



FINAL REPORT

LEGAL SERVICES CORPORATION Office of Compliance and Enforcement

Center for Arkansas Legal Services
Compliance Review
February 24 – 28, 2014

Recipient No. 604061

OCE Compliance Review Team

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I. EXECUTIVE SUMMARY

Finding 1: CALS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Finding 2: CALS' intake procedure is substantially compliant with LSC regulatory and reporting requirements, however, its HelpLine does not routinely make reasonable inquiry regarding income prospects as required by 45 CFR § 1611.7(a)(1).

Finding 3: CALS's financial eligibility policy was compliant with LSC regulations and the cases that were reviewed were compliant with 45 CFR § 1611.7(a)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

Finding 4: CALS demonstrated compliance with the requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: CALS demonstrated non-compliance with the verification requirements of 45 CFR §§ 1626.6 and 1626.7, and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Finding 6: CALS demonstrated compliance with the requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: CALS demonstrated compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 8: CALS demonstrated compliance with the requirements of 45 CFR §§ 1620.4 and 1620.6(c) (Priorities in use of resources).

Finding 9: CALS demonstrated substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6, (Legal Assistance Documentation Requirements).

Finding 10: The cases that were reviewed during the visit demonstrated that CALS' application of the CSR case closure categories is substantially compliant with Chapter VIII, CSR Handbook (2008 Ed., as amended 2011).

Finding 11: CALS demonstrated substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing of cases).

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

Finding 13: CALS demonstrated compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 14: CALS demonstrated compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: CALS demonstrated compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of CALS' organizational chart, observations of the physical locations of CALS' offices, and interviews with staff indicate that CALS is in compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 17: CALS is in substantial compliance with 45 CFR Part 1614 (Private attorney involvement).

Finding 18: CALS demonstrated compliance with 45 CFR Part 1627 (Subgrants and Membership Fees and Dues).

Finding 19: CALS demonstrated compliance with the requirements of 45 CFR Part 1635 (Timekeeping requirements).

Finding 20: CALS demonstrated compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 21: CALS demonstrated compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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

Finding 23: CALS demonstrated compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: CALS demonstrated compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: CALS demonstrated compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: CALS demonstrated compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: CALS demonstrated compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: CALS demonstrated compliance with the requirements of 45 CFR Part 1639 (Welfare Reform).

Finding 29: CALS demonstrated compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 30: Review of CALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of LSC statutory prohibitions against abortion related legal assistance (LSC Act, § 1007(a)(8); 42 USC § 2996f(b)(8)), school desegregation litigation (LSC Act, § 1007(a)(9); 42 USC § 2996f(b)(9)), and Military Selective Service Act or desertion related legal assistance (LSC Act, § 1007(a)(10); 42 USC § 2996f(b)(10)).

Finding 31: A review of the fidelity bonding or insurance on the employees of CALS was found to be in compliance with 45 CFR § 1629.1 (Bonding of Recipients).

Finding 32: CALS is in compliance with 45 CFR Part 1630 (Cost Standards and Procedures) in that direct and indirect costs allocated among the various funding sources were supported by an allowable method.

Finding 33: A limited review of CALS' responses to LSC's Segregation of Financial Duties Worksheet evidenced that they generally comply with the requirements of the LSC Accounting Guide. However, there are process areas where controls are not appropriately segregated among staff fiscal duties. On-site interviews and testing revealed compensating controls.

Finding 34: A limited review of CALS' written policy and procedures over cash receipts and sampled cash receipts transactions evidenced that CALS' procedures include accountability for cash upon receipt and appropriate segregation of duties.

Finding 35: A limited review of cash disbursements (general, credit card, and expense reimbursements) evidenced adequate supporting documentation and appropriate approvals in the sampled disbursements. Additionally, CALS has formal written policies for the disbursement process.

Finding 36: A limited review evidenced that CALS has adequate policies and procedures over the bank reconciliation process and duties are appropriately assigned in performing these reconciliations.

Finding 37: Based on the interview with the Chair of the Budget and Finance Committee, CALS is in compliance with the LSC Accounting Guide requiring the board to establish financial oversight and be responsible for the management of the on-going financial condition of the program.

Finding 38: Interviews and a limited review of TIG-related documents, activities, and practices relating to TIG Nos. 09314, 09316, 10042, 10046, 11053, and 12060 evidenced compliance with LSC regulatory requirements and applicable TIG grant assurances.

II. BACKGROUND OF REVIEW

On February 24 – 28, 2014, the Legal Services Corporation’s (“LSC”) Office of Compliance and Enforcement (“OCE”) conducted an on-site Compliance Review at Center for Arkansas Legal Services (“CALs”). The purpose of the visit was to assess CALs’ compliance with the LSC Act, regulations, and other applicable LSC guidance, including LSC Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.) (“LSC Accounting Guide”), the LSC Property Acquisition and Management Manual (“PAMM”), and applicable LSC grant conditions. The visit was conducted by a team of four (4) attorneys, two (2) fiscal analysts, and one (1) research analyst. With the exception of one (1) attorney, the team consisted of OCE staff.

Overview of CALs

CALs is a non-profit legal services program that provides free, non-criminal legal assistance to eligible persons in LSC Service Area AR-7, consisting of 44 counties in Arkansas. According to the 2000 Census, CALs’ service area comprises 32,441 square miles, and the poverty population is 319,665. See <http://grants.lsc.gov/rin/grantee-data/basic-field-funding>.

CALs is headquartered in Little Rock, with branch offices in Fort Smith, Russellville, Hot Springs, Pine Bluff, and El Dorado. Pursuant to a subgrant agreement, CALs’ four (4) southwestern-most counties are served by Lone Star Legal Aid’s Texarkana, TX office.

CALs’ staff consists of an Executive Director, an Executive Assistant, a Business Manager, an Information Technology Manager, the Arkansas Legal Services Partnership (“ALSP”) Director, the ALSP Technology and Justice Projects Assistant, six (6) managing attorneys, 13 staff attorneys, two (2) full-time Helpline attorneys, three (3) part-time Helpline attorneys, one (1) paralegal, two (2) Pro Bono coordinators, two (2) HelpLine intake specialists, four (4) senior legal secretaries, and one (1) legal secretary.

In 2011, CALs was awarded an LSC basic field grant totaling \$2,465,248.00; in 2012, \$2,103,848.00; in 2013, \$2,046,257.00; and in 2014, \$2,137,595.00. In addition, CALs received the following Technology Initiative Grants (“TIG”) from LSC that were reviewed during the visit:

YEAR	TIG No.	AWARD AMOUNT
2009	09314	\$ 26,500
2009	09316	\$126,903
2010	10042	\$ 23,000
2010	10046	\$ 18,850
2011	11054	\$ 43,100
2012	12060	\$ 63,000

See <http://grants.lsc.gov/rin/grantee-data/basic-field-funding>

CALs’ substantive case priorities are stated as follows: emergency divorces, paternity, post-decree custody or child support, problems with clients receiving services from child support enforcement, public benefits, health care, employment rights, rights of persons in institutions and nursing homes, home retention, consumer, violation of important legal rights (discrimination,

constitutional violations, etc.), education problems of children with disabilities, dependency neglect cases in juvenile court, problems with municipal services, school suspensions and related problems, adoptions, guardianships, tort cases, wills for the elderly or terminally ill, elderly clients 55 or over with meritorious civil cases, and other cases that substantially affect an individual's personal health and safety or access to shelter. CALS' case priorities explicitly exclude non-priority cases, cases prohibited by the LSC Act or regulations, conflicts of interest, traffic violation and violations of municipal ordinances, parole hearings and probation revocations, and cases involving the custody, care, sale, or spiritual development of pet animals..

In 2011, CALS reported 5,639 closed cases, including 361 private attorney involvement ("PAI") cases. Family law accounted for approximately 50% of all closed cases; consumer, 15%; housing, 11%; income maintenance, 8%; juvenile, 7%; employment, 2%; health 1%; and miscellaneous, 5 percent. Education and individual rights accounted for approximately 1 percent. Approximately 85% of all closed cases were closed after counsel and advice or limited action; 10% were court decision; 2% were settled; 2% were agency decisions; and 1% were extensive service. In that same year, CALS reported an error rate of 0.6%. Exceptions were noted with respect to CSR Handbook (2008 Ed., as amended 2011), § 5.5.

For 2012, CALS reported 5,302 closed cases, including 289 PAI cases. Family law accounted for approximately 49% of all closed cases; consumer, 14%; housing, 12%; income maintenance, 9%; juvenile, 7%; miscellaneous, 5%; employment, 2%; and health, 1 percent. Education and individual rights combined for 1 percent. Approximately 85% of all closed cases were closed after counsel and advice or limited action; 10% were court decision; 2% were settled; 2% were agency decisions; and 2% were extensive service. In that same year, CALS reported an error rate of 0.6 percent. Exceptions were noted with respect to CSR Handbook (2008 Ed., as amended 2011), § 5.6.

Overview of Compliance Review

As previously noted, OCE's visit was designed and executed to assess CALS' compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that CALS correctly implemented the CSR Handbook (2008 Ed., as amended in 2011) during the period January 1, 2011 through December 15, 2013 (the "review period"). Specifically, the team assessed CALS' compliance with the following regulatory requirements: 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) ("PAI"); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);¹ 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613

¹ 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.

(Restrictions on legal assistance with respect to criminal proceedings) and 1615 (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 1639 (Welfare reform); and 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing). In addition, the team assessed CALS' compliance with certain statutory requirements, namely, 42 USC 2996f § 1007 (Abortion, school desegregation litigation and Military Selective Service Act or desertion), and evaluated whether CALS' 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.). In addition, the team also conducted a limited assessment of CALS' management of the aforementioned TIG projects and its use of its TIG awards.

In preparation for the visit, by letter dated November 26, 2013, OCE requested that CALS provide certain materials, including copies of its financial eligibility policies and intake procedures during the review period, its board approved priorities during the review period, a list of all clinics operated by CALS during the review period, its Part 1604 policy and a list of all attorneys who were engaged in the outside practice of law during the review period, CALS' indirect cost allocation methodology, a list of all attorneys who are/were employed by both CALS and an organization that engages in restricted activities during the review period, a list of all funding sources and codes, a list of all persons and/or organizations to whom CALS transferred LSC and/or non-LSC funds during the review period.

The letter also requested that CALS provide a list of cases reported to LSC in its 2011 CSR data ("closed 2011 cases"), a list of cases reported to LSC in its 2012 CSR data ("closed 2012 cases"), a list of cases closed between January 1 and December 15, 2013 ("closed 2013 cases"), and a list of all cases that remained open as of December 15, 2013 ("open cases"). OCE requested that each list be in alphabetical order by the clients' last name and separate open and closed lists should be generated for each office. In addition, OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case 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. The letter advised CALS 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 CALS 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. The letter requested that all materials be submitted by close of business Friday, January 10, 2014.

By letter dated January 15, 2014, CALS agreed to afford OCE access to case information through the use of staff intermediaries. Specifically, CALS agreed that during the visit it would provide one (1) staff intermediary per OCE reviewer and that the intermediary would disclose to OCE the CSR problem codes assigned to the cases, client names, financial eligibility information, citizenship/alien eligibility documentation, signed retainer agreements, Part 1636

statements, the general nature of the legal assistance provided to the client, and materials otherwise available in the public record, including, but not limited to, pleadings, orders, etc..

Following receipt of the requested materials, OCE commenced a review of the same and proceeded 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 and among CALS' various offices. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

During the visit, OCE visited CALS' Little Rock, Fort Smith, El Dorado, Hot Springs, and Pine Bluff offices. CALS made the staff and the cases from the Russellville available in the Fort Smith office. As well, OCE visited the sub-recipient in Texarkana.

OCE interviewed the Executive Director, the Executive Assistant, the Business Manager, the Information Technology Director, the ALSP Director, each of the six (6) managing attorneys, the pro bono coordinators, the intake specialists, the legal secretaries, and several of the attorneys and paralegals. OCE also assessed CALS' policies and procedures, its intake, case acceptance, case management and case closure policies and procedures, and tested its automated case management system ("ACMS"). OCE examined the manner in which CALS involves private attorneys in the delivery of legal assistance to eligible clients, reviewed its compliance with LSC restrictions of prohibited political activities, lobbying activities, fee-generating cases, and its use of non-LSC funds. OCE also collected a sample of informational pamphlets and brochures. As well, OCE reviewed financial records relevant to the review period and examined CALS' compliance with the LSC Accounting Guide and its costs standards and procedures. OCE reviewed CALS' compliance with LSC's timekeeping requirements and its use of LSC funds to pay membership dues and fees. OCE conducted a limited review of CALS' internal controls, and reviewed CALS' compliance with LSC's timekeeping requirements and its use of LSC funds to pay membership dues and fees. OCE also had occasion to interview the Chair of the CALS governing body to assess the level of fiscal oversight exercised by the governing body. OCE also reviewed 568 case files during the visit to test CALS' compliance with LSC regulatory and reporting requirements. Randomly selected cases accounted for approximately 97% of all of the cases that were reviewed, while targeted cases accounted for approximately 3%.

Throughout the visit, CALS cooperated fully. Consistent with the January 15, 2014 letter, CALS afforded access to information in the case files through staff intermediaries. CALS maintained possession of the files and disclosed the CSR problem codes assigned to the cases, client names linked to case numbers, income and asset information, client signatures as they appeared on citizenship attestations, retainer agreements and Part 1636 statements, alien eligibility documentations the general nature of the legal assistance provided to the client, and materials otherwise available in the public record, including, but not limited to, pleadings, orders, etc.

During the course of the visit, OCE made every effort to advise CALS of any compliance issues as they arose. OCE notified members of CALS' upper and middle management and fiscal personnel of compliance issues identified during the review. At the conclusion of the visit, OCE held a brief exit conference during which OCE advised CALS of its preliminary findings.

During the exit conference, OCE explained to CALS that the findings were merely preliminary, and that OCE may make further and more detailed findings in the Draft Report (“DR”), which OCE would issue to CALS in approximately 60 days. OCE advised CALS that it would have 30 days to submit its comments to the DR and, as such, it should review the DR critically. CALS was advised that a Final Report would be issued that would include CALS’ comments. CALS 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 thanked CALS for its cooperation and advised CALS that the interviews that were conducted and the materials that were reviewed during the visit, as well as the cases that were reviewed, indicated CALS is in compliance with 45 CFR Parts 1604, 1608, 1609, 1612, 1613, 1615, 1617, 1620, 1627, 1632, 1633, 1636, 1637, 1639, and 1643. OCE also noted that with relatively few exceptions, CALS was in compliance with LSC’s reporting requirements. However, as discussed *infra*, OCE also expressed concerns regarding its governing body’s level of fiscal oversight, its method allocating staff attorney and paralegal time to its PAI requirement, and its compliance with 45 CFR Part 1635. CALS responded favorably to OCE’s assessment and did not contest any of the preliminary findings.

By letter dated May 9, 2014, OCE issued a Draft Report (“DR”) detailing its Findings, Recommendations, and Required Corrective Actions. CALS was asked to review the DR and provide written comments within 30 days. On June 2, 2014, CALS’ comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit.

III. FINDINGS

Finding 1: CALS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Recipients are required to utilize an automated case management system (“ACMS”) and related 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.

Recipients must also institute procedures for ensuring management review of case information for accuracy and completeness. These procedures must include a method of review to ensure that the cases are timely closed, are not reported more than once in the same year, and fairly represent the volume and types of cases that the recipient provided during the grant year. *See* CSR Handbook (2008 Ed., as amended 2011), §§ 3.4. Additionally, recipients are required to establish a method in their ACMS that will de-select case files for CSR reporting that were opened as LSC-eligible, but are not reportable to LSC as cases. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.5.

As required by the CSR Handbook (2008 Ed., as amended 2011), §§ 3.3, and 3.4, CALS has implemented automated computer generated procedures within its ACMS to ensure that LSC compliance-related requirements are met and that CSRs are accurate. CALS uses the Kemp's Case Works case management software. The system was installed several years ago, but still appears to be working reasonably well. During the visit, CALS demonstrated the capacity of Kemp's by generating reports according to client name, case handler, problem code, adverse party, length of time that a case has been opened, etc.. CALS also demonstrated Kemp's ability to provide case history, to upload and retrieve related documents, and to check for duplication, as well as its ability to track both the progress of a case and case handler time. The demonstration confirmed that, consistent with LSC Program Letter 02-6 (June 6, 2002) and the CSR Handbook (2008 Ed., as amended 2011), § 3.6, there are no defaults in CALS' ACMS. CALS also advised that, consistent with CSR Handbook (2008 Ed., as amended 2011), § 3.4, all case service information is reviewed prior to submission to LSC.

Based on the foregoing discussion, as well as a comparison of the information yielded by the ACMS to information contained in the cases that were reviewed during the visit, CALS' ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. There were, however, two (2) exceptions. *See* Little Rock Closed 2011 Case No. 10E-3078731 (closing code in case file inconsistent with closing code reported by ACMS) and Pine Bluff Closed 2012 Case No. 11E-3073277 (listed as a PAI case, but file indicated that legal assistance provided by staff).²

² Six (6) other cases that were reviewed during the visit had been deselected using case closing code “X.” Five (5) of these cases were deselected because at closing, CALS determined that no legal assistance had been provided to the client. *See* Little Rock Open Case Nos. 13E-3091533, 13E-3086952, 13E-3091831, and 13E-

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 2: CALS' intake procedure is substantially compliant with LSC regulatory and reporting requirements, however, its HelpLine does not routinely make reasonable inquiry regarding income prospects as required by 45 CFR § 1611.7(a)(1).

