



FINAL REPORT

LEGAL SERVICES CORPORATION Office of Compliance and Enforcement

BAY AREA LEGAL SERVICES

Compliance Review
August 26-30, 2013

Recipient No. 610050

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I. EXECUTIVE SUMMARY

Finding 1: BALS' automated case management system ("ACMS") is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded as there were no instances of missing or inconsistent information between the ACMS and the case files; however, a few modifications to its ACMS may be warranted.

Finding 2: BALS' intake procedures and practices did not support its compliance-related requirements.

Finding 3: BALS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines.

Finding 4: BALS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: Sampled files are in non-compliance with the documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens) as there were three (3) cases that failed to have a citizen attestation when required.

Finding 6: Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

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

Finding 8: Review of BALS' policies and sampled cases and interviews evidenced compliance with the requirements of 45 CFR § 1620.3(a) and § 1620.6(c) (Priorities in use of resources).

Finding 9: Sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

Finding 10: Sampled cases evidenced that BALS' application of the CSR case closure and problem code categories is substantially compliant with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). There were limited patterns of error noted in the sampled files.

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (dormancy and untimely closure of cases).

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

Finding 13: Review of BALS' policies and timekeeping records, and interviews with full-time attorneys who have engaged in the outside practice of law, evidenced compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 14: A limited fiscal and sampled case file review, as well as interviews conducted with management and staff, and an examination of public materials available in BALS' offices evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Review of BALS' policies and sampled files, as well as interviews conducted with management and staff, evidenced compliance with the documentation requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of BALS' accounting and financial records evidenced that it is in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity); however, BALS should make improvements in order to become fully compliant with CFR § 1610.5 (Notification).

Finding 17: BALS is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which are designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

Finding 18: BALS is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.3, the requirement for subgrants.

Finding 19: Review of BALS' policies and sampled files, as well as a limited review of fiscal and other records, and interviews with management and staff, evidenced compliance with 45 CFR Part 1635 (Timekeeping requirement).

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

Finding 21: Review of BALS' policies and sampled files, as well as a limited review of fiscal and other records, and interviews with management and staff evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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

Finding 23: Review of BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Review of BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 29: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion).

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

Finding 31: A limited review of BALS' internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.).

II. BACKGROUND OF REVIEW

On August 26-30, 2013, staff of the Office of Compliance and Enforcement (“OCE”) conducted an on-site Compliance Review of Bay Area Legal Services (“BALS”). The purpose of the visit was to assess the recipient’s compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.) (“LSC Accounting Guide”), and the LSC Property Acquisition and Management Manual (“PAMM”).

Background of Recipient

BALS is a non-profit legal services organization providing free legal services to low-income and disadvantaged residents in the five (5) counties encompassing its service area. BALS has a staff of 86, with 42 attorneys, eight (8) paralegals, and 36 other staff. BALS is headquartered in Tampa and maintains offices in Dade City, St. Petersburg, Plant City, Wimauma, and New Port Richey. Additionally, BALS provides legal services at The Spring of Tampa and L. David Shear Children’s Law Center. BALS has subgrants with Legal Aid of Manasota (“LAM”),¹ Gulfcoast Legal Services (“GLS”),² and the Community Law Program (“CLP”).³ BALS has centralized intake located in the Tampa office, which is referred to as the Centralized Telephone Intake division (“CTI”). A majority of BALS’ cases closed are served by the CTI. BALS’ PAI program consists of a Pro Bono component called the Bay Area Volunteer Lawyer Program (“BAVLP”) which is located at the George Edcomb Courthouse in Tampa. The BAVLP conducts an Intake Clinic and a Family Forms Clinic. BALS also provides legal assistance at several clinics in its service area. The supervisor of the CTI conducts a clinic at the Legal Information Center located in the courthouse in Tampa. Additionally, the Tampa office conducts a clinic at the Sulphur Springs Resource Center; the St. Petersburg branch office conducts a Health and Justice Clinic and an Outreach Clinic at the Enoch Davis Center; and the Dade City office conducts a clinic at the Legal Information Center at the Dade City Courthouse. BALS’ practice areas include housing, family, consumer, senior advocacy, public benefits, foreclosure, and domestic violence.

In 2013, BALS is anticipated to receive \$2,608,381 in LSC funds. In 2012, BALS received \$2,477,214 in LSC funding and aggregate funding of \$7,829,181. In 2011, BALS received \$2,902,751 in LSC funding and aggregate funding of \$9,392,993.

During 2012, 92.3% of cases reported to LSC were closed with limited service case closure categories and 7.7% of cases reported were closed with extended service case closure categories. During 2011, 92.2% of cases reported were closed with limited service case closure categories and 7.8% of cases reported were closed with extended service case closure categories.

In 2011 and 2012, BALS’ adjusted self-inspection rate was 0.0%.

¹ Subrecipient of BALS that provides services to low-income persons in Manatee and Sarasota Counties, FL.

² Subrecipient of BALS that provides services to low-income persons in North Pinellas County, FL.

³ Subrecipient of BALS that provides services to low-income persons in South Pinellas County, FL.

Overview of Compliance Review

The on-site review was designed and executed to assess BALS' compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that BALS correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed BALS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);⁴ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);⁵ 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the LSC Accounting Guide.

In preparation for the visit, on June 21, 2013, OCE requested that BALS provide certain case lists. Case lists requested included all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases reported in its 2012 CSR data submission ("closed 2012 cases"), all cases closed in 2013 ("closed 2013 cases) and all cases which remained open as of June 30, 2013 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by BALS staff and the other for cases handled through BALS' PAI component. 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. BALS was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed BALS 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.

⁴ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

⁵ 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.

Thereafter, BALS provided the materials. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately among open and closed cases and among BALS' 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.

