Services Coordinator at the Senior Housing Project, return their POA information sheet to MMLS by fax. MMLS staff or volunteer law students type the information received for each client onto the Health Care POA forms.

2. The MMLS attorney returns to the facility, usually two weeks after the initial presentation, and volunteer attorneys and law students meet with each client at their scheduled time to review the health care power of attorney, complete it and notarize it. At that time, specific questions are answered and legal advice is given. The facilities allow MMLS to use their copy machines so that clients will have a sufficient number of copies for their agents, physicians and hospitals. After the meetings, the MMLS attorney sends a closing letter to each client, and clients are advised that MMLS retains a scanned version of their HCPOA if they need it in the future.

# Planning for the Future



## Durable Powers of Attorney

### What is a Power of Attorney?

- A Power of Attorney (POA) is a legal document in which you appoint an agent to make your decisions for you if you cannot make decisions yourself
- You are the “principal”
- The person you select is the “agent”



## What is a “durable” Power of Attorney?

- A durable POA allows your agent to make decisions for you if you become disabled or incapacitated.

## Two Common Uses for Durable Powers of Attorney

1. **Health Care**: Your agent makes decisions about your health and care
2. **Financial**: Your agent handles your money

## When is a Healthcare DPOA used?



- Your agent can make health care decisions for you if you are incapable of making decisions about your own health and care. If you are able to make decisions, your doctor must ask you your wishes.

## What does “incapacitated” mean?

- “Incapacitated” means you are not able to decide what your needs are or you cannot tell others what you need.

## **What happens if I don't have a Healthcare DPOA?**

- A judge will appoint a guardian to make decisions for you. The judge chooses the guardian, not you, and it may be someone you do not know.

## **How do I create a healthcare DPOA?**



- We have a form that was prepared by the State, and we will help you fill it out and then sign it with a notary and witnesses

## Who should I appoint as my Health Care agent?

- Someone you trust
- Who understands your wishes
- Who can make hard decisions  
Who is willing to act as your agent
- **Possible attorneys-in-fact include your:**
  - Spouse,
  - Children,
  - Grandchildren,
  - Other relatives, and
  - Friends



## Who cannot be appointed as an agent?

- A person under the age of 18
- A person who has a guardian
- A habitual drunkard
- Judge, court clerk, doctor, doctor's employee, healthcare facility owner

## **Can I limit the health care decisions my agent can make for me?**

- Yes. The form allows you to choose what decisions you want your agent to make.

## **What if I change my mind and do not want a Health Care DPOA after I sign it?**

- You can revoke it.
- Our office will help you revoke it and, if you like, we can help you appoint a different person.

## **What should I do with my healthcare DPOA?**

- Give a copy to the person you name as your agent; to your doctor; to your hospital for its records; to family member(s); to friends.
- It is not a secret! You want everyone to know your medical wishes!

## Megan Lacchini

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**From:** Joseph Green  
**Sent:** Friday, May 30, 2014 9:05 AM  
**To:** Megan Lacchini  
**Subject:** FW: asset policy  
**Attachments:** Policy Manual - Asset Eligibility Determination.docx; Intake Procedures - Asset Eligibility Determination.docx

**From:** Susan Lutton [mailto:Lutton@mmls.org]  
**Sent:** Tuesday, April 29, 2014 11:52 PM  
**To:** Joseph Green  
**Subject:** RE: asset policy

Hi Joe,

I just arrived in Portland OR for the Equal Justice Conference, so I apologize for the delay in getting this to you today. Attached are the asset eligibility revisions to the MMLS Policy Manual and the MMLS Intake Procedures that you requested.

Thanks,

Susan

Susan K. Lutton, Executive Director  
Mid-Missouri Legal Services  
1201 West Broadway  
Columbia MO 65203  
(573) 442-0116 X 202  
[lutton@mmls.org](mailto:lutton@mmls.org)

**From:** Joseph Green [mailto:greenj@lsc.gov]  
**Sent:** Tuesday, April 29, 2014 9:40 AM  
**To:** Susan Lutton  
**Subject:** asset policy

Hi Susan. Could you send me the revised policy pertaining to assets and vehicle used for transportation corrective action No. 1. I would be able to close that one out now. Thanks

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Information from ESET Endpoint Antivirus, version of virus signature database 9739 (20140429)

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The message was checked by ESET Endpoint Antivirus.

<http://www.eset.com>

\_\_\_\_\_ Information from ESET Endpoint Antivirus, version of virus signature database 9739 (20140429)

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The message was checked by ESET Endpoint Antivirus.

<http://www.eset.com>

**MMLS POLICY MANUAL (amended by MMLS Board on 4.23.2014)**

**IV. Financial Eligibility**

.....

**F. Determination of Assets Eligibility**

.....

- 4. Items Excluded from Determination of Assets Eligibility.** The following are excluded from the determination of assets eligibility:

.....

- d. Equity in one (1) vehicle used for transportation not to exceed \$5,000.

**INTAKE PROCEDURES - Asset Eligibility Determination**  
**(amended by MMLS Board on 4.23.2014)**

Excludable Assets: The value of any assets that are excludable, for purposes of eligibility determination, shall be entered immediately beside the asset description and shall not be entered in the asset value column from which the total assets value is calculated automatically by the case management system. Only the value of assets that exceed the excludable level, or the value of assets that are not excludable, shall be placed in the asset value column.