In making financial eligibility determinations regarding individual applicants, LSC regulations require that recipients make reasonable inquiry regarding the sources of the applicant's income, income prospects and assets. The regulations further require that recipients adopt simple intake forms and procedures to obtain and record income and asset information in a manner that promotes the development of the attorney-client relationship. *See* 45 CFR § 1611.7.

During the visit, the team discussed CALS' intake procedures with various intake personnel, including the Executive Director, the HelpLine and office managing attorneys, the HelpLine and office staff attorneys, and the HelpLine Intake specialists. Additionally, the team reviewed the forms – electronic and otherwise - adopted by CALS to obtain information necessary to the determination of both financial and citizenship/alien eligibility. Additionally, the ACMS was reviewed, as were paper forms used by CALS as part of the intake process. Further, the results of the intake system were tested during the sample case review. The team also assessed CALS' case management/supervision practices. Case management/supervision was also assessed by interviewing the Executive Director, the various managing attorneys, and several of the staff attorneys throughout CALS.

Little Rock: HelpLine

While each of CALS' offices accommodates emergencies, CALS' intake is primarily through its HelpLine, a telephone intake, legal advice referral and service delivery system. Several of CALS' branch offices accommodate the occasional walk-in applicant.³ The HelpLine is centralized in Little Rock, but is available, toll-free, throughout CALS' service area, Monday through Friday, 9:00-11:00 AM and 1:00-3:00 PM.

The HelpLine is a two-tiered operational system, consisting of a first tier intake screening, followed by a second tier interview with an attorney or paralegal to resolve the caller's legal issue.⁴ Calls are answered by two (2) bi-lingual HelpLine intake specialists who collect information needed to conduct conflict and duplicate information, *e.g.*, name, address, adverse party, legal issue, etc.. If there is no conflict and there is no duplication, the HelpLine intake specialists collect eligibility information, *e.g.*, household size, total household income, sources of household income, total value of the household assets, and citizenship/alien eligibility. All such

3090209, and Pine Bluff Open Case No. 13E-3089549. The remaining case was deselected because CALS determined that the client was financially ineligible. *See* Texarkana Closed 2012 Case No. 1111-026306-TEX.

³ Emergencies are defined as issues affecting the basic health, safety, security and welfare of the client, *e.g.*, imminent court date or eviction, domestic violence, etc..

⁴ In the Little Rock office, calls are also screened by the receptionist to ensure that the issue is within CALS' priorities and that the caller is within CALS' service area. Appropriate callers are then routed to the HelpLine.

information is contemporaneously entered directly into the ACMS during the call. Conflict and duplicate case checks are conducted utilizing the ACMS after basic identification and legal issue information is recorded. Drop-down menus within the ACMS are used as a guide during income and asset screening.

The HelpLine intake specialists are authorized to inform applicants that they are ineligible for services, but do not provide legal assistance. Eligible callers are routed to one (1) of the six (6) HelpLine attorneys⁵, who provide counsel and advice, and/or brief service in an attempt to address the caller's legal issue. Thereafter, a letter describing the assistance provided is sent to the client, usually the same day.

Although the HelpLine more than adequately collects most of the information necessary to a determination of financial eligibility, the manner of determining financial eligibility is not entirely consistent with the requirements of 45 CFR § 1611.5. Interviews with CALS HelpLine intake specialists disclosed that CALS does not make reasonable inquiry regarding income prospects. Interviews with the Executive Director and the HelpLine Managing Attorney revealed that CALS does inquire regarding income prospects where the circumstances disclosed by the applicant warrant such inquiry, but such inquiry is not routine.

As previously noted, LSC regulations require that recipients make reasonable inquiry regarding, among other things, income prospects. *See* 45 CFR § 1611.7(a). LSC's Office of Legal Affairs ("OLA"), in Advisory Opinion AO 2009-1006 (September 3, 2009), has stated that as part of their financial eligibility screening, recipients are required by 45 CFR §1611.7(a) to make a reasonable inquiry into the income prospects of each applicant for LSC funded legal assistance. The team shared a copy of the opinion with CALS during the visit and advised CALS accordingly. Consequently, CALS was required to take corrective action to ensure that it makes reasonable inquiry into the income prospects of each applicant for LSC funded legal assistance.

El Dorado, Hot Springs, and Fort Smith⁶

The El Dorado, Hot Springs, and Fort Smith offices confirmed that most of the intake for cases handled by these offices is conducted by the HelpLine. In each office, OCE was advised that they rarely receive emergency or walk in applicants. However, they also stated that all such applicants are screened in a manner similar to that of the HelpLine. All such applicants are initially screened for conflicts and duplication. If there is no impediment, the intake staff screens the applicant for financial eligibility, including inquiring about household size, income, assets, expenses, and income prospects. Applicants are also queried regarding their citizenship status. All such information is entered directly into the ACMS.

Once it is determined that the applicant is eligible, intake staff continues to collect information from the applicant until all required fields are completed, *e.g.*, Social Security number, city of residence, date of birth, gender, funding code, etc.. Thereafter, the staff attorneys review the

⁵ The HelpLine Managing Attorney, two (2) full-time HelpLine attorneys, and three (3) part-time HelpLine attorneys.

⁶ Intake in the Pine Bluff and Russellville offices is via the HelpLine.

intake information and consult with the applicant. If an attorney is not available immediately, the applicant is given an appointment as a priority.

Texarkana

As previously noted, pursuant to a subgrant between CALS and Lone Star Legal Aid, the legal assistance that is provided to the residents of CALS' four southwestern-most counties - Hempstead, Lafayette, Little River, and Miller – is provided by Lone Star Legal Aid from its Texarkana, TX office, which is situated on the Arkansas-Texas border.

OCE was advised that the majority of applicants contact the Texarkana office through the Lone Star HelpLine.⁷ Walk-in intake is limited to Mondays and Tuesdays. The intake screener first determines whether the applicant meets residence requirements for the area served by the Texarkana office, and confirms that the legal problem is within CALS' priorities. Using the Lone Star Legal Aid database, screeners then determine whether the applicant has been an adverse party, current, or former client of Lone Star Legal Aid. The applicant is also asked whether they are or have been a client of CALS. Interviews reveal that staff has been well trained on spotting potential duplicates and know how to reopen a case, if appropriate. The simulated ACMS intake screenings revealed that conflict and program-wide duplicate checks were performed in the ACMS system at the beginning of the intake screening, based on applicant name and adverse party information.

Thereafter, the screeners ask questions which capture the necessary eligibility, such as citizenship/alien status, household size, total household income, total value of the household assets, and the facts of the case. According to interviews with the intake screeners, the Texarkana office applies Lone Star Legal Aid's financial eligibility guidelines.⁸ All intake staff that were interviewed stated that all information obtained is entered directly into the ACMS. Staff in the Texarkana office make reasonable inquiry into each applicant's income prospects. The question is asked by staff during the eligibility screening process and the answer is recorded in the financial eligibility screen on the ACMS.

Case Management and Supervision

The HelpLine Managing Attorney monitors intake and reviews all intakes at the end of the day. The Helpline Managing Attorney's review encompasses both proper intake screening and review of the advice provided. If the HelpLine Managing Attorney determines that extended service is warranted, *e.g.*, bankruptcy, disability, worker's compensation, the case is transferred to the appropriate CALS office. The HelpLine Managing Attorney stated that all necessary edits are made within the ACMS to avoid creating duplicate case files.

All other case management and supervision is conducted by the managing attorneys in each office. The managing attorneys stated that they meet with their staff weekly to discuss intakes.

⁷ Although rare, residents of the four (4) Arkansas counties served by the Texarkana office may also call the CALS Helpline.

⁸ Although the sub-grant agreement states that Lone Star will apply CALS' priorities, it is silent with regard to whose eligibility guidelines apply.

At the meetings, staff determine whether to accept an intake for extended legal assistance, conduct further investigation, or refer the intake to PAI.

If the case is not accepted for further assistance or investigation and is not referred to PAI, it is closed at the level of assistance provided by the HelpLine. The weekly case review meetings focus on open cases as well.

Based on the foregoing, CALS was required to demonstrate to OCE that it has taken appropriate corrective action to ensure that it makes reasonable inquiry regarding the income prospects of each applicant for LSC funded legal assistance.

In its response to the DR, CLAS has revised its HelpLine procedures to include reasonable inquiry regarding applicants' income prospects. Consistent with OLA Advisory Opinion AO 2009-1006 (September 3, 2009), the revised procedures instruct the HelpLine intake specialists that inquiry into income prospects includes questioning the applicant on whether he/she has any reason to believe that his/her income is likely to change significantly in the near future. If the applicant responds affirmatively, the HelpLine intake specialist is instructed to inquire further.

Based on OCE's review of CALS' revised HelpLine procedures, Required Corrective Action No. 1 is closed.

Finding 3: CALS's financial eligibility policy was compliant with LSC regulations and the cases that were reviewed were compliant with 45 CFR § 1611.7(a)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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.⁹ *See* 45 CFR §§ 1611.3(c)(1) and 1611.7(a)(1), and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable FPG, and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5, 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

⁹ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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.

Prior to the visit CALS submitted its 2011, 2012, and 2013 financial eligibility policies to OCE. OCE reviewed the policies and determined that they were generally compliant with Part 1611.

Consistent with 45 CFR § 1611.3(b), the policies specified that only individuals and groups determined to be financially eligible under the policies and LSC regulations could receive legal assistance supported in whole or in part with LSC funds. The policies also established annual income ceilings not greater than 125% of the Federal Poverty Guideline (“FPG”) and established asset ceilings for individuals and households. *See* 45 CFR §§ 1611.3(c)(1) and 1611.3(d)(1). The policies also contained language consistent with 45 CFR § 1611.3(e).

As reflected in the policies, CALS also adopted each of the exceptions contained in 45 CFR § 1611.5. The policies also permit a financial eligibility determination by reference to an applicant’s receipt of benefits from a governmental program for low-income individuals and families (the “government benefits exception”). Nonetheless, CALS advised that it requires income and asset information from all applicants. However, it does not appear that CALS’ governing body has made a determination that the income standards of the governmental benefits programs identified in its policies are at or below 125% of the FPG as required by LSC regulations. *See* 70 *Federal Register* 45545 (August 8, 2005), at 45552.

CALS’ financial eligibility policies contain a section on group eligibility. The policies are consistent with 45 CFR §1611.6 and apply only to LSC funded legal assistance. The policies require the group to provide information regarding its resources and its ability to obtain funds to retain private counsel. Groups that are primarily composed of individuals who would be financially eligible for LSC funded legal assistance, or have 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 that are able to demonstrate that they lack, and have no practical means of obtaining the resources to obtain private counsel, may be determined eligible. In determining group eligibility, the policies require that CALS consider the resources available to the group, and either the financial or socioeconomic characteristics of the group, or of those served by the group.

The policies further state that CALS will make reasonable inquiry regarding the applicant’s sources of income, income prospects, and the applicant’s assets. However, as noted *supra*, CALS does not routinely make reasonable inquiry regarding income prospects.

Without exception, the LSC-funded cases that were reviewed during the visit contained the income determination required by LSC. However, the team reviewed a non-LSC funded case that involved a person whose income exceed 125% of the FPG, but lacked documentation of CALS’ consideration of any authorized factors. *See* Hot Springs Closed 2012 Case No. 11E-4076849. This case should have been excluded from CALS’ 2012 CSR data submission.

Based on the foregoing, CALS was advised that if it wishes to adopt a government benefits exception, its governing body must make a determination that the income standards of the governmental program(s) are at or below 125% of the FPG. Should CALS decide to continue to use the government benefits exception, it is required to provide OCE a copy of the board minutes at which such exception was adopted, demonstrating its determination that the income standards of the governmental program(s) are at or below 125% of the FPG.

In its response to the DR, CALS provided the minutes of the April 16, 2014 meeting of its governing body to show that the governing body has determined that the income, standards of Transitional Employment Assistance (“TEA”) and Supplemental Security Income (“SSI”) are below 125% of the FPG.

Based on OCE’s review of the minutes of the April 16, 2014 meeting of CALS’ governing body, Required Corrective Action No. 2 is closed.

Finding 4: CALS demonstrated compliance with the requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

As part of its financial eligibility policy, recipients are required to establish reasonable asset ceilings to be used in determining an applicant’s financial eligibility to receive LSC funded legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets, except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.¹⁰ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4. In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

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

As required by 45 CFR § 1611.3(c)(2), CALS’ policies also establish asset ceilings for individuals and households. The policies provide authority for the Executive Director or the managing attorneys to waive the asset ceilings for particular applicants under unusual circumstances, and exclude consideration of the principal residence, vehicles used for

¹⁰ 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.

transportation, income producing property, and certain assets that are exempt from attachment under state or federal law, *e.g.*, up to \$10,000.00 of an IRA and similar retirement plans, basic personal and household belongings, value of special equipment for the elderly or disabled, basic personal and household belongings, and assets excluded under specific governmental benefit programs for low-income individuals and families. However, as discussed with the Executive Director, two (2) of the items listed as asset exclusions were more appropriately instructions for when to grant an asset waiver.

Without exception, the LSC-funded cases that were reviewed during the visit contained the asset determination required by LSC.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 5: CALS demonstrated non-compliance with the verification requirements of 45 CFR §§ 1626.6 and 1626.7, and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

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. *See* 45 CFR § 1626.4. 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.

CALS has developed a policy and procedure to guide its staff in complying with Part 1626. The policy is contained within CALS' Operations Manual. The Executive Director and the staff

attorneys that were interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations. The Executive Director also stated that staff receive periodic reminders of LSC regulatory and reporting requirements.

The policy is consistent with Part 1626 and incorporates LSC Program Letters 05-2 and 06-2. At the time of the visit, CALS employed five (5) different citizenship attestations.¹¹ Four (4) of them were compliant with CSR Handbook (2008 Ed., as amended 2011), § 5.5. The fifth attestation is contained in CALS' retainer agreement, but is linked to a certification of family income and assets.

During the visit, OCE advised CALS that citizenship attestations may be contained within a retainer agreement, but may not be linked to other information. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5. CALS responded that it would revise the retainer agreement by removing the attestation section and relying on one of the simpler, more compliant attestation forms.

There were no cases that relied exclusively on the attestation contained in the retainer agreement. However, there was one (1) closed case that lacked the necessary Part 1626 documentation. *See* Little Rock Closed 2011 Case No. 11E-3076474. Little Rock Closed 2011 Case No. 11E-3076474 should have been excluded from CALS' 2011 CSR data submission.

The failure to maintain the documentation necessary to demonstrate compliance with Part 1626 constitutes a regulatory violation. The Part 1626 documentation requirements are designed to assist recipients in ensuring the eligibility of persons seeking legal assistance. The requirement is integral to LSC's program of verification, which is essential to the realization of the intent of the Congress in enacting the restrictions on legal assistance to ineligible aliens. The documentation serves to demonstrate that the recipient's compliance with LSC regulations and failure to obtain and maintain such documentation constitutes a violation of a substantive regulatory requirement.

Based on the foregoing, CALS was required to demonstrate to OCE that it has taken appropriate corrective action to ensure compliance with 45 CFR §§ 1626.6 and 1626.7 and CSR Handbook (2008 Ed., as amended 2011), § 5.5. CALS was also required to revise the citizenship attestation contained within its retainer agreement consistent with CSR Handbook (2008 Ed., as amended 2011), § 5.5 and submit same for OCE review.

In its response to the DR, CALS stated that the four (4) cases cited in the DR as lacking the necessary Part 1626 documentation have been deselected. However, CALS also states that, consistent with LSC regulatory and reporting requirements, in each of the four (4) cases, citizenship/alien eligibility was determined by telephone, each case involved counsel and advice or limited action provided by telephone only, and none of the clients ever appeared in CALS' office.

¹¹ Two (2) of the four (4) attestations state "I certify that I am a citizen of the United States." The remaining two (2) are designed for use by juveniles, including one (1) that is executed by a parent, guardian, or custodian attesting to the citizenship of the juvenile.

CALS also responded that it has revised its citizenship attestation forms (adult and juvenile) for standard use in all offices for staff and PAI cases. It also responded that it will continue to work with PAI attorneys to improve the date collection on this report form.

OCE has reviewed the data it collected relative to the four (4) cases cited in the DR. As regards Little Rock closed 2011 Case No. 11E-3076474, the data indicates that the client did come into the office. Consequently, documentation of citizenship/alien eligibility was necessary. Otherwise, nothing in the data collected by OCE controverts CALS' response and, consequently, OCE has revised the DR accordingly. CALS should note, however, that based on its response Little Rock open Case No. 12E-3083998 is untimely.

Accordingly, OCE has determined that Required Corrective Action No. 3 shall remain open pending receipt of information from CALS that it has taken appropriate action to ensure compliance with 45 CFR §§ 1626.6 and 1626.7 and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

OCE has also reviewed the revisions to the citizenship attestation forms submitted by CALS with its response. The citizenship attestation forms (adult and juvenile) do not appear unchanged from the forms reviewed during the visit. However, the retainer agreement has been revised and no longer contains a citizenship attestation. Accordingly Required Corrective Action No. 4 is closed.

Finding 6: CALS demonstrated compliance with the 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. No written retainer agreement is required for advice and counsel or brief service provided by the recipient, or for legal services provided to the client by a private attorney pursuant to 45 CFR Part 1614.