CSR/CMS Visit

During the visit, BALS cooperated fully and provided the requested materials. BALS afforded access to information in the case files through staff intermediaries. BALS maintained possession of the files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and BALS agreement of July 1, 2013. BALS displayed client signatures as they appeared on citizenship/alien eligibility documentation, retainer agreements, and 45 CFR Part 1636 statements. OCE reviewed a sample of approximately 1053 case files during the visit. OCE also interviewed members of BALS' upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed BALS' case intake, case acceptance, case management, and case closure practices and policies in all offices for staff and PAI programs. OCE fiscal staff reviewed BALS' compliance with LSC grants, conducted a limited review of internal controls, prohibited political activities, fee-generating cases, lobbying activity, as well as BALS' use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, timekeeping, attorney fees, cost standards and procedures, and other fiscal activities. A limited sampling of informational pamphlets and brochures were also collected and reviewed.

Overview of Findings

During the course of the visit, OCE notified members of BALS' 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 BALS of its preliminary findings. During the exit conference, OCE explained to BALS that the findings were merely preliminary, that OCE may make further and more detailed findings in the Draft Report, and that BALS would have 30 days to submit comments to the Draft Report. BALS was advised that a Final Report would be issued that would include BALS' comments. BALS was further advised that OCE may request additional documentation or a demonstration that the required corrective action items have been implemented.

During the exit conference, OCE advised BALS that its staff were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC. OCE further advised BALS that OCE detected limited patterns of non-compliance concerning certain regulatory and reporting requirements pertaining to the failure of screening and obtaining attestations of citizenship/alien eligibility status. Additionally, the sampled cases reflected a few instances of untimely closed or dormant files, and limited patterns of case closure category errors. Interviews determined that a few inconsistencies existed with respect to screening for income prospects and income eligibility.

With the noted exceptions, BALS has in place policies, procedures, and practices designed to facilitate compliance-related activities. Additionally, BALS exhibits a consistency of process and maintains a cultural connection between its intake units and its extended service units enhancing both units' ability to perform compliance functions. BALS staff and management exhibited a strong commitment to performing compliance-related activities and exhibited many compliance-related best practices. These factors resulted in the OCE team finding few compliance defects in sampled files. Similarly, while the fiscal team identified a few minor areas of fiscal oversight that could be strengthened, the limited review demonstrated that fiscal compliance was strong. BALS responded favorably to OCE's assessment and advised they will be identifying and implementing additional oversight methods to further increase compliance with the LSC Act, regulations, and other authorities.

By letter dated January 9, 2014, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. BALS was asked to review the DR and provide written comments within 30 days of its receipt. On February 3, 2014, BALS' comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit.

III. FINDINGS

Finding 1: BALS's automated case management system ("ACMS") is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded as there were no instances of missing or inconsistent information between the ACMS and the case files; however, a few modifications to its ACMS may be warranted.

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

In accordance with CSR Handbook (2008 Ed., as amended 2011), §§ 3.3 and 3.4, BALS has developed procedures for ensuring that timely and accurate data is reported in the CSRs. BALS utilizes LegalServer as its ACMS. BALS has also implemented automated computer generated procedures to its LegalServer ACMS to ensure that LSC compliance-related requirements are met. The first automated procedure implemented by BALS is the use of a red asterisk which alerts the intake screener that there are required LSC compliance ACMS fields that are incomplete. If an ACMS field displays a red asterisk, BALS staff cannot save the intake or proceed to another screen on the ACMS unless the missing information is entered into the required ACMS field. The second automated procedure implemented by BALS is "90-day" timeliness reports that are generated by its Compliance Officer, and distributed to the Managing Attorneys who then review every open case to ensure that the cases are not dormant. Interviews revealed that staff members are responsive to the red asterisks when conducting intake interviews and that the Managing Attorneys are using the 90-day timeliness reports to review and resolve issues raised in these reports. As the ACMS review found low rates of error in sampled cases, it is likely that the use of the red asterisks, and automated timeliness report system, permits BALS to identify and correct many potential compliance errors.

The on-site review determined that the ACMS is free from defaults in fields critical to the determination of eligibility and that BALS is in compliance with Program Letter 02-06 and the CSR Handbook (2008 Ed., as amended 2011), § 3.6. It was observed, however, that the ACMS defaults to “no” in response to the question, “is the caller a victim of domestic violence?” Although this is not a field the CSR Handbook has determined critical to eligibility, this information is reported to LSC in the Grant Activity Reports (“GAR”) and it was recommended that BALS remove this default. In its comments to the DR, BALS indicated it had removed the default from the ACMS and provided an ACMS screen shot as evidence of the change.

In accordance with 45 CFR § 1611.3(c)(2), BALS has not adopted authorized exceptions to its annual income ceilings, thus only gross income is captured during its financial eligibility determinations. In accordance with the CSR Handbook (2008 Ed., as amended 2011), §§ 3.1 and 3.5, the ACMS has the ability to report cases to LSC by funding source, grant type, Private Attorney Involvement (“PAI”) component, jurisdiction, individual office, and the ACMS has the ability to exclude non-LSC reportable files from its CSR data submissions.

It was observed during the on-site review that the ACMS note field relating to assets incompletely and incorrectly categorizes exempt assets. BALS’ ACMS instructs that the house the applicant lives in, one (1) car, household furnishings, and 401(K)/401(B) assets are exempt. BALS’ asset policy, however, excludes the principal residence, *vehicles used for transportation*, *assets used in producing income*, and *assets which are exempt from attachment under Federal or Florida law*, such as IRAs, 403(B) and 401(K) retirement accounts and *annuities*.⁶ As LSC requires recipients to screen applicants in accordance with its board-approved policy, any instructions BALS provides its staff as to the screening of assets must be consistent with BALS policy. Subsequent the review, BALS indicated that it convened a small work group who revised the asset screening making it consistent with the asset policy. BALS indicates that the revision was presented and approved by its board on November 19, 2013.

BALS citizenship status drop down menu items on the ACMS include: eligible alien, group client, ineligible alien, and US citizen. The listed items on the drop down menu on the ACMS do not address the eligibility of victims of domestic violence and human trafficking. The Office of Legal Affairs’ Advisory Opinion # AO – 2009-1008 (November 2, 2009) provides that recipients do not have to inquire into the citizenship or alienage status of applicants with legal issues that are within the statutory exceptions to the alienage requirements, such as human trafficking or domestic violence. Accordingly, it appears that an additional pick list item, such as “domestic violence/human trafficking,” or “VAWA exception,” should be included to capture all LSC eligible categories of citizenship/alien status. It was recommended that BALS include victims of domestic violence and human trafficking on the drop down menu on the ACMS when screening for citizenship eligibility. In its comments to the DR, BALS indicated it is currently working with its ACMS developer to include “domestic violence/human trafficking” or “VAWA exception” options to its citizenship drop down menu.