## Megan Lacchini

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**From:** Joseph Green  
**Sent:** Friday, May 30, 2014 9:06 AM  
**To:** Megan Lacchini  
**Subject:** FW: Final report.  
**Attachments:** 526041 Required Corrective Actions 4-7.pdf

**From:** Susan Lutton [mailto:Lutton@mmls.org]  
**Sent:** Wednesday, May 07, 2014 10:33 AM  
**To:** Joseph Green  
**Subject:** RE: Final report.

Hi Joe,

Attached are the changes made to MMLS policy and procedure manuals in response to Required Corrective Actions 4, 5, 6 and 7 that you requested below. If you need other verification, please let me know.

Please note that some changes were made at the December, 2013 Board meeting following your visit, based upon feedback that I was provided during the Review, and other changes were made at the April Board meeting after we received your Draft Report.

Thanks,

Susan

Susan K. Lutton  
Executive Director  
Mid-Missouri Legal Services  
1201 West Broadway  
Columbia MO 65203  
(573) 442-0116 X 202  
[lutton@mmls.org](mailto:lutton@mmls.org)

**From:** Joseph Green [mailto:greenj@lsc.gov]  
**Sent:** Tuesday, May 06, 2014 8:35 AM  
**To:** Susan Lutton  
**Subject:** Final report.

Hi Susan. I am working on MMLS' Final report. It is possible for u to send me evidence of the following so I can close them out:

1. MMLS Accounting manual has been amended to require itemized receipts for reimbursement of travel or other expenses advanced by an employee, rather than copies of a credit card statement.
2. All of MMLS' accounting and financial policies have been transferred from other MMLS policy/procedure manuals to the MMLS Accounting manual.

3. The MMLS Accounting Manual was revised in December, 2013, to require that the Executive Director's expense reports be approved by a Board member in order to ensure complete segregation of duties.
4. Although the MMLS Policy Manual has authorized the use of financial eligibility "Governments Benefits" exemption for many years, and that policy was not implemented. The MMLS Board recently removed the financial eligibility "Government Benefits" exemption from its Policy Manual.

Thanks

\_\_\_\_\_ Information from ESET Endpoint Antivirus, version of virus signature database 9763 (20140506)  
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The message was checked by ESET Endpoint Antivirus.

<http://www.eset.com>

\_\_\_\_\_ Information from ESET Endpoint Antivirus, version of virus signature database 9769 (20140507)  
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The message was checked by ESET Endpoint Antivirus.

<http://www.eset.com>

MID-MISSOURI LEGAL SERVICES CORPORATION (Recipient No. 526041)

**POLICY/PROCEDURES CHANGES MADE IN RESPONSE TO REQUIRED  
CORRECTIVE ACTIONS 4, 5, 6 AND 7 OF OCE COMPLIANCE REVIEW REPORT**

**1. REQUIRED CORRECTIVE ACTION 4: ITEMIZED RECEIPTS FOR  
REIMBURSEMENT OF EXPENSES:**

The MMLS Board of Directors approved the following changes, which require itemized receipts, to the MMLS Accounting Manual on April 23, 2014:

Purchases, generally:

.....

*"Itemized receipts for expenses/items purchased (not charge card statements) shall be provided to the Bookkeeper. Purchase receipts shall contain verification that the item was received, including the receiver's signature and the date of receipt."*

Travel - Permissible Reimbursement:

.....

*"Requests for reimbursement of expenses of employees and board members for travel, room and board and incidental expenses shall be made on forms supplied by MMLS and shall be submitted to the Executive Director for verification and approval. **Detailed receipts (not a charge card statement), itemizing purchases made, must be attached to the reimbursement request. ....**"*

**2. REQUIRED CORRECTIVE ACTION 5: TRANSFER OF ACCOUNTING AND  
FINANCIAL POLICIES AND PROCEDURES TO THE MMLS ACCOUNTING  
MANUAL:**

The MMLS Board of Directors approved the transfer of the entire contents of Section II of the MMLS Office Procedures to appropriate sections of the MMLS Accounting Manual on December 11, 2013.

"Section II. Financial," previously set forth on pages 1 through 5 of the MMLS Office Procedures, included "A. Check Issuance Procedures," "B. Check Receipt Process," "C. Purchasing Process," "D. Litigation Expenses," and "E. Staff and Board Travel and Incidental Expenses."

**3. REQUIRED CORRECTIVE ACTION 6: APPROVAL OF EXECUTIVE DIRECTOR'S EXPENSE REPORTS:**

The MMLS Board of Directors approved the following change to the MMLS Accounting Manual on December 11, 2013:

Expense Reimbursement:

*"Reimbursement requests made by the Executive Director shall be approved, and the reimbursement check shall be signed, by an MMLS Board member."*

**4. REQUIRED CORRECTION ACTION 7: ELIGIBILITY (GOVERNMENT BENEFITS EXEMPTION)**

The MMLS Board of Directors approved the removal of the Government Benefits Exemption from the Financial Eligibility section of the MMLS Policy Manual on April 23, 2014, which stated:

*"Government Program for Low-Income Individuals. If the income of the applicant or applicant's household is solely derived from a governmental program for low-income individuals, MMLS does not need to make an independent determination of income or assets if the Board has determined that the income standards of that governmental program are below 125% of the Federal Poverty Guidelines and said program's eligibility standards include an asset test substantially the same as that of MMLS."*