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.¹² Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

All of the cases that were reviewed during the visit that required a retainer agreement contained one. The retainer agreements observed during the visit sufficiently identified the client's legal issue and the nature of the services to be provided.

¹² 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.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 7: CALS demonstrated 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). Recipients are required to maintain records sufficient to demonstrate their compliance and are also required to adopt written policies and procedures to guide its staff in complying with Part 1636. *See* 45 CFR § 1636.5.

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). Nor is it required when the legal services is provided by a private attorney pro bono. *See* 45 CFR § 1636.4.

CALS has adopted a written policy and procedure that is consistent with Part 1636. The policy is contained within CALS' Operations Manual. The Executive Director and the staff attorneys that were interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations. As well, the Executive Director stated that staff receive periodic reminders of LSC regulatory and reporting requirements.

All of the cases that were reviewed during the visit that required a Part 1636 statement contained one.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 8: CALS demonstrated compliance with the requirements of 45 CFR §§ 1620.4 and 1620.6(c) (Priorities in 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.

As noted *infra*, prior to the visit CALS provided OCE with a statement of its priorities for the years 2011, 2012, and 2013.

Without exception, all of the cases that were reviewed during the visit were within CALS' priorities.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 9: CALS demonstrated substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6, (Legal Assistance Documentation Requirements).

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.

With 12 exceptions, the cases that were reviewed during the visit contained a description of the legal assistance provided to the client. The majority of the exceptions were PAI cases in which the only indication of the legal assistance that was provided to the client was the case closing category indicated by the participating PAI attorney on the “Closed Case Report.” *See* Little Rock Open Case No. 12E-3079385, Pine Bluff Open Case No. 13E-3087513, Fort Smith Closed 2012 Case No. 11E-3076980, Pine Bluff Closed 2013 Case Nos. 12E-3079311 and 12E-3081428, Pine Bluff Closed 2012 Case No. 12E-3079366, and Pine Bluff Closed 2011 Case Nos. 11E-3073219, 10E-3070381, and 10E-3071902.

As previously indicated, LSC requires more than simply the case closing category. LSC requires that each reported case contain a description of the legal assistance provided to the client. Such description should be sufficient to support the assigned case closing category. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6. Although certain case closure categories might

be regarded as intuitive and require no further description, *e.g.*, “court decision”, “administrative agency decision”, “negotiated settlement”, others are not. Particularly where the case closing category assigned is “counsel and advice”, “limited action”, “extensive service”, or “other” a description, or explanation of the actions taken on behalf of the client is necessary. Absent such a description, the cases cited herein should be – or should have been – excluded from CALS CSR data submission.

The remaining exceptions were closed in 2011 and involved HelpLine requests for bankruptcy assistance. *See* Little Rock Closed 2011 Case Nos. 11E-3075717, 11E-3074601, and 11E-3074217. In each case, the HelpLine simply described the different types of bankruptcy. OCE was advised that the HelpLine conversation is typically followed by a letter from the HelpLine attorney, along with a bankruptcy brochure. A review of the sample letter, as well as the brochure, indicates that both simply summarize the bankruptcy process, and, as such, was more akin to legal information than legal assistance.

The HelpLine Managing Attorney stated that in 2011, the HelpLine attorneys lacked expertise in bankruptcy. She stated that all requests for bankruptcy assistance are now referred for extended services. She also provided samples of more current bankruptcy follow-up letters that, indeed, contain the type of legal analysis tailored to the client’s factual circumstances that is contemplated by CSR Handbook (2008 Ed., as amended 2011), § 2.2.

Based on the foregoing, CALS was required to demonstrate to OCE that it has taken appropriate corrective action to ensure that the PAI cases included in its CSR data submission to LSC contain a description of the legal assistance provided to the client.

In its response to the DR, CALS has revised its PAI case closing report form to include a space for the participating attorney to describe the legal assistance provided to the client.

The revised form sufficiently addresses Finding 9 and, accordingly, Required Corrective Action No. 5 is closed.

Finding 10: The cases that were reviewed during the visit demonstrated that CALS’ application of the CSR case closure categories is substantially compliant with Chapter VIII, 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.

CALS’ application of the CSR case closure categories was substantially compliant with the CSR Handbook (2008 Ed., as amended 2011). However, eight (8) of the files that were reviewed during the visit contained CSR case closure categories that were inconsistent with Chapter VIII, CSR Handbook (2008 Ed., as amended 2011). *See* Little Rock closed 2013 Case No. 12E-3079385, El Dorado Closed 2013 Case Nos. 13E-3091236, 13E-3088336, and 13E-3-87198, El Dorado Close 2012 Case No. 12E-2081141, and El Dorado Closed 2011 Case No. 10E-3071929

(closed as “limited action,” but the documentation in the files was more consistent with “counsel and advice); Little Rock closed 2012 Case No. 11E-3078743 (closed as “contested court decisions,” but the documentation in the file was more consistent with “uncontested court decision”); and Russellville Closed 2013 Case No. 11E-3077718 (closed as “contested court decision,” but the documentation in the file was more consistent with agency decision”).

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 11: CALS demonstrated substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing of cases).

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).¹³ 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).

Generally, the cases that were reviewed were either timely closed or active.¹⁴ However, there were two (2) cases that were untimely closed, *see* Little Rock open Case No. 12E-3083998 (opened in 2012 and still open at the time of the visit; in response to the DR, CALS stated that legal assistance stopped at advice or brief service, which would have been provided by the HelpLine) and Little Rock Closed 2012 Case No. 05E-3035103 (opened in 2005 and closed in 2012, but there was no indication of any activity on the case beyond the 2008 court order), and two (2) cases that were inactive. *See* Pine Bluff Open Case No. 12E-3079431 (opened and referred to PAI in 2012; no further contact with PAI attorney until 2014, at which time CALS was advised that PAI attorney met with client, but lost contact) and Pine Bluff Open Case No.

¹³ 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).

¹⁴ OCE also reviewed five (5) cases that CALS’ had deselected as untimely/inactive prior to the visit. *See* Little Rock Open Case Nos. 13E-3090071, 13E-3087628, 12E-3082444, and 13E-3086709, and Pine Bluff Open Case No. 13E-3088738.

09E-3059966 (opened in 2009; file lacks any status updates and notes indicate case was closed in 2011 and re-opened in 2013). Each of these cases should be – or should have been – excluded from CALS’ CSR data submission to LSC.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

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

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

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

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

No duplicates were identified during the visit.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 13: CALS demonstrated compliance with the general requirements of 45 CFR Part 1604 (Outside practice of law), however, CALS written policy was not fully consistent with that Part.

Part 1604 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 this part, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

Prior to the visit CALS submitted its Part 1604 policy to OCE and a list of all attorneys who have, or had, engaged in the outside practice of law during the period January 1, 2011 and December 15, 2013. The list included the attorneys' full name, the office to which such attorney was assigned, the nature of the outside practice, and the name of the person that approved the outside practice.

The policy does not address newly employed attorneys, the use of CALS resources, or court appointments. It is otherwise compliant with Part 1604. However, the Executive Director stated that all staff receive CALS' Operation Manual which contains CALS' policies and procedures. She also stated that the policy is explained to newly hired attorneys to determine whether they have any outstanding cases. She stated that new hires are generally expected to close outstanding cases within 90 days of hire.

The Executive Director stated that attorneys who wish to engage in the outside practice of law are required to submit a memo requesting permission. The memo should describe the nature of the engagement and the attorney's relationship to the client. Based on the memo and her understanding of the requesting attorney's workload, the Executive Director determines whether the request is consistent with the requesting attorney's responsibilities to CALS' clients. The Executive Director stated that most requests are routine, but that she does monitor new hires as warranted by the circumstances. She added that she maintains the written requests and approvals.

The Executive Director and the staff attorneys that were interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations. The attorneys that were interviewed during the visit demonstrated their awareness of the policy. They consistently stated that their outside practice is uncompensated and that their practice is on their own time. They indicated that they were careful not to identify CALS with their outside practice and make no use of CALS' resources.

Based on the interviews with the Executive Director and the full-time staff attorneys identified on the list, CALS demonstrated compliance with 45 CFR Part 1604. However, OCE required that CALS revise its policy to address newly employed attorneys, court appointments, and the use of CALS' resources as discussed herein.

In its response to the DR, CALS has revised its outside practice of law policy to address newly employed attorneys, court appointments, and the use of CALS' resources. Accordingly, Required Corrective Action No. 6 is closed.

Finding 14: CALS demonstrated 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.

CALS has adopted or a written policy to guide its staff in complying with Part 1608. The policy is consistent with LSC regulations. Interviews with the Executive Director and staff attorneys demonstrated their familiarity with Part 1608 and its restrictions. The limited review of accounting records and documentation for the period of January 1, 2011 through December 31, 2013 disclosed that CALS did not expend any LSC grant funds, or use personnel or equipment in prohibited activities in violation of 45 CFR § 1608.3(b). Indeed, none of the persons that were interviewed during the visit were aware of CALS' involvement in any political activity.

OCE did note that one of CALS' attorneys was a candidate for elective public office in 2004 and 2008. However, based on CALS' representations and research conducted by the team during the visit, it appears that the elections were non-partisan and, therefore, not inconsistent with 45 CFR § 1608.5(c). *See* OLA External Opinion EX 2006-1007 (October 16, 2006).

Similarly, none of the cases that were reviewed during the visit indicated CALS' involvement in any such activity. The printed materials available in CALS' offices were not inconsistent with Part 1608. Pamphlets and brochures available in CALS' offices contained legal information peculiar to the laws of Arkansas, including landlord-tenant law, custody, divorce social security, Medicare/Medicaid, worker's comp, utilities, adoption and guardianships. Additionally, pages and links from the CALS web-site and the search results of on-line news articles mentioning CALS were reviewed for indications of relationships with political candidates, activities, or entities. No indication of prohibited political activities was found.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 15: CALS demonstrated compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide LSC funded 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 LSC funded 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 that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

Recipients are required to adopt written policies and procedures to guide its staff in complying with Part 1609, and are required to maintain records sufficient to document their compliance. *See* 45 CFR § 1609.6. LSC has also prescribed certain specific, mandatory recordkeeping requirements and forms for fee-generating cases. *See* LSC Memorandum to All Program Directors (December 8, 1997). Additionally, 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).

CALS has adopted a written policy concerning fee-generating cases. The policy reflects the most recent amendments to Part 1609 and is consistent with Part 1609. The policy is contained within CALS' Operations Manual.

The Executive Director and the staff attorneys that were interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations. All of the personnel that were interviewed during the visit indicated their familiarity with the policy and Part 1609, and none of them were aware of CALS' involvement in any fee-generating cases.

None of the cases that were reviewed during the visit involved legal assistance with respect to a fee-generating case, and the limited review of accounting records and documentation for the period of January 1, 2011 through December 31, 2013 and interviews with CALS' management and OCE team members disclosed that CALS' compliance with Part 1609.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 16: A limited review of CALS' organizational chart, observations of the physical locations of CALS' offices, and interviews with staff indicate that CALS is in compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

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

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

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

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

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

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

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

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

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

The regulation also prohibits recipients from accepting non-LSC funds greater than \$250.00, unless the recipient provides the source of the funds written notification of the prohibitions and conditions which apply to the funds. *See* 45 CFR § 1610.5.¹⁵

¹⁵ Generally, notification should be provided before the recipient accepts the funds. Thus, notice should be given during the course of soliciting funds or applying for a grant or contract. However, for unsolicited donations where advance notice is not feasible, notice should be given in the recipient's letter acknowledging the contribution. The notice requirement applies to funds received by recipients as grants, contracts or charitable donations from funders other than the Corporation, which are intended to fund the nonprofit work of the recipient. It does not include funds received from sources such as court payment to attorneys for their work

A limited review of CALS' organizational structure, observation of CALS' office locations, and interviews with staff indicated that CALS is in compliance with 45 CFR § 1610.8(a).

CALS subleases space in its Little Rock office to Arkansas Access to Justice Foundation ("AATJ"), which manages Arkansas' IOLTA program and coordinates statewide fundraising efforts for access to justice. AATJ does not provide legal assistance.

CALS advised that it does not transfer any LSC funds to AATJ, and that AATJ is financially separate from CALS. CALS advised that AATJ has its own computer and telephone systems, and there are no shared personnel. Although not physically separate, there is adequate signage between CALS and AATJ.

A review of CALS' lease agreement and its sub-lease agreement with AATJ indicates that the sub-lease is at the same rental rate as the lease agreement. In addition, CALS and AATJ have entered into a written memorandum of understanding that addresses postage, photocopying, and office supplies.

From a limited review of the chart of accounts and detailed general ledger for specific accounts for the period January 1, 2011 through December 31, 2013, CALS does not appear to be engaged in any activity contrary to 45 CFR Part 1610.

Notification letters sent pursuant to 45 CFR § 1610.5 were compliant with the regulations.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 17: CALS is in substantial compliance with 45 CFR Part 1614 (Private attorney involvement).

LSC regulations require LSC recipients to devote an amount equal to at least 12.5% of its LSC annualized Director basic field award to the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the private attorney involvement, or "PAI," 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

under court appointments; nor does it include payments to the recipient for rent, bank interest, or sale of goods, such as manuals. *See* 62 *Federal Register* 27696 (May 21, 1997).

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.

The CSR Handbook (2008 Ed., as amended 2011) defines a PAI case as the provision of permissible legal assistance by a private attorney participating in the recipient's PAI program to an eligible client with a legal issue (or set of closely related issues) accepted for assistance in accordance with the requirements of the LSC Act, regulations and other applicable law. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.1. Recipients may record and report the provision of legal assistance by a private attorney as a case only if all of the provision of Chapter II of the CSR Handbook (2008 Ed., as amended 2011) and the requirements of 45 CFR § 1614.3(d) are met, and the legal assistance to the client is provided by a private attorney participating in the recipient's PAI program. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.1(a).

CALS' PAI is entirely pro bono and operates, in cooperation with various local bar associations, through the Volunteer Organization, Center for Arkansas Legal Services ("VOCALS") and the River Valley Volunteer Attorney Project ("VAP"). According to CALS' PAI plan, it has 1,100 attorneys throughout its service area who participate in the delivery of legal assistance to eligible clients. Participating attorneys are provided training opportunities and free malpractice insurances for the cases they accept. In addition, CALS has a number of law student volunteers who participate each semester.

As previously indicated, CALS employs two (2) pro bono coordinators: one (1) in the Hot Springs office and one (1) in the Pine Bluff office. In Little Rock, the Executive Assistant functions as the pro bono coordinator, and the Managing Attorney of the Fort Smith office functions as the pro bono coordinator for the Fort Smith and Russellville offices. Recruitment is a responsibility that is shared between the Executive Director, the two (2) pro bono coordinators, the Executive Assistant, and some of the managing attorneys. Otherwise, and except as noted herein, the PAI practices were fairly consistent from office to office.

Direct and indirect costs of the managing attorneys, staff attorneys, and paralegals related to PAI are allocated on the basis of time sheets. All other direct and indirect costs are allocated to PAI on the basis of reasonable operating data.

OCE noted that the rate used to allocate staff attorney and paralegal time to CALS' PAI requirement is based upon dividing the attorney/paralegal's annual salary by the attorney/paralegal's annual hours, less vacation, sick and holidays, resulting in an inflated hourly PAI rate and over reporting of salaries charged to PAI. Calculating the hourly rate to be charged to PAI by dividing the attorney/paralegal's annual salary by CALS' standard annual hours without deductions for vacation, sick and holidays, results in a more accurate rate.

All of the cases that are referred to PAI are screened by CALS to ensure their eligibility. As well, all such cases are reviewed prior to referral to determine whether the applicant has a legal problem that is within CALS' priorities and is not prohibited by the LSC Act, regulations or other applicable authority. Cases are assigned to participating attorneys according to the interest expressed by such attorneys at the time of recruitment.

Once an office has determined to refer a case to PAI, a retainer agreement designed for use in PAI cases (which contains a non-compliant citizenship attestation) and a copy CALS' grievance procedure are forwarded to the client. The client has 30 days to return the documents. If the client does not respond after 30 days, the case is returned to the office Managing Attorney, who typically closes the case at the level of legal assistance provided by the HelpLine.

Upon receipt of the documents from the client, CALS calls and/or sends an e-mail blast to the participating attorneys to determine whether they are interested in accepting the referral. Participating attorneys receive monthly e-mail case summaries of clients that need assistance. When a participating attorney agrees to accept the referral, the client receives a letter identifying the attorney and instructing the client to contact the attorney to schedule an appointment. The attorney receives a similar letter identifying the client. Referrals that are not accepted are closed at the level of assistance provided by the HelpLine.

The participating attorney also receives an "Initial Case Report." The report advises CALS that the participating attorney has met with the client and will provide legal assistance, has met with the client and will not provide legal assistance, or has not met with the client. Upon receipt of an Initial Case Report indicating that the participating attorney has met with the client and will provide legal assistance, the case is tickled every three (3) months.¹⁶ Upon receipt of an Initial Case Report containing any other response, the case is closed.

Monthly statistical and financial reports are prepared and analyzed for CALS' oversight by the Managing Attorneys. Cases are tracked by the Pro Bono Coordinators at monthly intervals until

¹⁶ The Pine Bluff Pro Bono Coordinator stated that she sends the attorneys an initial status update letter within 60 days of referring the case. She also stated that she requests status updates from the pro bono attorney on a quarterly basis. *But see* Pine Bluff Open Case No. 12E-3019431 (opened in January 2012 and referred in May 2012; no status updates between December 2012 and February 2014); Pine Bluff Open Case No. 12E-3080765 (opened March 2012; no status updates since September 2012); and Pine Bluff Closed 2013 Case No. 09E-3059966 (opened May 2009; no status updates in file).

closed. All cases are reviewed prior to closing by the Managing Attorneys in each office. Satisfaction forms are sent to a sample selection of clients.