Based on a comparison of the information elicited from the ACMS to information contained in the files sampled, BALS’ use of its ACMS is sufficient to ensure that information necessary for

⁶ See BALS Individual Eligibility for Representation Policy, §103.

the effective management of cases is timely and accurately recorded. However, during the review of cases at BAVLP, it was observed that several closed cases appeared on the ACMS as staff cases, when they were clearly handled by pro bono attorneys. Interviews with the staff disclosed that this occasionally happens. These cases did not appear to have been reported to LSC as staff cases in the CSRs. It was recommended that the BAVLP staff review the closed case lists with the database manager to determine the reason this glitch occurs and ensure an accurate list is generated.

In its comments to the DR, BALS indicated that the BAVLP managing attorney reviewed the VLP closed cases that were selected for review. She identified the glitch with regard to the ACMS data entry and has addressed it with BALS' IT Manager, who is working with the ACMS developer to correct the issue.

Finding 2: BALS' intake procedures and practices did not support compliance-related requirements.

The intake procedures of BALS' CTI, the Senior Legal Help Line ("SLHL"),⁷ the Senior Advocacy Unit ("SAU"),⁸ the Family Law Unit ("FLU"), and the Advocates for Basic Legal Equality unit ("ABLE"),⁹ as well as the intake procedures of the satellite offices known as the Legal Information Center ("LIC"),¹⁰ the L. David Shear Children's Law Center,¹¹ the Springs of Tampa Bay¹², Health and Justice Clinic ("HJC"),¹³ LAM, GLS, CLP, BAVLP, and the Enoch Davis Center Outreach Clinic¹⁴ were assessed by interviewing and/or observing receptionists, secretaries, attorneys, managing attorneys, and executive staff members during the on-site review. The interviews and observations revealed that intake procedures performed by staff generally support the recipient's compliance-related requirements concerning the CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Duplicates and Conflicts), 45 CFR Part 1611 (Income and household eligibility screenings), 45 CFR §§ 1611.3(e) and 1611.4(b) (Asset eligibility screenings), 45 CFR § 1611.4(c) (Government benefits exemption),¹⁵ 45 CFR Part 1620 (Priorities), and the oversight of files for compliance-related activities (2008 CSR Handbook, as amended 2011). Weaknesses, however, were identified in the screening practices related to: 45 CFR §§ 1611.2(d) and 1611.3(d)(1), (Asset eligibility screenings), 45 CFR §

⁷ Team SLHL is a free statewide legal advice and referral helpline for elderly Floridians.

⁸ Team SAU focuses on providing legal representation in the areas of housing and relative care giver law.

⁹ Team ABLE focuses on providing legal representation in the areas of housing, consumer, employment, and public benefits law.

¹⁰ The non-LSC funded LIC is BALS' free self-help program in the Hillsborough County Courthouse. The LIC has written self-help instructions for pro se litigants and is responsible for revising LIC forms and instructions.

¹¹ The non-LSC funded L. David Shear Children's Law Center provides representation to children in the child welfare system.

¹² The BALS attorney staffing this domestic violence shelter, assisted by support staff, focuses on providing legal representation to victims of domestic violence.

¹³ HJC is a clinic that provides assistance to patients receiving medical assistance at the Johnnie Ruth Clarke Health Center in St. Petersburg, FL.

¹⁴ The primary population for this clinic are those income eligible residents living within walking distance to the Center.

¹⁵ BALS has not adopted the government benefits exemption and intake staff members reported screening every applicant for income and assets.

1611.7(a)(1) (Reasonable income prospects), and 45 CFR Part 1626 (Citizenship and alien status screenings). A few staff members lacked knowledge concerning Program Letter 06-2 (Violence Against Women Act 2006 Amendments).

The forms used by BALS to determine eligibility were obtained on-site and evaluated to determine whether they were in compliance with LSC regulation and authorities so as to ensure that applicants for services are screened for eligibility in a uniform and consistent manner throughout the program. These forms include: conflict forms, citizenship and alien status forms, and printed ACMS intake sheets, as well as the Application for Legal Services completed by in-person applicants (this form includes a citizenship attestation and financial eligibility information). Additionally, opening and closing compliance checklists and sample welcome and closing letters were obtained while on-site. These forms were evaluated for consistency and compliance with LSC regulations and other authority. With the exception of the asset and citizenship ACMS notes discussed in Finding 1, each of these documents comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Legal Assistance Service Delivery Systems

A majority of BALS intake is conducted by telephone through its program-wide CTI center which is located in the main office in Tampa, and operates Monday through Friday, from 8:45 am to 4:30 pm. The only applicants who bypass CTI are those who qualify for emergency office appointments (primarily a small percentage of tenants facing eviction and petitioners seeking representation with domestic violence injunctions). At the time of the on-site review, BALS reported that it employed 10 intake screeners, a majority of which are part-time employees. The day-to-day operations of the CTI Screening Unit are supervised by a full-time paralegal who also provides legal services. CTI has a Managing Attorney who supervises and manages all of the staff of the CTI and its operations. BALS permits its employees to telework and many members of the CTI perform their intake and advocacy work remotely.

The CTI telephone screeners receive calls from within BALS' service area. During the initial call, an applicant intake screener is required to conduct a preliminary intake screening which includes a duplicate and program-wide conflict check, as well as the collection of demographic, income, asset, citizenship information, and information concerning the applicant's legal problem. Information concerning the nature of the legal problem is compared to BALS' priorities and written case acceptance guidelines. Observation of the CTI intake screeners included many instances of applicants who were repeat callers. In these instances, the intake screeners reviewed financial eligibility with the repeat caller to ensure the applicant remained eligible and that the file was not a duplicate. If the review of an initial or repeat caller determined that the applicant should be rejected, the caller was so advised. If the review determined that the caller should be provided with legal information or referral, the caller was provided with information and a referral was made orally.

Intake screeners and advocates are required to identify potential conflicts but do not resolve the conflicts. If a potential conflict is revealed, the applicant's information is transferred to the conflicts department for a disposition. The conflicts department is staffed by a senior legal secretary who is a conflicts specialist and is managed by the Deputy Director. Intake screeners

and advocates do not provide services until all potential conflicts are resolved by the conflicts department. Staff members housed in the Springs of Tampa Bay shelter, as well as BALS staff members providing outreach services at the Sulphur Springs Resource Center, are authorized to resolve potential conflicts. During interviews, these staff members reported that they consult the conflicts department as necessary. During July 2013, the conflicts department resolved over 500 potential conflicts.

During screening, applicants are also advised about their grievance rights (“appeal rights”) and must acknowledge that they understand the nature of the intake services and legal services provided by BALS (“confidentiality rights”) before the intake screening will commence. BALS applicants and clients have 10 days in which to file a client grievance, and may only appeal over-income and other eligibility issues to the Deputy Director. Clients may only grieve to BALS’ Board of Directors (“BOD”) if the complaint concerns the representation of a client.

The intake screeners are required to advise applicants that, if an intake cannot be completed because further information is required, their application may be coded as “pending” and left open for a week to 10 days pending receipt of any outstanding intake information. Intake screeners are responsible for monitoring such intakes and will close the file if the information is not received. If the review determines that an applicant should be accepted for legal assistance, the applicant is scheduled for an appointment with an advocate or advised that an advocate will be calling the applicant to schedule a telephonic or in-person appointment. If the advocate will be contacting the applicant, the CTI staff member electronically transfers the intake to the assigned advocate according to case acceptance guidelines and distribution protocols and the applicant’s intake information may be emailed to the advocate.

If an applicant is scheduled for an in-person appointment or applies for legal services in-person (either in a BALS office, clinic, or during outreach services), the applicant is required to complete the standard Application for Legal Services that includes an inquiry into the income and assets of the applicants (including reasonable income prospects), and a citizenship attestation to sign. The Application for Legal Services generally collects the same information as the ACMS intake fields. If an applicant discloses a non-citizenship status, the applicant’s status will be reviewed, relevant documents copied, and the eligible alien status of the applicant will be verified by the assigned BALS advocate. Applicants are then provided with a “Welcome Letter” explaining the services to be provided that day, and grievance contact information.

The attestation of citizenship and verification of eligible alien status is slightly different in the L. David Shear Children’s Law Center because the cases are court appointments for child representation in child welfare matters. In these instances, a parent may not be available to attest to the child’s citizenship. As this is a common occurrence, the staff members of the L. David Shear Children’s Law Center have a standard practice of obtaining the child’s birth certificate from the Attorney General or Case Manager assigned to the case. If a birth certificate is not available, the Case Manager will attest to the child’s citizenship. The birth records of all children in the Florida child welfare system are readily available as Florida law provides that the state must collect information concerning a child’s national origins. BALS reports that the judiciary has been advised that BALS may only represent children who meet LSC requirements and that they are only assigned cases consistent with LSC requirements. BALS further reports

that they will not accept appointments or perform any legal work until they obtain compliant citizenship or eligible alien status documentation.

After intake screeners have completed intake screening, whether the applicant is present in-person for an extended service unit or outreach appointment, or is being provided with telephone legal assistance through the CTI or the non-LSC funded SLHL, the next step is for the application to be assigned to an advocate. Once assigned, BALS' intake manual requires the advocates to conduct a "full-screen" intake by reviewing the "pre-screen" intake information in the ACMS or by reviewing the Application for Legal Services. The advocate is required to confirm with the applicant that all information is accurate, complete, and correct and may engage the applicant in a discussion about any eligibility area that is unclear or if there is a substantial reason to doubt the accuracy of the information provided. Conflict and duplicate information is reviewed again. The advocates are also required to screen for reasonable income prospects at this time. Similar to the process for telephone intake described above. If further information is required, an intake may be coded as "pending" and left open for a week to 10 days pending receipt of such information and no services will be provided until the information is obtained. For in-person intake, advocates, as opposed to intake screeners, are responsible for monitoring such intakes and will close an applicant's file if required information is not received.

After an applicant's eligibility is confirmed, interviews and observation demonstrated that advocates proceed to obtain facts relevant to the applicant's legal problem in order to analyze the legal issue(s) and provide limited service. As with observations of intake staff, observation of advocates providing legal assistance by telephone revealed many instances of applicants who were repeat callers. In these instances, the advocates reviewed financial eligibility information with the caller to ensure that the applicant remained eligible and to ensure that the applicant's file was not a duplicate before providing legal assistance. The advocates documented the assistance provided to the client in the ACMS notes field and advocates indicated that sometimes they summarize their advice in a confirmatory advice letter. The case review conducted on-site demonstrated that the advice documented in ACMS case notes, as well as other documentation contained in client files, meets the requirements of the CSR Handbook (2008 Ed., as amended 2011).

After limited service is provided by an advocate, the case may be closed. In such scenarios, the advocate assigns the case closure category and closes the electronic and/or paper file with the assistance of one of BALS' compliance and closing checklists. Additionally, BALS' part-time compliance officer reviews every case closed for compliance purposes and documents each review by initialing the paper file or by indicating the review of the electronic file in ACMS notes.

Non-emergency SAU, ABLE, and FLU cases that require extended service are discussed at a weekly group case acceptance meeting where they are considered for further representation or closure (emergency cases will be considered immediately by the advocates and the Managing Attorney). Additionally, cases that require extended service but are outside the main office's service area are referred to the appropriate branch office. By consensus, the advocates will determine the appropriate level of legal services that should be provided to the applicant; however, the managing attorney of each division or branch office makes the final decision

regarding what services will be provided. At case closing, advocates assign a case closure category and close the file. The closed SAU, ABLE, and FLU cases are then assigned to a unit team member who will review the file by using one of BALS' compliance checklists. For all other extended service cases, including the branch offices, the managing attorneys will review the cases utilizing the same compliance checklist. The checklist used to review a closed file is attached to the file and a compliance screen in the ACMS is completed. The file is then returned to the applicable unit's managing attorney who reviews the file and resolves any issues or concerns. A managing attorney may change a case closure category, etc. Managing attorneys also review the "90- day" timelines reports with their staff and conduct annual case reviews.