When the case is closed, the participating attorney is required to complete a “Closed Case Report” and return it to CALS. The report requests that the attorney assign the CSR case closing categories reflecting the level of assistance provided to the client. The form also contains a space allowing the attorney to provide comments. The closing memos are reviewed by the Managing Attorneys.

Although in many instances CALS supplements the case file by accessing court databases, as noted in Finding 9, without more, the “Closed Case Report” does not sufficiently describe the legal assistance provided to the client.¹⁷ LSC requires more than simply the case closing category. LSC requires that each reported case contain a description of the legal assistance provided to the client. Such description should be sufficient to, among other things, support the assigned case closing category. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6. Particularly where the case closing category assigned to the case is “counsel and advice”, “limited action”, “extensive service”, or “other”, a description, or explanation of the actions taken on behalf of the client is necessary. Absent such a description, the foregoing cases should be – or should have been – excluded from CALS CSR data submission.

Based on the foregoing, CALS was required to demonstrate to OCE that it has taken appropriate corrective action to ensure that the PAI cases included in its CSR data submission to LSC contain a description of the legal assistance provided to the client.

In its response to the DR, CALS has revised its PAI case closing report form to include a space for the participating attorney to describe the legal assistance provided to the client. The revised form sufficiently addresses Finding 17.

In addition, CALS has revised its PAI calculation to use the standard annual hours for which each employee is compensated. For full-time employees, that is 1,950 hours per year. CALS used this number to calculate its 2013 PAI percentage for the 2013 audit report.

Finding 18: CALS demonstrated compliance with 45 CFR Part 1627 (Subgrants and Membership Fees and Dues).

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. 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*

¹⁷ The “Final Case Disposition” form used in the Texarkana office is more descriptive.

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).

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 Director. 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% 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.

By letter dated December 19, 2013, LSC approved a \$75,000.00 subgrant agreement between CALS and Lone Star Legal Aid for the period January 1, 2014 through December 31, 2014. By the terms of the subgrant agreement, Lone Star Legal Aid provides legal assistance to the residents of CALS' four southwestern-most counties - Hempstead, Lafayette, Little River, and Miller.

Lone Star Legal Aid receives a quarterly payment of \$18,750.00 from CALS. The subgrant amount is reported as a note in CALS' audited financial statements, and the detailed revenues and expenses associated with the subgrant are reported in Lone Star Legal Aid's audited financial statement on the Schedule of Support, Revenue, Expenses, and Changes in Net Assets for LSC Funds.

Limited review of CALS financial records demonstrated compliance with 45 CFR § 1627.4.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 19: CALS demonstrated compliance with the requirements of 45 CFR Part 1635 (Timekeeping requirements).

LSC's timekeeping requirement is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

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

During the visit, OCE tested 10 employees' time records - eight (8) lawyers and two (2) paralegals - for two (2) pay cycles - October 16 – 30, 2013 and November 1– 15, 2013. The 10 employees' time records were reviewed and assessed against the time reported in the KEMPS timekeeping system. A review of this sampling indicated that employees are recording their time in a contemporaneous manner and in increments not greater than ¼ hour.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 20: CALS demonstrated compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

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

recipient. *See* 45 CFR § 1642.3.¹⁸ However, with the enactment of LSC’s FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys’ fees was lifted. Therefore, at its January 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys’ fees. Accordingly, effective March 15, 2010 recipients may claim, collect, and retain attorneys’ fees, regardless of when such work was performed. Claims for, collection of, or retention of attorneys’ fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).¹⁹

Consistent with the former Part 1642, CLAS adopted a policy and procedure to guide its staff in complying with the regulation. The policy is contained within CALS’ Operations Manual. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS’ Operations Manual and a copy of LSC’s regulations. While CALS is free to continue its policy, LSC has repealed Part 1642. Consequently, CALS is free to rescind its policy – should it so choose.

According to the Executive Director, CALS did not request, collect, or retain any attorneys’ fees during the review period. In addition, none of the cases that were reviewed during the visit contained a claim for attorneys’ fees. A limited review of the CALS’ fiscal records, the FY 2011 and FY 2012 Audited Financial Statements (“AFS”), and interviews with the Business Manager evidenced that there were no attorneys’ fees awarded, collected, or retained for cases serviced directly by CALS that would violate this Part.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 21: CALS demonstrated compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

The purpose of 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. Recipients are required to adopt written policies and procedures to guide its staff in complying with Part 1612, and also required to maintain separate records documenting the expenditure of non-LSC funds for permissible legislative and rulemaking activities. *See* 45 CFR §§ 1612.10(b) and 1612.11.

¹⁸ 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).

¹⁹ Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys’ fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

CALS has adopted a written policy to guide its staff in complying with Part 1612. The policy is consistent with 45 CFR Parts 1612. The policy is contained within CALS' Operations Manual. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

CALS' 2011, 2012, and 2013 semi-annual reports indicate that CALS did not engage in any legislative or administrative activity. Interviews with the Executive Director and staff attorneys indicated that CALS does not – and has not – engaged in any such activity.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 22: CALS demonstrated compliance with the requirements of 45 CFR Parts 1613 (Restrictions on legal assistance with respect to criminal proceedings) and 1615 (Restrictions on 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.

The Executive Director stated that CALS does not provide legal assistance with respect to criminal proceedings, nor does it provide legal assistance in actions collaterally attacking a criminal conviction. As well, interviews were conducted with several staff to gauge their understanding and awareness of Parts 1613 and 1615. The staff that were interviewed during the visit were aware of the restriction and stated that they were not aware of CALS' involvement in criminal proceedings or any involvement in action collaterally attacking a criminal conviction.

None of the cases that were reviewed during the visit involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 23: CALS demonstrated 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).²⁰ The regulation also requires that recipients adopt written policies and procedures to guide its staff in complying with Part 1617. *See* 45 CFR § 1617.4.

CALS has adopted a written policy to guide its staff in complying with Part 1617. The policy is consistent with Part 1617. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of LSC's regulations.

Interviews with the Executive Director and staff attorneys indicated that CALS does not – and has not – initiated or participated in any class action. None of the cases that were reviewed during the visit involved CALS' initiation of, or participation in, a class action.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 24: CALS demonstrated 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. The regulation requires that recipients adopt written policies to implement the requirements of Part 1632. *See* 45 CFR § 1632.4.

CALS has adopted a written policy to guide its staff in complying with Parts 1632. The policy is consistent with Part 1632. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

Interviews with the Executive Director indicated that CALS is not involved in any activities prohibited by 45 CFR § 1632.3. As well, interviews were conducted with several staff to gauge their understanding and awareness of Part 1632. The staff that were interviewed during the visit were aware of the restriction and stated that they were not aware of CALS' involvement in any redistricting activity.

None of the cases that were reviewed during the visit indicated CALS' involvement in such activity.

Based on the foregoing, there are no recommendations or required corrective actions.

²⁰ 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).

CALS offered no comments in response to this Finding.

Finding 25: CALS demonstrated 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. Recipients are required to adopt written policies and procedures to guide its staff in complying with Part 1633, and are also required to maintain records sufficient to document their compliance with Part 1633. *See* 45 CFR § 1633.4.

CALS has adopted a written policy to guide its staff in complying with Part 1633. The policy is consistent with Part 1633. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

Interviews with the Executive Director indicated that CALS does not defend persons charged with, or convicted of, sale, distribution, manufacture, or possession with intent to distribute a controlled substance who are being evicted by a public housing agency on the basis of such illegal activity. As well, interviews were conducted with several staff to gauge their understanding and awareness of Part 1633. The staff that were interviewed during the visit were aware of the restriction and stated that they were not aware of CALS' defense of any person in a narcotics related eviction.

None of the cases that were reviewed during the visit involved defense of any such eviction proceeding.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 26: CALS demonstrated 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. Recipients are required to maintain records sufficient to document their compliance and adopt written policies and procedures to guide its staff in complying with Part 1637. *See* 45 CFR § 1637.5.

CALS has adopted a written policy to guide its staff in complying with Part 1637. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

Interviews with the Executive Director indicated that CALS does not provide representation to incarcerated persons. As well, interviews were conducted with several staff to gauge their understanding and awareness of Part 1637. The staff that were interviewed during the visit were aware of the restriction and stated that they were not aware of CALS' involvement in any civil litigation on behalf of a prisoner.

None of the cases that were reviewed during the visit involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 27: CALS demonstrated 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.²¹ This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

Recipients and their employees are prohibited from representing, or referring to other recipients, individuals as a result of a face-to-face encounter, or personal encounter via other means of communication such as a personal letter or telephone call, in which the recipient or its employee advised the individual to obtain counsel or take legal action, where the individual did not seek the advice and with whom the recipient has no attorney-client relationship. *See* 45 CFR §§ 1638.2 and 1638.3. The regulation also requires that recipients adopt written policies to implement the requirements of Part 1638. *See* 45 CFR § 1638.5.

CALS has adopted a written policy to guide its staff in complying with Part 1638. The policy is consistent with Part 1638. The Executive Director and the staff attorneys that were interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

²¹ *See* Section 504(a)(18).

Interviews with the Executive Director and staff attorneys indicated that CALS has not engaged in solicitation. None of the cases that were reviewed during the visit indicated CALS' involvement in such activity.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 28: CALS demonstrated compliance with the requirements of 45 CFR Part 1639 (Welfare Reform).

Except as otherwise provided, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking involving an effort to reform a federal or state welfare system. *See* 45 CFR § 1639.3. Recipients are required to adopt written policies and procedures to guide its staff in complying with Part 1639. *See* 45 CFR § 1639.6.

CALS has adopted a written policy to guide its staff in complying with Part 1639. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

The policy is consistent with Part 1639. Interviews with the Executive Director and staff attorneys indicated that CALS does not provide legal assistance, or engage in any other type of activity related to welfare reform. The staff that were interviewed during the visit were aware of the restriction and stated that they were not aware of CALS' involvement in any activity related to welfare reform.

None of the cases that were reviewed during the visit indicated CALS' involvement in such activity.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 29: CALS demonstrated 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. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3. The regulations also require that recipients adopt written policies to guide its staff in complying with Part 1643. *See* 45 CFR § 1643.5.

CALS has adopted a written policy to guide its staff in complying with Part 1643. The policy is consistent with Part 1643. The Executive Director and the staff attorneys interviewed during the visit stated that all personnel are provided a copy of CALS' Operations Manual and a copy of LSC's regulations.

Interviews with the Executive Director and staff attorneys indicated that CALS does not provide legal assistance, or engage in any other type of activity related to assisted suicide, euthanasia or mercy killing. The staff that were interviewed during the visit indicated their familiarity with the restriction and stated that they were not aware of CALS' involvement in any activity related to assisted suicide, euthanasia, and mercy killing.

None of the cases that were reviewed during the visit indicated CALS' involvement in such activity.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 30: Review of CALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of LSC statutory prohibitions against abortion related legal assistance (LSC Act, § 1007(a)(8); 42 USC § 2996f(b)(8)), school desegregation litigation (LSC Act, § 1007(a)(9); 42 USC § 2996f(b)(9)), and Military Selective Service Act or desertion related legal assistance (LSC Act, § 1007(a)(10); 42 USC § 2996f(b)(10)).

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

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

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

he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

All of the cases that were reviewed during the visit demonstrated CALS' compliance with the above LSC statutory prohibitions. Interviews with the Executive Director indicated that CALS does not provide legal assistance, or engage in any other type of activity related to school desegregation, Military Selective Service Act, or abortion. As well, interviews were conducted with several staff to gauge their understanding and awareness of the LSC statutory prohibitions. The staff that were interviewed were aware of the statutory prohibitions and stated that they were not aware of CALS' involvement in any school desegregation, Military Selective Service Act, or abortion related representation.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 31: A review of the fidelity bonding or insurance on the employees of CALS was found to be in compliance with 45 CFR § 1629.1 (Bonding of Recipients).

LSC regulations require that recipients of LSC funds that are not government entities, or agencies or instrumentalities thereof, maintain fidelity bond coverage at a minimum level of at least 10% of the recipient's annualized LSC funding level for the previous fiscal year. No coverage maintained pursuant to LSC's requirement shall be less than \$50,000.00. *See* 45 CFR § 1629.1.

The fidelity bond coverage maintained by CALS was \$250,000.00 at the time of the visit.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 32: CALS is in compliance with 45 CFR Part 1630 (Cost Standards and Procedures) in that direct and indirect costs allocated among the various funding sources were supported by an allowable method.

The purpose of 45 CFR Part 1630 is to provide uniform standards for the allowability of costs and to provide a comprehensive, fair, timely and flexible process for the resolution of questioned costs.

LSC regulations require that direct costs – those that that can be identified specifically with a particular grant award – be allocated to the particular award. *See* 45 CFR § 1630.3(d). Where a recipient has only one major function, *i.e.*, the delivery of legal assistance to eligible clients, allocation of indirect costs may be by a simplified allocation method, whereby total allowable indirect costs (net of applicable credits) are divided by an equitable distribution base and distributed to individual grant awards accordingly. The distribution base may be total direct

costs, direct salaries and wages, attorney hours, number of cases, number of employees, or another base which results in an equitable distribution of indirect costs among funding sources. *See* 45 CFR § 1630.3(f).

Discussions with the Business Manager and review of the CALS' Accounting Manual relative to the allocation of indirect costs disclosed that the method was based on attorney hours generated by CALS' timekeeping system, which is among the allowable bases noted above. Direct costs are allocated as required by LSC regulations.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 33: A limited review of CALS' responses to LSC's Segregation of Financial Duties Worksheet evidenced that they generally comply with the requirements of the LSC Accounting Guide. However, there are process areas where controls are not appropriately segregated among staff fiscal duties. On-site interviews and testing revealed compensating controls.

According to the LSC Accounting Guide, the essence of an effective system of internal control is the segregation of duties in such a way that the persons responsible for the custody of assets and conduct of operations have no part in the keeping of, and do not have access to, the records which establish accounting control over the assets and the operations. Duties of individuals should be so divided as to minimize the possibility of collusion, perpetration of irregularities, and falsification of the accounts. The objective is to provide the maximum safeguards practicable in the circumstances, giving due consideration to the risks involved and the cost of maintaining the controls. *See* LSC Accounting Guide, Appendix VII.

CALS' responses to LSC's Segregation of Financial Duties Worksheet was reviewed and assessed to ensure that duties performed did not pose internal control conflicts. The following functions were reviewed and assessed: Cash Receipts, Cash Disbursements, Petty Cash, Procurement, Property, Payroll, Client Trust Accounting, General Journal, and General. Results of the on-site testing of these functions are discussed under Findings 34, 35, and 36. The review showed, in most cases, that financial duties are appropriately segregated and comply with the requirements of the LSC Accounting Guide. However, as discussed below, there are process areas where controls are not appropriately segregated among staff fiscal duties, but compensating controls exist in these areas.

Case Disbursements

The Business Manager alone approves and pays invoices, maintains custody of blank checks, and distributes payments. Ideally, the primary approval of invoices should be performed by a manager of the department receiving the service or product. Also, custody of blank checks and check distribution should be performed by an individual who does not have the ability to make changes to the accounting records.

Petty Cash

The legal secretary in each office serves as the custodian of petty cash and maintains the associated records. Ideally, these functions should be performed by separate individuals. As a compensating control, monthly petty cash bank reconciliations are sent to the Business Manager for final approval and entry into the MIP accounting system and are approved by the Executive Director.

Property

All property-related functions (inventory records maintenance, annual inventory count, and inventory accounting reconciliation) are performed by the Business Manager. At minimum, the annual inventory count and inventory accounting reconciliation should be performed and approved by someone other than the Business Manager.

A limited review was conducted of CALS' policies and procedures concerning purchasing and the compliance with PAMM and the LSC Accounting Guide. Based on the review, no purchases of real property over \$10,000.00 were made during the review period; nor were there any purchases of nonexpendable items with a cost in excess of \$5,000.00. *See* LSC Accounting Guide, § 2-2.4. The only purchases made during the review period were for office supplies, which were in compliance with good internal controls, and for TIG equipment and services.

CALS tags its equipment with identification numbers that can be traced to the fixed asset ledger which has the following information: date of purchase, description of item, cost of item and depreciation method. Physical inventories are taken every two years, and CALS is in compliance with the LSC Accounting Guide, § 2-2.4. *See also* LSC Accounting Guide, Appendix VII, § C(1-5).

Client Trust Account

The receipt of client trust funds and the signing of checks should be performed by different individuals. Additionally, the associated bank reconciliations should be approved not only by the Business Manager, but also the Executive Director.

All functions related to the client trust fund's General Journal (performance, review, and recording) are performed by the Business Manager. As a compensating control, the resulting monthly financial statements are approved by the Executive Director monthly.

Overall, fiscal duties are segregated in the best possible way given the constraint on the program's resources. However, consistent herewith, OCE recommended the following:

1. Invoices should be approved by a manager of the department receiving the service or product;

2. An individual who does not have the authority to make changes to the accounting records should have custody of blank checks and be responsible for check distribution; and
3. The annual property inventory count and inventory accounting reconciliation should be performed and approved by someone other than the Business Manager.