Case acceptance procedures are slightly different in the L. David Shear Children's Law Center and the Spring of Tampa Bay office because they are not done by case acceptance meeting but, rather, are done by the individual attorney to whom the court referred the case pursuant to case acceptance guidelines. All cases accepted by the L. David Shear Children's Law Center are referred by court appointment in accordance with 45 C.F.R. § 1604.7(a). The attorney reviews every file prior to appointment to ensure that citizenship information is contained in the file. The cases accepted by the Spring of Tampa Bay are usually time sensitive requests for relief from violence and, thus, the attorney accepts cases independent of the group case acceptance meeting because of the emergency nature of the proceedings. Case closure procedures are also slightly different in the L. David Shear Children's Law Center and the Springs of Tampa Bay, as the attorneys, in conjunction with support staff, assign case closure categories, close files, and review files for compliance using one of BALS' compliance checklists. The checklists used are attached to each closed file and a compliance screen in the ACMS is also completed. The closed file is then returned to the unit's managing attorney who reviews it and resolves any issues or concerns.

Overall, intake screeners and advocates reported having access to the CSR Handbook (2008 Ed., as amended 2011), an LSC compliance handbook ("the Red Book"), and the majority of staff report having had attended CSR training within the past year or three (3) years.

A full discussion of PAI intake can be found in Finding 17.

Legal Information Service Delivery Systems

The non-LSC funded LIC is BALS' free self-help program providing verbal and written instructions to pro se litigants. BALS indicates that LIC does not conduct eligibility screenings as no legal assistance is provided to the users accessing the Center. BALS reports LIC activities on LSC's Other Services Report. LIC is staffed by an attorney who provides access to family law information and the information on the judicial system to members of the general public. The attorney works full-time out of the Hillsborough County Courthouse. During the on-site review, 14 observations of the attorney's interactions with users of LIC were observed and a limited review of LIC's written materials was conducted.

The majority of the LIC attorney's interactions with its users lasted approximately three (3) minutes, but a few interactions were slightly longer lasting approximately 10-15 minutes. The limited observations reflected that LIC's staff has ensured the delineation between legal

information and legal advice. Observations and interviews reflected that general information concerning court process, forms, and trial preparation was provided to LIC users. For example, the LIC attorney indicated her understanding of the delineation between legal information and advice by providing services as follows: she instructs users regarding what forms they can use to obtain the result they wish to achieve, she provides users with written materials that explain the forms and the process, and she advises users to consult an attorney if they want to understand what they should do. In comparison, observations of advocates providing telephonic legal advice on the CTI hotline and the legal advice documented in the files reviewed at the Springs of Tampa Bay outreach office, reflected that, when providing legal assistance to clients, BALS' attorneys provide answers to clients' legal questions based upon attorneys' application of the law to the clients' individual facts and counsel clients on the applicable law.

The limited observations during the on-site review and the limited review of sampled written materials displayed at LIC evidenced that BALS provides only legal information to the users of the LIC.

Compliance Concerns

The on-site review identified the following weaknesses with regard to screening and oversight practices:

Income Prospects Screening

Recipients are required to "make reasonable inquiry" into every applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a). Intake observation revealed that while advocates often ask about income prospects, intake staff does not consistently make such an inquiry of applicants during telephonic "full-screen" applications. BALS was reminded that staff must make such inquiry when screening every applicant, whether by telephone or in-person, during its "full-screen" intake process.

In its comments to the DR, BALS indicated that intake staff was notified of this requirement and BALS will provide continued compliance training on this issue. BALS indicated that the DR was reviewed at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader to confirm they have viewed the video.

Asset Screening

Countable Assets: Intake observation and interviews revealed that while some intake and advocate staff members ask questions designed to elicit information about all assets an applicant possesses, some intake screeners and advocates ask limited asset questions which may not capture all assets that must be considered in the eligibility determination. The asset questions most often asked are: "Do you have any checking or savings accounts?" and/or "Do you own a

car or another house?" Some intake staff members expand these questions and ask: "Do you have any bank accounts, stocks, bonds, CDs or 401Ks?" It is possible that assets, such as boats, would be missed with only these limited asset questions being asked. It is preferable that all staff develop at least one (1) additional "catch all" question to capture any such additional assets and that intake staff members should be trained to ask questions that encompass all of the assets contemplated by BALS' asset policy. Some BALS staff members do routinely ask the following "catch all" question: "Do you have any other assets or any other property?"

In its comments to the DR, BALS indicated it had updated its ACMS and paper application to include the "catch all" question: "Do you have any other assets or any other property?" BALS also provided ACMS screen shots and a copy of the paper application which evidenced the updates. According to BALS, it notified its staff of the updates on January 31, 2014 and also included the updated policy as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required regarding this Finding.

Exempt Assets: Intake observation and interviews revealed that some staff members were not familiar with all of the asset exemptions contained in BALS' policy. For example, many intake staff (screeners and advocates) reported that BALS exempts one (1) vehicle used for transportation per household. As discussed in Finding No. 1, the uncertainty is likely to have developed because the ACMS assets field suggests that only one (1) vehicle is exempt. BALS should clarify its vehicle exemption policy and training should be provided to all intake and advocate staff to ensure that all staff members exempt vehicles in a manner consistent with BALS' policy. Additionally, a few staff members interviewed demonstrated that they were not familiar with the exemptions for work tools that contained in BALS' asset policy. Finally, staff members may not be screening for all assets exempt under Florida or Federal law. A review of BALS' policy reflects that BALS excludes the value of assets exempt from attachment under Florida or Federal law, such as IRA's, 403(B) and 401(K) retirement plans and annuities.¹⁶ Because BALS' policy does not limit the Florida and Federal law exclusions to the enumerated items, without a clear definition of the other items that would fall under this exception, it may be very difficult for intake staff to understand what assets should or should not be included.

The lack of knowledge concerning the types of assets that are considered or excluded during intake eligibility screening, raises questions as to whether applicants are being screened in a manner consistent with BALS' asset policy and 45 CFR Part 1611. The failure of intake staff to screen according to BALS' policy may lead to differing eligibility results for the same applicant depending on who conducts the eligibility screening. As stated above in Finding 1, LSC requires

¹⁶ AS LSC considers the lists of excludable assets in the regulation to be exhaustive, these categories of assets are excludable only to the extent they are exempt from attachment under State or Federal law. Thus, only a Florida or Federal law total exemption of IRA's, 403(B) and 401(K) retirement plans and annuities could support a 100% exemption in BALS' policy. See 70 Fed. Reg. 45545, 45550, 45551(Aug. 8, 2005).

recipients to screen applicants in accordance with its board-approved policy and any instructions BALS provides to its staff concerning the screening of assets must be consistent with its policy. *See* 45 CFR §§ 1611.2(d) and 1611.3(d)(1)

Citizenship and Alien Status Screening

During the on-site review, interviews were conducted with, and observations were made, of the intake screeners performing telephonic “pre-screen” intakes and advocates performing telephonic “full-intakes” to assess whether BALS satisfied the requirements of 45 CFR Part 1626, the CSR Handbook (2008 Ed., as amended 2011), § 5.5, Program Letter 99-3 (July 14, 1999), and Program Letter 06-2 (Violence Against Women Act 2006 Amendments). Over 15 observations over two (2) days were conducted of the three (3) intake screeners and three (3) advocates in the CTI unit, the SLHL, the SAU, and ABLE. The on-site observations revealed that BALS inconsistently complies with LSC regulations and instructions relating to the screening of applicants for citizenship and alienage status.

Interviews conducted during the on-site review demonstrated, however, that while all intake screeners and advocates were familiar with LSC instructions, inquiry regarding an applicant’s citizenship or alienage status was not always made where required, when the only service provided was brief advice or consultation by telephone. Two (2) intake screeners and two (2) advocates were observed skipping the question of citizenship. Six (6) intake observations of one (1) intake screener evidenced no inquiries were made into citizenship when required. The second intake screener observed failed to screen for citizenship, when required, during three (3) of seven (7) observations. Observations of the advocate staff evidenced that one (1) advocate made appropriate inquiry during “full-screen” intake observations, another advocate made appropriate inquiry during one (1) of two (2) “full-screen” intake observations, and a third advocate failed to inquire into the applicant’s citizenship during both of the “full-screen” intake observations.

Although all but two (2) of the files that were reviewed during the visit reflected a response to an inquiry regarding citizenship/alien eligibility, it is uncertain that an appropriate inquiry was made in telephone advice-only files based on the observations conducted during the on-site review. Such practices are inconsistent with the process of screening that LSC regards as essential to the realization of the intent of Congress in enacting the restrictions on federally funded legal assistance to ineligible aliens. *See* 45 CFR Part 1626. Subsequent to the review, BALS advised that it plans to monitor compliance by providing additional oversight of intake screeners and advocate staff during the “pre-screen” and “full-intake” processes. BALS has instructed the CTI Managing Attorney and Supervising Paralegal to regularly and randomly “listen in” on both screener and advocate interviews of new applicants. BALS reported that the Supervising Paralegal has met with all the screeners since the visit to stress the necessity of following intake policies and procedures 100% of the time. Additionally, BALS reported it was instituting a “mystery shopper” approach as an additional oversight method to monitor performance.

These additional oversight practices may be all that is necessary to ensure that citizenship and alienage are being screened during the telephonic application process and, therefore, no further

recommendations or corrective actions are required. BALS was asked to provide LSC with a copy of the new CTI oversight policy once it is implemented.

In response to the DR, BALS provided a copy of its new CTI oversight policy. OCE has reviewed the policy and finds it responsive to OCE's concerns. Additionally, BALS indicated that its compliance staff person's job description has been revised to include responsibility to serve as the above-described "mystery shopper." According to BALS, it notified its staff of the updates on January 31, 2014 and also included citizenship as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required regarding this Finding.

Aging Solutions

BALS had a partnership agreement with Aging Solutions, Inc., Office of the Public Guardian which was funded with non-LSC "Public Guardian" funds. The Managing Attorney of the SAU was interviewed and a copy of a December 1, 2011-November 30, 2012 Partnership Agreement, Office of the Public Guardian, as well as a copy of Florida law concerning Public Guardian activities was obtained and reviewed. Additionally, Aging Solution's case files were reviewed.

BALS indicated that it entered into a partnership agreements with the Office of the Public Guardian for each of the last 10 years. BALS was compensated by the Office of the Public Guardian, doing business as Aging Solutions, at a rate of \$100.00 per hour. The most recent agreement was executed in 2011 and terminated in 2012.¹⁷ BALS further indicated that there are no current agreements or open "Public Guardian" cases. BALS and the Office of the Public Guardian, a state agency, entered into contracts for BALS to provide legal representation to Aging Solutions, a not-for-profit organization, created by the Office of the Public Guardian pursuant to Florida statute. Aging Solutions provides statutory guardianship services to Office of Public Guardian wards. It was reported that the wards are impoverished adults who lack capacity. BALS was engaged to represent the Guardians and, more frequently, successor Guardians seeking appointments. BALS' representation included the preparation and filing of the Guardian's annual accountings and occasionally included termination proceedings. BALS' attorney-client relationship extended to the Office of the Public Guardian, doing business as Aging Solutions. Aging Solutions has a fiduciary responsibility to its wards. BALS, however, indicated that it had no attorney-client relationship with the wards. The SAU Managing Attorney reported that pursuant to Florida law, all persons seeking to be appointed as a guardian must obtain representation by an attorney.

BALS included a copy of the relevant Partnership Agreement and case related information in each case file maintained for each ward's action. BALS did not obtain citizenship or financial

¹⁷ Following the expiration of the 2012 contract, Aging Solutions began using pro bono attorneys rather than paying BALS the \$100 per hour rate for the same services.

eligibility documentation because its contract was with an entity and not an eligible client. BALS' contract provided that it was to represent the Guardian in cases for individual wards and that BALS would be the attorney of record. These cases were separately docketed by the court and separately maintained by BALS. BALS normal procedure is not to report these cases to LSC because group eligibility determinations are not conducted; however, some of these cases appear to have been accidentally reported to LSC in the 2012 CSRs. *See* Closed 2012 Case Nos. 07-0364538, 08-0371446, 08-0373752, 08-0373764, 08-0373983, 08-0373989, and 08-0373990.