In its response to the DR, CALS stated its current purchasing procedure is complete with good internal controls and invoice paper flow with its system. CALS stated that the manager of the department submits either a signed check request, or a signed purchase order for a requested item or service. The department manager or other employee in that department then submits a signed Receipt, or a signed work order showing the item has been received, or the service was completed. The invoice is mailed directly from the vendor to the home office and matched up with the supporting approved documentation from the department manager by the Business Manager. The Business Manager processes the invoice through the Accounts Payable system in MIP and submits the check, along with all signed supporting documentation, to the Executive Director for review and approval.

The only invoices that do not have supporting documentation with the department manager's signature are for utilities or maintenance contracts that are approved each year. This procedure ensures that at least two (2) or three (3) employees, including the department manager, are involved with approving all expenditures for their department. As a compensating control, the Executive Director approves all invoices.

The Business Manager does not approve any invoices except for Cafeteria 125 Medical and Dental reimbursements. As stated in the HIPPA regulations, a Human Resource ("HR") employee should be the only employee to view private health related information. CALS' Business Manager performs that requirement.

Regarding the custody of bank checks and the responsibility for check distribution, CALS stated that this recommendation was discussed with OCE during the visit. CALS explained that the blank checks are stored in a locked, fire safe filing cabinet for security. This is the only secure place in the office. A control log is maintained by date and check numbers when blank checks are issued to Accounts Payable. The log is initialed by both the Executive Director and Business Manager.

Regarding the annual inventory, CALS stated that it will incorporate this recommendation in its inventory procedure. However, it will continue to have an employee from the office verify, by physical inspection, the fixed asset inventory at the branch offices.

Finding 34: A limited review of CALS' written policy and procedures over cash receipts and sampled cash receipts transactions evidenced that CALS' procedures include accountability for cash upon receipt and appropriate segregation of duties.

Cash receipts are a permanent record of monies received; this record serves as a tool in maintaining the accuracy of the program's financial records. Initial accountability for cash received should be established as soon as a cash item is received. *See* LSC Accounting Guide, § 3-5.4. Whenever possible, the mail should be opened by an individual with no other bookkeeping duties in order to decrease the risk of improper adjustments to the cash receipts log. All checks received should be restrictively endorsed and recorded in a log by the same individual. *See* LSC Accounting Guide, Appendix VII. For each cash receipt, the cash receipts log should list the date received, payee, check number and amount.

Ideally, those who handle cash should not be involved in or have access to accounting records nor be involved in the reconciliation of cash book balances to bank balances. A weakness in this area exists if an individual with recordkeeping responsibilities is also responsible for establishing the initial accountability for cash. In such a case the individual could cash a check or money order and then adjust the records to cover irregularities. *See* LSC Accounting Guide, § 3-5.4.

The cash receipt process is initiated when the Little Rock receptionist, or the Senior Secretary (all offices except Russellville) receive a check in the mail. The receptionist then restrictively endorses and records the incoming funds in the Cash Receipts Log and makes copies of checks to be transferred to the Business Manager. Simultaneously, the deposit ticket is prepared and given to an individual having no other accounting responsibilities to deposit in the bank account. Upon completion of the deposit, a copy of the stamped deposit ticket is returned to be maintained in the deposit book and to be recorded in the accounting system by the Business Manager. The above process is done only in the Little Rock Office. All other offices, forward received checks to the Little Rock office where the deposit and recording process takes place.

During the visit, seven (7) transactions from the cash receipts reports for 2011- 2013 were sampled and reviewed using check copies that were matched to the amounts recorded in the general ledger. All receipts were appropriately recorded in the general ledger by fund and no discrepancies were found.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

Finding 35: A limited review of cash disbursements (general, credit card, expense reimbursements) evidenced adequate supporting documentation and appropriate approvals in the sampled disbursements. Additionally, CALS has formal written policies for the disbursement process.

Cash disbursements includes any cash outflow or payment of money to settle obligations such as operating expenses, during a particular period, in order to carry out business activities. LSC's

accounting guidelines focus on a variety of ways disbursement transactions are processed utilizing today's current technology. In addition to traditional checks, other methods include: automatic and recurring bank withdrawals; telephone transfers; online bill pay options; internet/web-based initiated transactions; wire transfers (such as inter account transfers); and credit/debit card payments. Regardless of the method used, LSC's guidelines require that the recipient establish:

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

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

The Cash Disbursement process at CALS is initiated by the receipt of an invoice, bill, reimbursement form, or other payment requesting documentation. All blank checks will be stored numerically in a locked file with only the Executive Director and the Business Manager having access. All checks require two signatures. The signatories include the Executive Director, Managing Attorney, and previously, the Executive Assistant. After checks have been signed, the signed checks are returned to the Business Manager who makes copies and files them with the appropriate invoice or approved check request stamped "paid". This process is consistent with CALS' accounting manual.

General

While on-site, 11 cash disbursements were sampled from the check register for 2011- 2013. The check copies for these disbursements were reviewed and verified against supporting documentation such as invoices and expense reimbursement forms. These disbursements were also traced to the general ledger and verified for timely payments and appropriate approval. There were no discrepancies found for all 11 disbursements.

Credit Card Payments

CALS has one credit card which is held by the Executive Director. This card is primarily used for travel, meals, and information technology. Credit card payments were sampled for the months of February 2013, November 2013, and December 2013. All credit card payments in the months sampled were reviewed and verified against supporting documentation such as invoices and

expense reimbursement forms. These payments were also tracked to the general ledger and verified for timely payments and appropriate approval. No discrepancies were found.

Expense Reimbursement (Travel/Training)

CALS has two primary types of reimbursements: travel and training. All travel and training must be pre-authorized by the Executive Director. The travel and training authorization form is initiated by the employee with signature; submitted to the Executive Director for approval; and held by the Business Manager until after the training or travel has occurred. The form is then forwarded back to the employee for post signature certification of completion. The mileage forms are also initiated by the employee once local travel has been completed. It is signed by the employee and approved by their respective managing attorney. Mileage reimbursement forms include a standard mileage chart for the locations most traveled to ensure that excess mileage is not reimbursed to employees. For areas traveled outside of the standard locations, employees submit evidence of mileage using on-line travels sites such as MapQuest.

A total of five (5) expense reimbursements for three (3) managing attorneys were reviewed from October 2013 - November 2013. The check copies for these disbursements were reviewed and verified against supporting documentation such as invoices, expense reimbursement forms, and mileage forms. These disbursements were also tracked to the general ledger and verified for timely payments and appropriate approval. No discrepancies were found.

Additionally, three (3) expense reimbursements for the Executive Director were reviewed from September – December 2013. The check copies for these disbursements were reviewed and verified against supporting documentation such as invoices, expense reimbursement forms, and mileage forms. These disbursements were also tracked to the general ledger and verified for timely payments and appropriate approval. The Executive Director's expenses are approved by the Business Manager. No discrepancies were found. However, the current process has an inherent risk since the Business Manager approves their supervisor's expenses. As a compensating control, the governing body should approve the Executive Director's expenses quarterly during the Board meeting. This was discussed with and agreed to by both the Executive Director and the Business Manager.

In response to the DR, CALS agreed that its governing body should approve the Executive Director's expenses quarterly. CALS stated that this was implemented at the meeting of the governing body held on April 9, 2014. The governing body selected the Chair of the Audit and Budget Committee to approve the Executive Director's quarterly expenses, credit card charges, and payroll time sheets.

Finding 36: A limited review evidenced that CALS has adequate policies and procedures over the bank reconciliation process and duties are appropriately assigned in performing these reconciliations.

According to the LSC Accounting Guide, bank reconciliations serve to verify, at a particular point in time, that the bank balance noted in the monthly statements, provided by a financial institution, is

the same balance noted in the program's own internal accounting records. Proper reconciliation procedures substantially decrease the occurrence of any irregular disbursements as the process requires the reconciler to conduct additional inquiry in order to correct any differences between the bank balance and the general ledger.

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

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

While on-site, OCE reviewed three (3) accounts for bank reconciliations: operating checking account, client trust fund, and petty cash account. The checking account bank reconciliations are performed monthly using the bank reconciliation module within the MIP accounting system by the Business Manager and approved by the Executive Director. The client trust funds and petty cash bank account reconciliations are performed monthly by each branch office's Managing Attorney and forwarded to the Business Manager for approval and entry into the accounting system.

Checking account bank reconciliations for the operating checking account which CALS uses to maintain LSC funds were reviewed for the months of December 2012, January 2013, May 2013, June 2013, and July 2013. All five (5) operating checking account bank reconciliations were performed by the Business Manager monthly and reviewed and approved by the Executive Director. However, three (3) out of five (5) operating checking account bank reconciliations were not signed by the Executive Director within 15 days in accordance with the CALS accounting manual.

Client trust fund reconciliations were reviewed for the five (5) offices that maintain client trust funds - Little Rock, Pine Bluff, Hot Springs, El Dorado, and Fort Smith. The Russellville office does not maintain client trust funds. The bank reconciliations for these offices were reviewed for the month of December 31, 2013. All five (5) reconciliations were approved by their respective office and then forwarded via mail to the Little Rock office where the Business Manager performs another review of the reconciliations, approves them, and enters them into the accounting system. Although review and approvals were performed, approval signatures and dates could not be readily seen on the actual reconciliation for two (2) out of the five (5) offices reviewed.

Petty Cash account reconciliations were reviewed for the four (4) CALS offices that maintain Petty Cash accounts - Pine Bluff, Hot Springs, El Dorado, and Fort Smith. The Russellville and Little Rock offices do not maintain Petty Cash accounts. The Petty Cash account reconciliations for those offices were reviewed for the month of December 31, 2013. All reconciliations were approved by the respective office and then forwarded via mail to the Little Rock office where the Business

Manager performs another review of the reconciliations, approves the reconciliations, and enters them into the accounting system. Although review and approvals were performed, approval signatures and dates could not be readily seen on the actual reconciliation for one (1) out of the four (4) offices reviewed.

The bank reconciliation process at CALS appears adequate, but an opportunity to strengthen the current process exists. The DR recommended that CALS include on the face of all bank reconciliations blank lines for the dated signatures of both the performer and the reviewer/approver.

In response to the DR, CALS agreed to include blank lines on the face of all bank reconciliations for the dated signatures of both the performer and the reviewer/approver. The recommendation was implemented at the April 9, 2014 meeting of its governing body.

Finding 37: Based on the interview with the Chair of the Budget and Finance Committee, CALS is in compliance with the LSC Accounting Guide requiring that the recipient's governing body establish financial oversight and be responsible for the management of the on-going financial condition of the program.

Financial oversight by the Board is an integral part of managing the financial health of a program. According to the LSC Accounting Guide, § 1-7, each recipient's governing body has a fiduciary responsibility to the program and must establish a financial oversight committee or committees. The financial oversight committee(s) should, at a minimum, engage in all of the responsibilities described below, but may also be subject to the requirements of state laws.

1. Review monthly management reports with chief financial officer, controller, and/or CPA.
2. Revise the budget and make recommendations to the governing body.
3. Review accounting and control policies and make recommendations for improvements.
4. Set rules and processes for complaints for: (a) Accounting and (b) Internal control practices.
5. Regularly review and make recommendations about investment policies.
6. Oversee the auditor's activities including hiring and setting the compensation.
7. Review the audited financial statements, management letter, and senior staff's response with staff and auditor.
8. Review the annual Form 990 and provide assurances of compliance to the full board.
9. Coordinate board training on financial matters. Act as liaison between full board and staff on fiscal matters.

In addition to the requirements above, it is also critical that the financial oversight committee(s) have at least one member who is a financial expert or for the board to have access to a financial expert.

During the visit, the team interviewed the Chair of the Audit and Budget Committee (“Committee”) to assess the governing body’s financial oversight responsibilities. The interview revealed that the governing body and the Committee are sufficiently engaged in the on-going financial operations of CALS. Quarterly, the governing body meets to discuss the Statement of Revenue and Expenditures, Statement of Financial Position, Statement of Cash Flows, and Revenue by Fund. The Committee is scheduled to meet twice a year, but will have additional meetings if necessary. They meet prior to the December Board meeting to discuss and review the Budget and approve the Independent Public Auditor’s (“IPA”) contract before presenting them to entire Board. Additionally, the Committee meets with the IPA for an exit conference prior their presentation to the entire governing body.

During the interview, the Chair was made aware that CALS does not have a “Whistle Blower” policy and such a policy or other process should be implemented for proper internal controls. The Chair acknowledged this and advised that the staff has an opportunity to address issues in the annual electronic surveys administered by the Chair. The Chair was also made aware of the internal control risk associated with having only the Business Manager perform all of the accounting functions for the program. The Chair conveyed knowledge of this and is satisfied with the level of involvement by the Executive Director which acts as a compensating control.

In reviewing the IRS Form 990, it included that the Board reviews and approves the form prior to submission. Both the board minutes and the Business Manager confirmed that review and approval does not occur until after submission of the form 990. Subsequently, the Business Manager and the Executive Director agreed to implement an electronic review and approval of the form prior to the quarterly meeting since the meeting does not occur until after the form 990’s deadline.

Review of CALS’ accounting manual disclosed that it has been updated to reflect current policies and procedures within the financial operations of CALS, but has not been reviewed by CALS’ governing body as suggested by the LSC Accounting Guide, Chapter 1, § 1-7(3).

Based on the foregoing, it was recommended that CALS develop plans to ensure that the IRS Form 990 is reviewed by the governing body prior to submission and to ensure that the governing body reviews the accounting manual.

In its response to the DR, CALS agreed to develop plans to ensure that the IRS Form 990 is reviewed the governing body prior to submission and to ensure that the governing body reviews the accounting manual. CALS stated that its governing body approved the Form 990 before it was filed with the IRS.

Finding 38: Interviews and a limited review of TIG-related documents, activities, and practices relating to TIG Nos. 09314, 09316, 10042, 10046, 11053, and 12060 evidenced compliance with LSC regulatory requirements and applicable TIG grant assurances.

Recipients’ use of Technology Initiative Grant (“TIG”) funds is subject to applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the LSC Accounting Guide,

applicable TIG grant assurances, contract terms, the PAMM, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

CALS was the subject of a Part 1630 determination in 2012. Essentially, the Part 1630 questioned whether CALS' TIG activities were supported by adequate documentation. In response to the Notice of Questioned Cost, CALS provided the necessary documentation and the costs were allowed. However, CALS was required to implement procedures to ensure that it is: tracking TIG expenditures; complying with 45 CFR Part 1627 and § 1628.3(g); and is documenting and supporting TIG-related costs for ongoing projects in accordance with 45 CFR § 1630.3(d).

During the visit, OCE reviewed the following six (6) TIG awards:

TIG No. 09314

This award, in the amount of \$26,500.00, was used to develop the on-line Consumer Law Resource Center. The Consumer Center provides self-help and advocacy materials in the area of consumer protection. The information includes federal and state consumer protection laws. The goals and objectives of TIG No. 09314 included adapting, developing, and publishing content for the Consumer Center section on the statewide website and launching and marketing the Consumer Center. TIG No. 09314 is closed.

TIG No. 09316

This award, in the amount of \$126,903.00, was to develop a national legal services content sharing system that would allow statewide website administrators and content developers to browse selected content from participating programs. The primary vehicle for the project was a national directory website for statewide website content. At the time of the visit, TIG No. 09316 was active.

TIG No. 10042

This award, in the amount of \$23,600.00, was used to develop Spanish language content in multiple multimedia formats. TIG No. 10042 is closed.

TIG No. 10046

This award, in the amount of \$18,850.00, was to create a new area on the statewide website to afford members of CALS' and Legal Aid of Arkansas' governing bodies access to updated training resources, active and archived materials, and oversight material. TIG No. 10046 is closed.

TIG No. 11054

This award, in the amount of \$43,100.00, was to develop a Court Channel on the statewide website to increase access to justice by providing comprehensive information about the Arkansas

court, its procedures and forms. The channel was developed to serve as a “How To” for filing claims. At the time of the visit, TIG No. 11054 was active.

TIG No. 12060

This award, in the amount of \$27,600.00, was to continue to develop and update document assembly forms. The project focused on upgrading CALS’ automated document catalog to current technologies, development of three (3) pro se automated packets, training in-house staff developers for long-term sustainability of the automated resources technology justice project, and training legal services advocates and pro bono attorneys on the automated resources available through the statewide website. TIG No. 12060 is closed.

According to interviews with the ALSP Director, ALSP is the statewide coordinating office for CALS. It provides statewide support for CALS and Legal Aid of Arkansas. ALSP developed ShareLaw and continues to manage its resources. Accordingly, most of the work on CALS’ TIGs is done by the Director and his assistant. Discussions with the Director and review of documents demonstrated that the few third-party contracts involved with any of the foregoing TIGs was to ensure the functionality of the website (TIG No. 09316) and translation services (TIG No. 10042). None of the contracts involved content development, nor did either contract present any conflicts of interest. Additionally, based on discussions with the Director and a review of relevant materials, both the Director and the assistant maintain personnel activity reports in support of all TIG expenditures.

Although the TIGs were not properly disclosed as a separate funding source in the 2012 Audited Financial Statements, as required by LSC, they were recorded as a separate funding source in the draft 2013 audited financial statement. A review of TIG documentation disclosed that proper reporting was made to LSC (initial budget, final budget and milestone reports); that approvals were obtained for purchases of equipment, as required; that the purchases of equipment and services had three (3) bidders as required by the PAMM or proper sole source documentation; that all of the closed TIG funds were spent or in process to be returned to LSC; and that the cash disbursements and cash receipts were properly accounted for by CALS. It was noted that the expenses incurred for the TIGs were allocated in a proper manner to each TIG separately for 2013 reporting purposes.

Based on the foregoing, there are no recommendations or required corrective actions.

CALS offered no comments in response to this Finding.

IV. RECOMMENDATIONS²²

In view of the foregoing, OCE makes the following recommendation(s):

1. As noted in Findings 9 and 17, OCE recommends that CALS revise the PAI Closed Case Report by eliminating the list of case closing categories, or at least some of them, and requiring participating PAI attorneys to provide a more descriptive narrative of the legal assistance provided to the client.

In its response to the DR, CALS has revised its PAI case closing report form. The revised form does not eliminate the list of case closing categories, but does require participating attorneys to describe the legal assistance provided to the client.

2. As noted in Finding 17, OCE recommends that CALS calculate the attorney and paralegal hourly rate to be charged to PAI by using the standard annual hours without deductions for vacation, sick and holidays, divided by the attorney/paralegal's annual salary.

In its response to the DR, CALS has revised its PAI calculation to use the standard annual hours for which each employee is compensated. For full-time employees, that is 1,950 hours per year. CALS used this number to calculate its 2013 PAI percentage for the 2013 audit report.

3. As noted in Finding 33, OCE recommends that invoices be approved by a manager of the department receiving the service or product.

In its response to the DR, CALS stated its current purchasing procedure is complete with good internal controls and invoice paper flow with its system. CALS stated that the manager of the department submits either a signed check request, or a signed purchase order for a requested item or service. The department manager or other employee in that department then submits a signed Receipt, or a signed work order showing the item has been received, or the service was completed. The invoice is mailed directly from the vendor to the home office and matched up with the supporting approved documentation from the department manager by the Business Manager. The Business Manager processes the invoice through the Accounts Payable system in MIP and submits the check, along with all signed supporting documentation, to the Executive Director for review and approval.

²² Items appearing in the "Recommendations" section are not enforced by LSC and therefore CALS 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 CALS with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in "Required Corrective Actions" must be addressed by CALS and will be enforced by LSC.

The only invoices that do not have supporting documentation with the department manager's signature are for utilities or maintenance contacts that are approved each year. This procedure ensures that at least two (2) or three (3) employees, including the department manager, are involved with approving all expenditures for their department. As a compensating control, the Executive Director approves all invoices.

The Business Manager does not approve any invoices except for Cafeteria 125 Medical and Dental reimbursements. As stated in the HIPPA regulations, a HR employee should be the only employee to view private health related information. CALS Business Manager performs that requirement.

4. As noted in Finding 33, OCE recommends that an individual who does not have the ability to make changes to the accounting records have custody of blank checks and be responsible for check distribution.

In response to the DR, CALS stated that this recommendation was discussed with OCE during the visit. CALS explained that the blank checks are stored in a locked, fire safe filing cabinet for security. This is the only secure place in the office. A control log is maintained by date and check numbers when blank checks are issued to Accounts Payable. The log is initialed by both the Executive Director and Business Manager.

5. As noted in Finding 33, OCE recommends that the annual inventory count and inventory accounting reconciliation be performed and approved by someone other than the Business Manager.

In response to the DR, CALS stated that it will incorporate this recommendation in its inventory procedure. However, it will continue to have an employee from the office verify, by physical inspection, the fixed asset inventory at the branch offices.

6. As noted in Finding 35, OCE recommends that as a compensating control, the governing body should approve the Executive Director's expenses quarterly.

In response to the DR, CALS agreed that its governing body should approve the Executive Director's expenses quarterly. CALS stated that this was implemented at the meeting of the governing body held on April 9, 2014. The governing body selected the Chair of the Audit and Budget Committee to approve the Executive Director's quarterly expenses, credit card charges, and payroll time sheets.

7. As noted in Finding 36, OCE recommends that CALS include on the face of all bank reconciliations blank lines for the dated signatures of both the performer and the reviewer/approver.

In response to the DR, CALS agreed with this recommendation, which was implemented at the April 9, 2014 meeting of its governing body.

8. As noted in Finding 37, OCE recommends that CALS develop plans to ensure that the IRS Form 990 is reviewed by its governing body prior to submission and to ensure that the governing body reviews the accounting manual.

In its response to the DR, CALS agreed to develop plans to ensure that the IRS Form 990 is reviewed the governing body prior to submission and to ensure that the governing body reviews the accounting manual. CALS stated that its governing body approved the Form 990 before it was filed with the IRS.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the Findings of this Report, CALS is required to:

1. Demonstrate to OCE that it has, in response to Finding 2, taken appropriate corrective action to ensure that it makes reasonable inquiry in to the income prospects of each applicant for LSC funded legal assistance.

In its response to the DR, CLAS has revised its HelpLine procedures to include reasonable inquiry regarding applicants' income prospects. Consistent with OLA Advisory Opinion AO 2009-1006 (September 3, 2009), the revised procedures instruct the HelpLine intake specialists that inquiry into income prospects includes questioning the applicant on whether he/she has any reason to believe that his/her income is likely to change significantly in the near future. If the applicant responds affirmatively, the HelpLine intake specialist is instructed to inquire further.

Based on OCE's review of CALS' revised HelpLine procedures, Required Corrective Action No. 1 is closed.

2. As noted in Finding 3, in the event that CALS decides to continue to use the 45 CFR § 1611.4(c) exception, it is required to provide OCE a copy of the board minutes at which such exception was adopted, demonstrating the board's determination that the income standards of the governmental program(s) are at or below 125% of the FPG.

In its response to the DR, CALS provided the minutes of the April 16, 2014 meeting of its governing body to show that the governing body has determined that the income, standards of Transitional Employment Assistance ("TEA") and Supplemental Security Income ("SSI") are below 125% of the FPG.

Based on OCE's review of the minutes of the April 16, 2014 meeting of CALS' governing body, Required Corrective Action No. 2 is closed.

3. Demonstrate to OCE that it has, in response to Finding 5, taken appropriate corrective action to ensure compliance with 45 CFR §§ 1626.6 and 1626.7, and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

In its response to the DR, CALS stated that the four (4) cases cited in the DR as lacking the necessary Part 1626 documentation have been deselected. However, CALS also states that, consistent with LSC regulatory and reporting requirements, in each of the four (4) cases citizenship/alien eligibility was determined by telephone and none of the clients ever appeared in CALS' office, and each case involved counsel and advice or limited action provided by telephone only. CALS states that none of the clients ever appeared in CALS' office.

OCE has reviewed the data it collected relative to the four (4) cases cited in the DR. As regards Little Rock closed 2011 Case No. 11E-3076474, the data indicates that the client did come into the office. Consequently, documentation of citizenship/alien eligibility was necessary. Otherwise, nothing in the data collected by OCE controverts CALS' response and, consequently, OCE has revised the DR accordingly. CALS should note, however, that based on its response Little Rock open Case No. 12E-3083998 is untimely.

Based on the foregoing, OCE has determined that Required Corrective Action No. 3 shall remain open pending receipt of information from CALS that it has taken appropriate action to ensure compliance with 45 CFR §§ 1626.6 and 1626.7 and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

4. As directed in Finding 5, revise the citizenship attestation contained within its retainer agreement consistent with CSR Handbook (2008 Ed., as amended 2011), § 5.5 and submit the revision to OCE for review.

In its response to the DR, CALS has revised its citizenship attestation forms (adult and juvenile) for standard use in all offices for staff and PAI cases. It also responded that it will continue to work with PAI attorneys to improve the date collection on this report form.

OCE reviewed the revisions to the citizenship attestation forms submitted by CALS with its response. The citizenship attestation forms (adult and juvenile) do not appear unchanged from the forms reviewed during the visit. However, the retainer agreement has been revised and no longer contains a citizenship attestation. Accordingly, Required Corrective Action No. 4 is closed

5. Demonstrate to OCE that it has, in response to Findings 9 and 17, taken appropriate corrective action to ensure that the PAI cases included in its CSR data submission to LSC contain a description of the legal assistance provided to the client.

In its response to the DR, CALS has revised its PAI case closing report form to include a space for the participating attorney to describe the legal assistance provided to the client.

The revised form sufficiently addresses Finding 9 and, accordingly, Required Corrective Action No. 5 is closed.

6. As noted in Finding 13, OCE requires that CALS revise its Part 1604 policy to address newly employed attorneys, court appointments, and the use of CALS' resources and submit the revision for OCE review.

In its response to the DR, CALS has revised its outside practice of law policy to address newly employed attorneys, court appointments, and the use of CALS' resources. Accordingly, Required Corrective Action No. 6 is closed.



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CENTER FOR ARKANSAS LEGAL SERVICES

Equal Justice For All

June 2, 2014

Ms. Lora Rath, Director
Office of Compliance & Enforcement
Legal Services Corporation
3333 K Street, NW, 3rd Floor
Washington, D.C. 2007-3558

Recipient Name: Center for Arkansas Legal Services
Recipient Number: 604061

Re: Response to LSC OCE Draft Report for Compliance Review conducted February 24-28, 2014

Dear Ms. Rath:

This is the response of the Center for Arkansas Legal Services (CALs) to the LSC OCE Draft Report for Compliance Review conducted February 24-28, 2014. Our program has taken action to implement the Recommendations and Corrective Actions.

I want to thank Mr. Bertrand Thomas and his OCE team for the professional manner in which the Compliance Review was conducted.

If you need anything else on the Recommendations or the Corrective Action items, please contact me.

Yours truly,

Jean Turner Carter
Executive Director

jtc

Enclosures

Program Response to LSC OCE Draft Report for Compliance Review
Conducted February 24-28, 2014

Recipient Name: Center for Arkansas Legal Services

Recipient No.: 604061

Prepared by Jean Turner Carter, Executive Director

Response to OCE Recommendations:

1. CALS has revised its Citizenship Attestation and Client Retainer Agreement. See Corrective Action No. 4 below.
2. CALS has revised its PAI Closed Case Report. See Correction Action No. 5 below.
3. CALS has revised its PAI calculation to use the standard annual hours for which each employee is compensated. For full time employees that is 1,950 hours per year. CALS used this number to calculate its 2013 PAI % for the 2013 Audit Report.
4. Regarding CALS current purchasing procedure, the program feels there good internal control and invoice paper flow with our system. The manager of the department submits either a signed check request or a signed purchase order for a requested item or service. The department manager or other employee in that department then submits a signed receipt or a signed work order showing the item has been received or the service was completed. The invoice is mailed directly from the vendor to the home office and matched up with the supporting approved documentation from the department manager by the Business Manager. The Business Manager processes the invoice through the Accounts Payable system in MIP and submits the check, along with all signed supporting documentation, to the Executive Director for review and approval. The only invoices that do not have supporting documentation with the department manager's signature are for utilities or maintenance contacts that are approved each year. This procedure insures that at least two or three employees, including the department manager, are involved with approving all expenditures for their department. As a compensating control, the Executive Director approves all invoices.

The Business Manager does not approve any invoices except for Cafeteria 125 Medical and Dental reimbursements. As stated in the HIPPA regulations, a HR employee should be the only employee to view private health related information. CALS Business Manager performs that requirement.

5. This recommendation was discusses with the OCE team while on site, we explained that the blank checks are stored in a locked, fire safe filing cabinet for security. This is the only secure place in the office. A control log is maintained by date and check numbers when blank checks are issued to Accounts Payable. The log is initialed by both the Executive Director and Business Manager

6. We will incorporate this recommendation in CALS inventory procedure. However, the program will continue to have an employee from the home office verify by physical visit the fixed asset inventory at the branch offices.
7. CALS agrees with this recommendation. This was implemented at the Board meeting held on April 19, 2014. (See attached 4/10/14 Board Minutes.) The Board of Directors selected the Chair of the Audit and Budget Committee to approve the Executive Directors quarterly expenses, credit card charges and payroll time sheets at Quarterly Board meetings.
8. CALS agrees with this recommendation, and it was implemented starting with the April 2014 Bank Reconciliations.
9. CALS agrees with this recommendation, and it was implemented with the filing of the 2013 IRS Form 990. The CALS Board approved the 990 before it was filed with the IRS.

Response to Corrective Actions

1. Response to Finding 2 - CALS has revised its Helpline procedures to make reasonable inquiry into the income prospects of each applicant and has conducted training with Helpline staff. (See attached revised Helpline Intake Policies & Procedures.)
2. Response to Finding 3 – 45 CFR 1611.4 (c) exception. The CALS Board determination that the income standards of governmental program(s) are at or below 125% of FPG at its April 16, 2014 board meeting. (See attached CALS Board minutes for 4/16/14. See also, attached CALS 2014 Financial Eligibility Policies for LSC-Funded Legal Assistance adopted 4/16/14.)
3. Response to Finding 5 – Compliance with 45 CFR 1626.6, 1626.7 and CSR Handbook CALS management has taken corrective action. The following cases have been Deselected from the CALS case management system and excluded from the CALS 2011, 2012 and 2013 CSR data submission: Cases 11E-3076474; 12E-3083998; 13E-3091727 and 13E-3091911.

Further Explanation: For each of these cases, the client was asked about their citizenship status during telephone intake, and the Helpline intake screener verified that the applicant was a U.S. citizen. The cases were then referred to the Little Rock staff for further follow-up concerning the client's legal problem. Each of the clients was sent letters requesting more information, documents, and citizenship attestations and/or client retainer agreements. Each of these clients failed to return the citizenship attestations and/or client retainer agreements. Therefore, legal assistance stopped at advice or brief service. There was only telephone contact with the clients, never any face-to-face contact. These clients never came into the CALS office.

4. Response to Finding 5 – CALS has revised the Citizenship Attestation forms (adult and juvenile) for standard use in all its offices for staff and PAI cases. (See attached revised

Citizenship Attestation forms and revised Client Retainer Agreement.) The program will continue to work with PAI attorneys to improve the date collection on this report form.

5. Response to Finding 9 and 17 – CALS has revised its PAI case closing report form to contain a description of the legal assistance provided to the client. (See attached revised PAI Case Closing Report Form.)
6. Response to Finding 13 – CALS has revised its 1604 Outside Practice of Law policy to address newly employed attorneys, court appointments and the use of CALS's resources. (See attached revised 1604 Outside Practice of Law policy.)

HELPLINE INTAKE POLICIES AND PROCEDURES

INTRODUCTION

The Helpline is the Center's centralized telephone intake unit. The Helpline provides clients who are residing within the Center's 44 county service area with program eligibility screening, an initial attorney consultation, brief service as permitted and extended service referral.

The following policies and procedures will be used as a guide by the Helpline unit in conducting client eligibility screening, client consultations and assessments regarding client referrals to the Center's extended service unit and to other organizations/agencies.

HELPLINE OPERATION

Telephone System:

The Helpline primarily operates through a toll free telephone number 1-800-9LAWAID (1-800-952-9243). The calls transferred into the Helpline unit are monitored through an automatic call distribution system. Presently the Helpline utilizes the *Insight MIS* system distributed by Toshiba and maintained by the Center's information technology staff.

Operation Model:

The Helpline has a two tier operational system. The first tier, intake staff, screens the client for eligibility and processes the client's case management file. The second tier, attorney staff, interviews the client regarding his/her substantive problem, provides counsel, advice, brief service and makes referrals if warranted.

Normal Hours of Operation:

The Helpline conducts new client intake Monday through Friday between the hours of 9am-11am and 1pm-3pm. Any calls forwarded to the Helpline queue during its normal hours for intake are completed by the Helpline staff without regard to the aforesaid hours until all clients in the queue have been served.

The Helpline Hours of Operation may be modified as directed by the Helpline Managing Attorney or the Executive Director.

Calls to Helpline intake may be taken outside of the normal hours of operation only at the authorization of the Helpline Managing Attorney or the Center's Executive Director.

Staff:

Helpline staff currently consist of a Managing Attorney, full time bilingual intake staff and full and part-time attorney staff.

CLIENT ELIGIBILITY SCREENING

When the applicant calls for services, the Center's receptionist or the automated phone reception system forwards the call to the Helpline's intake queue for the next available intake staff person.

While the client waits in queue, there are a series of pre-recorded messages that advises the client of the Center's services, community agencies and other programs designed to assist the Center's client population.

Once the applicant is transferred to speak with an intake staff member, the staff member will identify him/herself and requests the applicants name and a brief description of his/her legal matter. If the legal matter is one in which the Helpline can provide assistance (see Attachment A - Center's Policies and Procedures for Case Priorities and Case Acceptance), then the intake staff will confirm the spelling of the client's and opposing party's name and obtain the client's social security number.

At this point, the intake staff will place the client on hold and accesses the Center's case management system to screen for possible conflicts of interest and/or duplicate cases.

If there appears to be any problem(s) with conflicts of interest or duplicate cases, the intake staff will notify the potential client of the problem then refer the client to another agency that may be able to assist the client with other social and/or economic matters.

If there is no deterrent as described above, the intake staff proceeds to screen the client for financial eligibility per the Center's guidelines (see Attachment B - Center's Financial Eligibility Policies for LSC-Funded Legal Assistance), including household income, **income prospects** and assets.

Inquiry into income prospects includes questioning the applicant on whether the applicant has any reason to believe that his/her income is likely to change significantly in the near future. If the applicant's response is "yes," further inquiry will be made.

During the financial eligibility screening, the client will be questioned on his/her country of citizenship.

If the client is not a United States citizen nor has permanent resident alien status ("green card status"), the intake staff will place the client on "hold" and immediately contact the Helpline Managing attorney or if necessary other program management staff for directions on how to proceed with this client since eligibility guidelines for such individuals change periodically.