OCE would need additional information regarding this partnership to evaluate compliance with LSC requirements. Since this contract was not renewed for 2013, and it appears that non LSC-funds may have paid for the services at issue, no further action is required at this time. However, if BALS plans to re-enter into this relationship or a similar partnership, in the future, OCE requests that BALS consult with OCE to ensure that such a partnership, and the services provided pursuant to the partnership, are in fully compliance with LSC requirements.

Conclusion

The on-site review evidenced that many of BALS' intake procedures supported compliance related requirements; however, as the on-site observation evidenced weaknesses in the screening of citizenship, assets, and reasonable income prospects, BALS' intake procedures and case management system ultimately did not support compliance related requirements. However, as explained above in detail, since the time of the review, BALS has made the needed improvements to address the weaknesses found.

Finding 3: Sampled cases demonstrated that BALS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines.

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.¹⁸ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (FPG) and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of

¹⁸ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2008 Ed., as amended 2011), § 4.3.

According to BALS’ financial eligibility policy, an applicant will be deemed income eligible if his/her income is at or below 125% of the FPG. BALS does not accept clients whose income exceeds 125% of the FPG regardless of whether the exceptions that are authorized under 45 CFR § 1611.5(a)(4) are present.

All sampled files contained income eligibility documentation and the review evidenced that BALS is in compliance with the income eligibility documentation required by 45 CFR §§ 1611.2(i), and 1611.4, the CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG.

There are no recommendations or corrective actions required.

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

Finding 4: BALS maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant’s eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.¹⁹ *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

¹⁹ 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.

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 clients' files.

BALS' asset eligibility policy states that in order to be financially eligible for legal assistance supported by LSC funds, the applicant's or household's assets must be at or below \$2,000. The asset limit may be waived by the Executive Director or the Deputy Director in unusual circumstances and the reason must be documented in the case file.

Although there were compliance issues related to asset screening noted in Finding 2 above, all sampled case files reviewed contained the required documentation to comply with LSC's asset eligibility requirements.

There are no recommendations or corrective actions required.

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

Finding 5: Sampled files are in non-compliance with the documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens) as there were three (3) cases that failed to have a citizen attestation when required.

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.²⁰ 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

²⁰ *See* Kennedy Amendment at 45 CFR § 1626.4.

assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced non-compliance with 45 CFR § 1626.6 and CSR Handbook (2008 Ed., as amended 2011), § 5.5 where there were three (3) cases reviewed that failed to contain a citizen attestation when required. *See* Closed 2011 Case No. 11-0467824 (This file was originally screened through CTI on January 11, 2011, and was scheduled to be closed; however, file notes indicated that the client appeared in the office later that year and the staff did not obtain an attestation); Closed 2011 Case No. 08-0463744 (This was a case that appears to have been accidentally reported to LSC). BALS has a subgrant with GLS’ Clearwater office. This was a case from GLS’ St. Petersburg office that mistakenly was reported on the Clearwater case list and reported to LSC); and Closed 2013 Case No. 13-0529020 (This is a case where no citizenship attestation was obtained. BALS deselected the case during the review ensuring that it would not be reported to LSC).

Additionally, there was one (1) case where the citizen attestation was not dated. *See* closed 2011 Case No. 11-0476917. Furthermore, there were five (5) sampled cases where the citizen attestation was not in the format required under CSR Handbook (2008 Ed., as amended 2011), § 5.5, as the signature line was not tied only to the attestation. *See* Open Case Nos. 150376, 06-0322191, and 05-0305710 and 2011 Closed Case No. 07-0357793. All but one (1) of these cases were opened prior to the 2008 CSR Handbook requirement that the signature line be tied only to the citizenship attestation. It appears that these non-conformance issues stem from BALS’ use of a previous outdated citizenship attestation. In the DR, it was recommended that BALS remind staff that all citizenship attestations must comply with CSR Handbook (2008 Ed., as amended 2011), § 5.5, and that it direct staff to use BALS’ current citizenship attestation form.

As stated previously, the OCE team reviewed approximately 1053 cases during the on-site review and all of the remaining files reviewed contained a properly signed attestation when required. Nevertheless, BALS must ensure that all cases contain a signed citizen attestation when required.

In its comments to the DR, BALS indicated that individual staff was contacted regarding the cases identified as lacking the required 45 CFR Part 1626 documentation in the review. BALS indicated that its policies and procedures remain in place and it will conduct continued compliance training. BALS included citizenship as an agenda item at BALS’ annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees. BALS further indicated that a video of the training was sent to every staff member who was unable to attend. According to BALS, each individual who didn’t attend is required to send a certification message to BALS’ Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required with regards to this Finding.

Finding 6: Sampled cases evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements).

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.²¹ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

With one (1) exception, case review evidenced compliance with the requirements of 45 CFR § 1611.9. *See* closed 2010 Case No. 11E-24001049.

There are no recommendations or corrective actions required.

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

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

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

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

Sampled case files reviewed indicated compliance with the requirements of 45 CFR Part 1636.

There are no recommendations or corrective actions required.

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

²¹ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

Finding 8: Review of the BALS’ policies and sampled cases, as well as interviews evidenced compliance with the requirements of 45 CFR § 1620.3(a) 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.

Prior to the review, BALS provided its priorities for review. BALS’ priority goals for low-income people are to provide support for families, preserve the home, maintain economic stability, provide safety, stability and health, and assist populations with special vulnerabilities.

A review of BALS’ policies and sampled cases, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.4.

There are no recommendations or corrective actions required.

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

Finding 9: Sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided).

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

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

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

Sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6, as all cases reviewed had documented legal advice in the case files.

There are no recommendations or corrective actions required.

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

Finding 10: Sampled cases evidenced that BALS' application of the CSR case closure and problem code categories is substantially compliant with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). There were limited patterns of error noted in the sampled files.