Upon verification that the client is financially eligible for Helpline assistance, the intake staff will continue processing the client's case management file until all required fields are completed. Required fields are as follows:

First Name
Last Name
Social Security Number
Address
City
Zip (code)
County (of residence)

Phone (number)
Birth Date
Marital Status
Gender
Race
Language (of client)
Adults (in household)
Children (in household)
Persons Helped
Office (code)
Problem Code
Funds (funding code)
Income Source
Weekly/Monthly/Yearly Income
Income Prospects
Assets
Asset Value
Conflicts Check
Status (citizenship)
Citizenship Check
Know about (legal service)
Veteran in Household
Veteran (status)
LSC Eligible
Program Eligible
Domestic Violence (if applicable)

Note that the list of fields which must be completed may be amended at the discretion of the Helpline Managing Attorney or the Center's Executive Director.

The Center's case management systems automatically identifies the client's case with a case number.

Once the client's case management file is complete, the client is advised by the intake staff that his/her call will be transferred to an attorney for an interview. The client is then transferred by the intake staff to the Helpline attorney queue.

Special Notations:

At anytime during the client eligibility screening, if an intake specialist believes that the client has limited English proficiency, and the intake staff is not able to communicate directly with the client in the client's native language, then the intake specialist will place the client on hold and contact the Helpline Managing Attorney for immediate direction on how to proceed. Presently both of the Center's intake specialist are bilingual (Spanish/English). In addition, one of the intake specialist is also fluent in Italian and Portugese.

ATTORNEY CONSULTATION

When the client is transferred to speak with a Helpline attorney, the attorney will identify him/herself, requests the client's name, retrieve the client's case management file and begin timekeeping on the client's case thru the programs case management system (KEMPS). The Helpline attorney will place a "date/time" notation in the "notes" section of client's case management file then proceed with the client consultation. Interview notes will be typed directly into the "notes" section of the client's case management file.

During the consultation, if an attorney becomes aware of any possible conflict of interest, the attorney should place the client on hold and immediately notify the Managing Attorney of the conflict. If the conflict does not involve another Center client, the client will then be transferred, at the direction of the Helpline Managing Attorney, to another Helpline attorney for completion of the consultation.

After completing the consultation, the Helpline attorney, per the guidelines set out in the Center's Priorities for Case Acceptance (see Attachment A) and any related executive directives, will determine whether the client's legal matter falls within the Center's priorities for extended services. All cases being referred for extended services will then be forwarded to the Helpline Managing Attorney for review.

If a case is identified as "time sensitive," the Helpline attorney will designate the time sensitive nature of the case on the printed intake and forward the case to the Helpline Managing Attorney for review. In the absence of the Helpline Managing Attorney, the Helpline attorney will immediately notify the appropriate extended service office's Managing Attorney of the "time sensitive" case.

Advice/Brief Service Letters:

If a decision is made that the client's case will be completed through advice and/or brief service, then the Helpline attorney will send a timely letter which confirms or provides the advice and/or brief service. In instances in which it would be inappropriate or dangerous to send correspondence to the client (ie...the client still resides with the opposing party), the Helpline attorney will make such notation in the client's case management file and no correspondence will be sent to the client.

Sample letters available through the Arkansas Legal Services Partnership's (www.arlegalservices.org) website will be utilized as much as possible to provide uniformity of counsel and advice given to the Center's clients.

Out of Service Area Referrals:

If the Helpline attorney determines that the client's matter is out of the Center's service area, then the attorney will advise the client as is appropriate then forward a printed copy of the client's intake file to the intake staff to refer the intake file to the appropriate legal aid agency that services the client's area.

Advice/Brief Service Case closure by the Helpline Attorney:

Once the Helpline attorney has sent the advice letter to the client, the Helpline attorney will close the client's case management file. The Helpline attorney will also complete all time keeping for the case thru the program's case management system (KEMPS).

The Helpline attorney will provide the managing attorney with a print out of the client's case management file and a copy of any letters or pleadings sent to the client. The client letter should reference any Center fact sheets sent to the client.

The Helpline Managing attorney will, as is reasonably possible, review cases closed by the Helpline unit for the following: completion of the case management file, proper use of case management codes, client's eligibility under the Center's financial eligibility guidelines (see Attachment B) and for the appropriateness of the advice or brief services provided to the client.

CASE REVIEW BY THE HELPLINE MANAGING ATTORNEY

Once a case is referred by the Helpline attorney for extended services, the Helpline Managing Attorney reviews the case for the following: completion of the case management file, proper use of case management codes, client's eligibility under the Center's financial eligibility guidelines (see Attachment B) and factors which indicate that the case is within the Center's priorities for case acceptance (see Attachment A).

If no problems are found with the client's case management file, the Helpline Managing Attorney, per directives sent from the Center's Executive Director, will determine whether the case should be referred to the programs extended services offices for review. The Helpline Managing Attorney will also change the client's case management "case type" from "H" (Helpline) to "S" (Staff). Finally, she/he will notify the appropriate extended service offices' Managing Attorney of the cases being referred for review.

If the Helpline Managing Attorney determines that a case should not be referred for extended service, she/he will discuss the matter with the Helpline attorney and either notify the client directly of the decision with any additional accompanying advice or have the Helpline attorney to notify the client. A confirmation letter should be mailed to the client of the Helpline Managing Attorney's decision.

CLIENT GRIEVANCE PROCEDURE

If during or following the intake process, a client wishes to complain about the handling of his/her intake or the determination that his/her case will not receive extended service assistance, the client's call should be immediately forwarded to the Helpline Managing Attorney for review.

The Helpline Managing Attorney will follow the Center's stated Client Grievance Procedure (see Attachment C - Client Grievance Procedure) in her/his efforts to resolve the matter.

MINUTES
CENTER FOR ARKANSAS LEGAL SERVICES
April 16, 2014

The Center for Arkansas Legal Services Board of Directors met on April 16, 2014. Board members in attendance were Marva Davis, Felecia Epps, D. Scott Hickam, Janan Honeysuckle, David McDonough, Jim O'Hern, Rebecca Winburn and Randy Wright. Ballots approving all items on the agenda were submitted by Causley Edwards, David Harp, William James, Jr., David Kamps, James McMenis, Mary Morris, Willie Perkins, Jr., and Neal Sealy. Staff in attendance was Jean Turner Carter, Lora Crawley, Cecille Doan, Van Izard, Lynn Pence and Vernon Walker.

Ms. Davis called the meeting to order at 2:03 p.m.

Ms. Carter welcomed new board member, Ms. Janan Honeysuckle, Managing Counsel with Entergy Services Inc. as well as a VOCALS member.

Mr. McDonough made a motion to approve the December 9, 2013 meeting minutes as presented. Ms. Wright seconded. Motion carries.

Mr. Wright made a motion to approve the December 9, 2013 Audit & Budget Committee minutes as presented. Ms. Winburn seconded. Motion carries.

Ms. Carter presented the proposed 2014 Client Eligibility Policies & Guidelines, including the new 2014 LSC Income Eligibility Maximum Levels, to the board for its approval and adoption. Based on input from the recent LSC Office of Compliance & Enforcement review, Ms. Carter recommended the adoption of changes to the asset ceilings and the asset guidelines. Ms. Carter explained that the asset ceilings had not been updated recently. The other changes to the asset guidelines were needed to make sure the CALS policies conform to LSC regulation 1611 on client financial eligibility.

Ms. Carter also explained that to approve the 45 CFR 1611.5 exceptions, the board needs to make a determination that the income standards of the governmental benefits programs TEA & SSI are at or below 125% of the federal poverty guidelines. For this determination, the income benefit charts for the TEA and SSI programs were included in the board packet. Ms. Carter reviewed the TEA and SSI benefits charts with the board. For TEA, the monthly benefit amount for a household of 1 is \$81 per month. The maximum monthly TEA benefit for a household of 9 is \$457 per month. For SSI, the monthly benefit amount is \$721 per month for an individual and \$1,082 for a couple. After review and discussion, Mr. Wright moved that the board had determined that the TEA and SSI government benefit programs income levels were clearly below 125% of the federal poverty guidelines. Mr. McDonough seconded. Motion carries. Then, Mr. Wright moved to approve the 2014 CALS Client Eligibility Policies & Guidelines, including the 2014 LSC Income Eligibility Maximum Levels. Ms. Honeysuckle seconded. Motion carries.

Ms. Carter discussed the LSC OCE compliance review in greater detail. The LSC OCE team of 9 individuals reviewed a sampling of cases from all six offices plus the Texarkana office of Lone Star Legal Aid. Two team members handled financial compliance, and the team leader reviewed regulatory compliance. Additionally, a member of the LSC Office of Program Performance reviewed the TIG grants and program technology. Once a draft report is available it will be

shared with the board members. The OCE team provided some recommendations during their exit interview.

Next, Ms. Carter reviewed the 2013 case statistics. The case services were comparable to past years. Ms. Crawley and Mr. Duke have worked to improve the pro bono referrals and case closures. It is our program's goal to complete 500 PAI cases in 2014.

Next, a final draft of the statewide fundraising Memorandum of Understanding/Campaign for Legal Aid dated March 28, 2014 was presented for the board's approval. LAA and IOLTA have approved the draft. The first term of the MOU will be three years. For the first two years, there is a \$175,000 hold harmless amount included in the contract. Under this provision, the first \$175,000 raised in Pulaski County from the campaign would be donated to CALS. The purpose is not to lose donations by switching from the independent VOCALS campaign. Ms. Barnett moved to adopt the Memorandum of Understanding/Campaign for Legal Aid as presented. Mr. McDonough seconded. Motion carries.

Mr. Izard presented a proposal to revise the 2014 budget. The Center received notice of an increase from the LSC for the Basic Field Grant for 2014 from \$2,046,257 to \$2,137,595. LSC had advised CALS of a reduction in the LSC Grant when we presented our 2014 proposed budget in December 2013. With the increase in LSC funding, Mr. Izard presented the revised 2014 budget with a 2.5% salary cost of living increase to all eligible employees. The last salary increase for employees was in January 2011. If approved, the salary increase will be made effective as of January 1, 2014. Ms. Epps moved to accept the proposed revised budget as presented. Mr. Wright seconded. Motion carries.

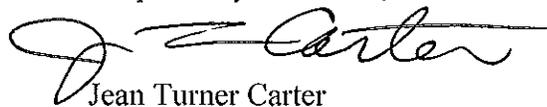
Mr. Izard presented the year-to-date financial reports for the period ending March 31, 2014. Revenues are below the budgeted amount by \$45,250. Expenses are below budget by \$72,785. Mr. Izard pointed out that Changes to Net Assets are currently ahead of budget YTD by \$27,535. Mr. Izard reviewed the variances for both Revenues and Expenses. Cash and Investments at March 31, 2014 was \$1,484,046. Net Assets as of March 31, 2014 were \$1,292,559. Mr. Wright moved to accept the financial reports as presented. Ms. Barnett seconded. Motion carries.

The Center's Accounting Manual (2014 Edition) was provided to the board for review and approval. Mr. Wright moved to accept the Accounting Manual (2014 Edition) as presented. Ms. Epps seconded. Motion carries.

During their visit, the OCE team made a recommendation for a designated Board member to review and approve the Executive Director's expenses, mileage reimbursements, credit card purchases and time sheets. Ms. Epps moved to designate the chairperson of the Audit & Budget Committee to provide review and oversight of the Executive Director's expenses, mileage reimbursements, credit card purchases and time sheets. Ms. Davis is the current chairperson of the Audit & Budget Committee, and she agreed to take on these responsibilities. Mr. Wright seconded. Motion carries.

With no other business to come before the board, the meeting was adjourned at 3:12.

Respectfully submitted,



Jean Turner Carter

2014
FINANCIAL ELIGIBILITY POLICIES FOR LSC-FUNDED LEGAL ASSISTANCE
45 C.F.R. 1611

Center for Arkansas Legal Services hereby adopts the following Financial Eligibility Policies for individuals and groups who are provided legal assistance supported in whole or in part with funds received from the Legal Services Corporation (LSC).

Only individuals and groups determined to be financially eligible under these policies and 45 C.F.R. 1611 of the LSC Regulations may receive legal assistance supported in whole or in part with LSC funds. These policies do not apply to individuals or groups for whom service is wholly supported by funds from sources other than LSC.¹

Eligibility under these policies does not create an entitlement to legal assistance. The Center will determine whether or not to provide service to an eligible individual or group based on the merits of the particular case and the application of the Center's priorities and case acceptance criteria.

Financial eligibility for legal assistance shall be determined in a manner conducive to the development of an effective attorney-client relationship, and ² information from applicants and groups shall be obtained in a manner that promotes the development of trust between attorney and client.

These policies shall be reviewed at least once every three years and revised as necessary.

INDIVIDUAL ELIGIBILITY FOR REPRESENTATION

Income Guidelines

Income Definition: Income is the actual current annual total cash receipts before taxes of all persons who are resident members of the applicant's household⁴ and contribute to the support of the applicant's household. Total cash receipts include, but are not limited to, wages and salary before any deduction; income from self-employment after deductions for business or farm expenses; regular payments from governmental programs for low income persons or persons with disabilities; social security payments; unemployment and worker's compensation payments, strike benefits from union funds; veterans benefits; training stipends; alimony; child support payments; military family allotments; public or private employee pension benefits; regular insurance or annuity payments; income from dividends, interest, rent, royalties or from estates and trusts; and other regular or recurring sources of financial support that are currently and actually available to the applicant.

Total cash receipts do not include the value of food or rent received by the applicant in lieu of wages; money withdrawn from a bank; tax refunds; gifts; compensation and/or one time insurance payment for injuries sustained; noncash benefits, including Food Stamps or Medicaid;

and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.

Annual Income Ceiling: The annual income ceiling for individuals and households served by Center using LSC funds is 125%⁵ of the Federal Poverty Guidelines, as published annually in the Federal Register by the Legal Services Corporation in Appendix A to 45 C.F.R. 1611. (*See attachment.*)

If the applicant meets the appropriate asset ceiling for the household size or the ceiling is waived) and the applicant's income is at or below 125% of the Federal Poverty Guidelines for the appropriate household size, the applicant is financially eligible for LSC-funded legal assistance.

Authorized Exceptions to the Annual Income Ceiling:⁶ If the applicant meets the appropriate asset ceiling for the household size (or the asset ceiling is waived) and applicant's income is above 125% of the Federal Poverty Guidelines, the applicant is financially eligible for LSC-funded legal assistance if:

- (1) The applicant is seeking legal assistance to maintain benefits provided by a governmental program for low income individuals or families; or
- (2) The Center's Executive Director or designee (managing attorney) has determine that the applicant's income is primarily committed to medical or nursing home expenses and that, excluding such expenses, the applicant would be otherwise financially eligible for legal assistance.

If the applicant meets the appropriate asset ceiling for the household size (or the asset ceiling is waived) and applicant's income is above 125% of the Federal Poverty Guidelines, but does not exceed 200% of the Federal Poverty Guidelines, the applicant is eligible for LSC-funded legal assistance if:

- (1) The applicant is seeking legal assistance to obtain governmental benefits for low income individuals and families;
- (2) The applicant is seeking legal assistance to obtain or maintain governmental benefits for persons with disabilities; or
- (3) Center ⁷ has determined that the applicant should be considered financially eligible because of one or more of the following factors:
 - (a) The applicant's income prospects are limited or the applicant experiences seasonal variations in income;
 - (b) The applicant has unreimbursed medical expenses, including medical insurance premiums;
 - (c) The applicant has fixed debts or obligations;

- (d) The applicant has expenses such as for dependent care; transportation or equipment necessary for employment, job training, or educational activities in preparation for employment;
- (e) The applicant has non-medical expenses associated with age or disability;
- (f) The applicant is responsible for paying current taxes; or
- (g) There are other significant factors that affect the applicant's ability to afford legal assistance.

The Center shall record the basis of its decision to provide LSC-funded legal assistance to any applicant whose income exceeds 125% of the Federal Poverty Guidelines and shall keep records of the specific facts and factors relied on to make the determination for review by LSC.

Applicants Whose Income Is Solely Derived from Governmental Programs for Low-Income Individuals & Families: Notwithstanding the above, if an applicant's income is derived solely from a governmental program for low income individuals or families [e.g., TEA, SSI, etc.] that has an assets test and has income standards that are at or below 125% of the Federal Poverty Guidelines,⁸ the applicant is eligible for LSC-funded legal assistance without an independent determination of the applicant's income and assets.

Victims of Domestic Violence: If an applicant has identified herself/himself as a victim of domestic violence, in determining financial eligibility for LSC-funded services, the Center shall consider only the assets and income of the applicant and those members of the applicant's household other than the alleged perpetrator of domestic violence, and shall not include any assets held by the alleged perpetrator of domestic violence, jointly held by the applicant with the alleged perpetrator, or jointly held by any member of the applicant's household with the alleged perpetrator.

Center's Asset Ceilings

Cash, stocks, bonds, and other funds, including accounts with financial institutions: \$5,000 plus \$1,500 for each additional household member up to a maximum of \$8,000.

Asset Guidelines

Assets Ceilings: In order to be determined to be financially eligible for legal assistance supported in whole or in part by LSC funds, an applicant's assets must be at or below the asset ceilings described above, or the asset ceiling must be waived.

Assets Definition: Assets means cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant.

The following items are not considered as assets:

- (1) the applicant's or household's principal residence;

- (2) vehicles used by the applicant or household members for transportation;
- (3) basic personal and household belongings;
- (4) special equipment for the elderly or disabled;
- (5) Assets excluded under the Food Stamp, TEA, Medicaid and SSI programs.
- (6) assets used in producing income for the applicant or member of the household, such as the value of farmland essential to employment or self-employment and work-related equipment essential to employment or self-employment, provided that the owner is attempting to produce income consistent with its fair market value. (Note: the income produced should be included in the applicant's total household income determination.);
- (7) assets of other household members who are not legally responsible to or for the applicant, unless the assets are available to the applicant without impediment; and assets of other members of the household with interests adverse to or opposing those of the applicant. (If there is a question as to the availability of certain family assets to the client applicant, those assets should be listed separately in the Assets notes of the Eligibility form, and then the managing attorney will make a final determination.), and
- (8) other assets which are exempt from attachment under State or Federal law: 3

Assets Exemptions under Arkansas law: The following items are excluded from consideration as assets:

- i. Up to \$20,000 in the total cash value of an IRA and similar retirement plans. (See A.C.A. 16-66-218(b)(1).
- ii. Personal property exemption from execution under Arkansas law A.C.A. 16-66-218(b)(1) and (2): (1) The personal property of an unmarried person not the head of a family not exceeding a value of two hundred dollars (\$200) in addition to such person's wearing apparel -- Arkansas Constitution, Article 9, Section 1; (2) The personal property of a married person or head of a family not exceeding a value of five hundred dollars (\$500) in addition to such person's wearing apparel -- Arkansas Constitution, Article 9, § 2;

Waiver of Asset Ceilings: The Center's Executive Director or designee (managing attorneys) may waive the asset ceiling(s) for particular applicants under unusual circumstances. Center will record the reason(s) for such waiver(s) and make such records available for review by LSC.

GROUP ELIGIBILITY FOR REPRESENTATION

These group eligibility policies apply only to LSC-funded legal assistance. Center may use non-LSC funds to support representation of groups that do not meet these group eligibility standards. In order for a group, corporation, association or other entity to be eligible for LSC-funded legal assistance, it must provide Center with information regarding the resources available to the

group, showing that it lacks, and has no practical means of obtaining, funds to retain private legal counsel. Such information should include the group's income and income prospects, assets and obligations. A group that provides information showing that it lacks the resources to hire private counsel is eligible for LSC-funded legal assistance:

(1) if the group, or for a non-membership group the organizing or operating body of the group, is primarily composed of individuals who would be financially eligible for LSC-funded legal assistance, as determined by the financial or other socioeconomic characteristics of the persons comprising the group or its operating body; or

(2) if one of the group's principal activities is the delivery of services to those persons in the community who would be financially eligible for LSC funded legal assistance, as determined by the financial or socioeconomic characteristics of the persons served by the group, and the legal assistance sought by the group is related to such activity.

The Center shall collect information that reasonably demonstrates that the group meets the eligibility criteria set forth in these policies and 45 CFR 1611.6.

FINANCIAL ELIGIBILITY INFORMATION AND STATUS

The Center shall make reasonable inquiry regarding the sources of an applicant's income, the applicant's income prospects and the applicant's assets, and shall record information to document the applicant's income and assets.

If there is substantial reason to doubt the accuracy of financial eligibility information provided to Center by an applicant or group, the Center's staff shall make reasonable inquiry to verify the information in a manner consistent with the attorney-client relationship.

If, after making a determination of financial eligibility and accepting a client for LSC-funded service, the Center becomes aware that the client has become financially ineligible for LSC-funded services through a change in circumstances, the Center shall discontinue representation supported with LSC funds if the change in circumstances is sufficient, and is likely to continue, to enable the client to afford private legal assistance and discontinuation is not inconsistent with the rules of professional responsibility.

If, after making a determination of financial eligibility and accepting a client for LSC-funded services, the Center later determines that the client is financially ineligible for LSC-funded services on the basis of later discovered or disclosed information, Center shall discontinue LSC-supported representation if discontinuation is not inconsistent with the rules of professional responsibility.

¹ The requirements of Part 1611 apply only to legal assistance supported in whole or in part with LSC funds. However, recipients are free to apply these requirements to their non-LSC funds as well, as long as they are consistent with the requirements of other funders. Alternatively, recipients may wish to develop separate policies for the use of non-LSC funds that they may employ to represent financially ineligible individuals or groups that do not meet the requirements of '1611.6.

² In adopting this policy and when revising the policy the recipient is required to consider the cost of living in the recipient's service area, the number of clients who can be served with recipient's resources, the population that would be eligible at or below current or proposed income or asset ceilings, and the availability and cost of legal services provided by the private bar and other free or low cost legal services providers in the area.

³ Recipient should identify these specific assets.

⁴ The term "household" may be defined by the recipient. You may include the definition in the policies or the term may be defined as part of the procedures that are adopted to implement these policies.

⁵ Recipients may choose an annual income ceiling that is lower than 125% of the Federal Poverty Guidelines.

⁶ Recipients may to choose to adopt any or all of the authorized exceptions to the annual income ceiling.

⁷ This determination should be made by whichever member(s) of the LSP staff has/have been determined to be the appropriate decision maker. Depending on the particular program's circumstances, it could be the Executive Director's designee, a managing attorney, the director of the intake unit, the individual intake workers or any other staff member with sufficient experience to make an appropriate determination. The appropriate decision-maker should be identified in the program's procedures implementing these financial eligibility policies.

⁸ The recipient's governing body should identify and substitute specific programs that it has determined have income standards that are at or below 125% of the Federal Poverty Guidelines and eligibility standards that include an assets test.

Center for Arkansas Legal Services Income Eligibility Maximum Levels

WEEKLY

Family Size	Maximum Level	Maximum Level Before Deductions
1	281	449
2	378	605
3	476	761
4	573	917
5	671	1,073
6	769	1,230
7	866	1,386
8	964	1,542
9	1,061	1,698
10	1,159	1,854
For family units with more than 10 members, add \$97.50 for each additional member.		

MONTHLY

Family Size	Maximum Level	Maximum Level Before Deductions
1	1,216	1,945
2	1,639	2,622
3	2,062	3,298
4	2,484	3,975
5	2,907	4,652
6	3,330	5,328
7	3,753	6,005
8	4,176	6,682
9	4,599	7,358
10	5,022	8,035
For family units with more than 10 members, add \$422.90 for each additional member.		

YEARLY

Family Size	Maximum Level	Maximum Level Before Deductions
1	14,588	23,340
2	19,663	31,460
3	24,738	39,580
4	29,813	47,700
5	34,888	55,820
6	39,963	63,940
7	45,038	72,060
8	50,113	80,181
9	55,188	88,300
10	60,263	96,420
For family units with more than 10 members, add \$5,075 for each additional member.		

Maximum Level is 125% of the Official Poverty Level. The above maximums do not apply to potential clients age 60 or over in counties where the Center receives aging funds for such representation.

Jean T. Carter

To: Jean T. Carter
Subject: Request for Arkansas 2013-14 TEA (TANF) payment Chart

From: Lorie Williams [<mailto:lorie.williams@arkansas.gov>]
Sent: Tuesday, March 25, 2014 3:22 PM
To: Jean T. Carter
Subject: RE: Request for 2013-14 TEA payment Chart

Hi Jean

Below are the TEA payment levels. They have not changed in years so this is for both 2013 and 2014. Please let me know if you have additional questions. Thanks.

Lorie

Household Size	TEA Payment
1	\$81.00
2	162.00
3	204.00
4	247.00
5	286.00
6	331.00
7	373.00
8	415.00
9	457.00

No increase after 9. Remains at \$457.00

NOTICE: The Arkansas Department of Human Services has determined that this message may contain confidential or otherwise protected information. We have used transport encryption to help protect this message while in transit to you. Please take all reasonable measures to protect any protected or confidential data that might be in this message, including the limitation of re-disclosure to the minimum number of recipients necessary. Please report any inappropriate disclosure to <https://dhs.arkansas.gov/reporting> or as required by law.

Search...

SSI Federal Payment Amounts For 2014

- Automatic Determinations Maximum Federal Supplemental Security Income (SSI) payment amounts increase with the cost-of-living increases that apply to Social Security benefits. The latest such increase, 1.5 percent, becomes effective January 2014.
- Cost-of-Living Adjustment
- SSI Annual Report **SSI amounts for 2014**
- SSI payment standards, 1975 & later The monthly maximum Federal amounts for 2014 are \$721 for an eligible individual, \$1,082 for an eligible individual with an eligible spouse, and \$361 for an essential person.

In general, monthly amounts for the next year are determined by increasing the *unrounded annual amounts* for the current year by the COLA effective for January of the next year. The new unrounded amounts are then each divided by 12 and the resulting amounts are rounded down to the next lower multiple of \$1.

Recipient	Calculation details		Monthly amounts for 2014
	Unrounded annual amounts for—		
	2013	2014*	
Eligible individual	\$8,529.32	\$8,657.26	\$721
Eligible couple	12,792.55	12,984.44	1,082
Essential person	4,274.43	4,338.55	361

* The unrounded amounts for 2014 equal the unrounded amounts for 2013 increased by 1.5 percent.

Payment reduction

The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses. Some States supplement SSI benefits.



Founded 1965

CENTER FOR ARKANSAS LEGAL SERVICES

ATTESTATION OF CITIZENSHIP

I AM A CITIZEN OF THE UNITED STATES.

SIGNATURE

DATE



Founded 1965

CENTER FOR ARKANSAS LEGAL SERVICES

ATTESTATION OF CITIZENSHIP

RE: _____, DATE OF BIRTH: _____
(NAME OF JUVENILE)

I, _____, HEREBY STATE THAT I AM THE PARENT, GUARDIAN OR CUSTODIAN OF THE JUVENILE NAMED ABOVE, AND I ATTEST THAT THE ABOVE NAMED JUVENILE IS A UNITED STATES CITIZEN.

SIGNATURE OF PARENT, GUARDIAN OR CUSTODIAN

CENTER FOR ARKANSAS LEGAL SERVICES

CLIENT RETAINER AGREEMENT

I understand that the Center for Arkansas Legal Services (the Center) will provide me with legal assistance, and that any employee of the Center, or any pro bono referral attorney can work on my case under the supervision of the Center. I understand that the Center will handle my case only after my case has been reviewed and approved for acceptance by a Center managing attorney.

I understand that my case may be assigned to a Center staff attorney, paralegal, or a pro bono referral attorney. I authorize the Center to do what is legally necessary on my case, including negotiation, litigation and administrative hearings, if permitted by federal law. The Center can do whatever is necessary to settle the case and to handle the case in court or elsewhere. However, only I can approve any settlements and I will be notified as soon as possible when a settlement offer has been proposed by the opposing party, their lawyer or their authorized representative.

I agree that I will not settle this case without talking to the Center or my pro bono attorney first. I must let the Center or my pro bono attorney know right away if the person or party who is causing the problem (or their lawyer) talks or writes to me.

The Center is not agreeing to provide me with a lawyer if my case needs to be appealed to a higher court. I understand that the Center must review my case again before deciding whether to represent me on appeal and that the Center's executive director must approve any appeal before it can be done.

The Center does not charge for its legal services, but I may be responsible for paying all or some of the costs, i.e. money the court charges to file papers, the costs of serving notice to the adverse party, witness fees, etc. If the Center pays these costs for me, I will try to repay the Center. I understand that any judgments awarded against me are my responsibility and will not be paid by the Center.

I agree to tell the Center and/or my pro bono attorney if I change my address or telephone number so they can keep in touch with me. I will cooperate and help with my case by answering all questions and by showing up for all hearings or other appointments. I agree to notify the Center if my income, financial situation, or household size changes. I agree to notify the Center if I get arrested or jailed. I know if I make too much money or get jailed the Center might have to end this agreement and stop representing me.

I can end this agreement at any time by telling the Center. The Center can end this agreement, if they have a good reason, by telling me the reasons in writing and, if my case is filed in court, having the judge approve a Motion to Withdraw.

I understand that my case may be referred to a private attorney on one of the Center’s pro bono referral panels, who will represent me without payment of any attorney’s fees. Again, I understand that I may be responsible for paying all or some of the costs of my case, i.e. money the court charges to file papers, the costs of serving notice to the adverse party, witness fees, etc. Further, I understand that if my case is fee-generating, that the Center may refer my case to a private attorney, however, the Center will not be responsible for supervising my case, and I am responsible for signing a separate client retainer with that attorney.

Regarding disclosures of information, I understand that, subject to the provisions of the attorney-client privilege, certain information, including my name, eligibility status, etc., may be disclosed to any state or federal funding source of the Center for Arkansas Legal Services, including the Legal Services Corporation, HUD, Area Agencies on Aging or their authorized agents.

I understand that I have a right to file a complaint with the Center should I feel dissatisfied with the services being provided to me, or if I am found ineligible for services.

Please describe the legal problem(s) and legal assistance you (the client) are requesting:

By signing this Retainer Agreement, I certify that the statements about my household income and assets provided in the client application process are true, and that I provide any requested documentation required for verification.

CLIENT SIGNATURE

THE CENTER REPRESENTATIVE

DATED THIS THE _____ DAY OF _____, _____.

VOCALS CLOSED CASE REPORT

Describe the legal assistance provided to the client: _____

PLEASE RETURN THIS FORM WHEN CASE IS COMPLETED

CLIENT'S NAME #Error

CASE NUMBER:

ATTORNEY'S NAME #Error

REFERRAL DATE

TYPE OF CASE

MAJOR REASON CLOSED (Please Check One)

- (A) Counsel and Advice
- (B) Limited Action/Brief Service
- (F) Negotiated Settlement without Litigation
- (G) Negotiated Settlement with Litigation
- (H) Administrative Agency Decision
- (Ia) Uncontested Court Decision
- (Ib) Contested Court Decision
- (Ic) Appeals
- (L) Extensive Service w/out Litigation
- (L) Case Dismissed or Attorney Withdrew
- (R) Rejected Case and returned to VOCALS

Describe the legal assistance provided to the client: _____

NUMBER OF HOURS SPENT ON CASE _____

OUTCOME OF CASE WON LOST MIXED RESULTS NOT APPLY

DOLLARS RECOVERED FOR CLIENT - LUMP SUM \$ _____ MONTHLY RECOVERY \$ _____

RECOVERY AVOIDED FOR CLIENT - LUMP SUM AVOIDED \$ _____ MONTHLY AVOIDED \$ _____

ATTORNEY'S SIGNATURE

DATE

TO BE COMPLETED BY THE CENTER

Impact/Major Case: Yes No Is this File to be Destroyed: Yes No Date: _____

OUTSIDE PRACTICE OF LAW

45 CFR 1604

1. A Center attorney shall not engage in any outside practice of law without the permission of the Executive Director. If the executive director determines that such practice is inconsistent with the LSC Act or the attorney's full-time responsibilities to the program's clients, then permission to engage in outside practice of law will be denied.

2. A full-time attorney may not receive any compensation for the outside practice of law, except as provided in this policy. The work must be performed on the attorney's your own time (after hours or during annual leave). The attorney may not use office resources or personnel in providing the representation, except that an attorney may perform minor, non-time consuming legal tasks during office hours as long as it does not interfere with his/her responsibilities to Center clients. The representation must not be identified with the Center for Arkansas Legal Services or Legal Services Corporation. The legal representation must not be too time consuming, or interfere with, or be inconsistent with the attorney's job duties and responsibilities to the Center's clients. Should such occur, the Executive Director may require the representation to be terminated. Any request for annual leave or leave without pay in connection with this representation must be approved by the attorney's supervisor.

3. Permissible Outside Practice: With the Executive Director's approval, an attorney may be permitted to engage in the outside practice of law if:
 - (a) the attorney is newly employed and has a professional responsibility to close cases from a previous law practice, and does so expeditiously as possible (within 90 days of employment unless otherwise approved). An attorney engaged in this outside practice may seek and receive personal compensation for the work performed. The attorney may use *de minimis* amounts of the Center's resources as long as the resources are not used for any activities prohibited by LSC;

 - (b) the attorney is acting on behalf of him or herself, a close friend, family member or another member of the Center's staff. The attorney may use limited amounts of the Center resources if necessary to carry out the attorney's professional responsibility as long as the resources are not used for any activities prohibited by LSC;

 - (c) the attorney is working on behalf of a religious, community, or charitable group. The representation may not involve activities prohibited by LSC. The attorney may use limited amounts of the Center resources if necessary to carry out the attorney's professional responsibility as long as the resources are not used for any activities prohibited by LSC;

 - (d) the attorney is participating in a voluntary pro bono or legal referral program affiliated with or sponsored by a bar association, other legal organization or religious, community or charitable group. The representation may not involve activities prohibited by LSC. The attorney may use limited amounts of the Center resources if necessary to carry out the attorney's professional responsibility as long as the resources are not used for any activities prohibited by LSC; or

 - (e) the attorney is acting under a court appointment. If the attorney will receive compensation for the court appointment under the same terms and conditions as are applied

generally to attorneys in the jurisdiction, the attorney agrees to remit the compensation to the Center. The attorney may use program resources to undertake the representation, and may identify the Center as his or her employer.

4. Definitions: As used in this policy, "attorney" means a person who is employed full time in legal assistance activities supported in major part by LSC, and who is authorized to practice law in the jurisdiction where assistance is rendered. As used in this policy, "outside practice of law" means the provision of legal assistance to a client who is not receiving that legal assistance from the Center for Arkansas Legal Services, but does not include court appointments or performance of duties as a Judge Advocate General attorney in the U.S. armed forces. As used in this policy, "court appointment" means an appointment in a criminal or civil case made by a court or administrative agency under a statute, rule or practice applied generally to attorneys practicing in the jurisdiction.