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

There were 12 cases from the sample reviewed that had incorrect closing codes, however no pattern of error was noted and, therefore, BALS' application of the CSR case closure categories is substantially compliant with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011). *See* Closed 2013 Case No. 13-0538987 (This case was closed with the B-Limited Action closing code, but only advice was provided to the client. Closing code A-Counsel and Advice is the applicable closing code.); Closed 2012 Case No. 12-0505161 (This case was closed with the B-Limited Action closing code, but only advice was provided to the client. Closing code A-Counsel and Advice is the applicable closing code.); Closed 2012 Case No. 09-0432488 (This was a foreclosure case that was closed with the B-Limited Action closing code, but the case handler did substantial work on behalf of the client, including a detailed property search. Closing code L-Extensive Service is the applicable closing code.); Closed 2011 Case No. 08-0375468 (This case was closed with the A-Counsel and Advice closing code, but the case handler conducted significant research and assisted the client in obtaining identification information in order to obtain SSI benefits. Closing code L-Extensive Service is the applicable closing code.); Closed 2011 Case No. 10-0466215 (This case was closed with the B-Limited Action closing code, but only advice was provided to the client. Closing code A-Counsel and Advice is the applicable closing code.); Closed 2012 Case No. 11-0474609 (This case was closed with the A-Counsel and Advice closing code, but the case handler conducted an extensive amount of work in the preparation of divorce pleadings. Closing code L-Extensive Service is the applicable closing code.); Closed 2012 Case No. 12-0501420 (This case was closed with the I(b)-Contested Court Decision closing code, but a negotiated settlement was reached while the case was in litigation. Closing code G-Negotiated Settlement is the applicable closing code.); Closed 2012 Case No. 12-0510845 (This case was closed with the I(a)-Uncontested Court Decision closing code, but the case notes indicate that the case was actually contested. Closing code I(b)-Contested Court Decision is the applicable closing code.); Closed 2011 Case No. 10-0455914 (This case was closed with the B-Limited Action closing code and the case notes indicated that litigation was initiated in the case with a BALS' case handler as the attorney of record, but the case was ultimately dismissed for lack of prosecution. Closing code L-Extensive Service is the applicable closing code.); Closed 2011 Case No. 09-0430926 (This case was closed with the A-counsel and advice closing code, but the case notes indicate that the case handler drafted a letter to landlord on the client's behalf. Closing code is B-Limited Action is the applicable closing code.); Closed 2011 Case No. 11-0477123 (This case was closed with the

I(b)-Contested Court Decision closing code, but a settlement agreement was reached in the case. Closing code G-Negotiated Settlement with Litigation is the applicable closing code.); and Closed 2013 Case No. 13-0529020 (This case was closed with the B-Limited Action closing code, but only advice was provided to the client. Closing code A-Counsel and Advice is the applicable closing code.).

As stated previously, there were no patterns of error identified during the review.

There are no recommendations or corrective actions required.

According to BALS, individual staff was contacted regarding the cases identified in the review. In its comments to the DR, BALS indicated that its policies and procedures remain in place and it will provide continued compliance training on this issue. BALS included a discussion of the finding of the DR as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader to confirm they have viewed the video.

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (dormancy and untimely closure of cases).

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, limited action, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, limited action, or referral was provided. There is, however, an exception for 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 D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the 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).

There were eight (8) cases reviewed in the case sample that were untimely closed. *See* Closed 2013 Case Nos. 10-0457416, 10-0454980, and 10-0456628 (These cases were opened in September 2010 and closed in January 2010 with the closing code A-Counsel and Advice. There was no documented case work in the file beyond 2010 and no indication documented in the case files that the case should have remained open into a new reporting year and, therefore, these cases should have been closed and reported to LSC in 2010); Closed 2011 Case No. 09-0411572 (This case was opened on May 14, 2009, and closed on August 19, 2011, with the B-Limited

Action closing code. There was no documented case work in the file beyond 2010 and no indication documented in the case file that the case should have remained open into a new reporting year and, therefore, this case should have been closed and reported to LSC in 2010); Closed 2013 Case No. 09-0424559 (This case was opened on September 8, 2009, and closed on January 14, 2013, with the I(b)-Contested Court Decision closing code. There is no documented case work in the file beyond 2009 and, therefore, this case should have been closed and reported to LSC in 2009); Closed 2011 Case No. 09-0412946 (This case was opened on April 29, 2009, and closed on February 21, 2011, with the A-Counsel and Advice closing code. There is no documented case work in the file between 2009 and February 2011 and no indication documented in the case file that the case should have remained open into a new reporting year and, therefore, this case should have been closed and reported to LSC in 2009); Closed 2011 Case No. 09-0430926 (This case was opened November 17, 2009, and closed on August 23, 2011, with the A-Counsel and Advice closing code. There is no documented case work in the file beyond 2010 and no indication documented in the case file that the case should have remained open into a new reporting year and, therefore, this case should have been closed and reported to LSC in 2010); and Closed 2012 Case No. 10-0463151 (This case was opened in 2010 and closed in 2012. There is no documented case work in the file beyond 2010 and no indication documented in the case file that the case should have remained open into a new reporting year and, therefore, this case should have been closed and reported to LSC in 2010). Additionally, there were two (2) cases reviewed that were dormant. *See* Open Case No. 11-048914 (This case was open in 2011 and remained open at the time of the review. There is no documented case work in the file beyond 2011 and no indication documented in the case file that the case should remain open and, therefore, this case should have been closed and reported to LSC in 2011) and Open Case No. 11-0004570 (This case was opened in 2011 and remained open at the time of the review. According to the notes documented in the case file, BALS made repeated requests for status updates from the PAI attorney in the case and received no response and, therefore, the case appears to be dormant).

Sampled cases reviewed evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3.

There are no recommendations or corrective actions required.

According to BALS, individual staff was contacted regarding the cases identified in the review. In its comments to the DR, BALS indicated that its policy and procedures remain in place and it will provide continued compliance training on this issue. BALS included a discussion of the findings of the DR as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

Finding 12: Sampled cases evidenced substantial 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 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.

BALS is in substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2, regarding duplicate cases, as there was one (1) duplicate case file noted in the review sample. *See* Closed 2013 Case No. 13-053395 (This file was found to duplicate the legal issue and advice in Closed 2013 Case No. 13-0528108.).

There are no recommendations or corrective actions required.

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

Finding 13: Review of the BALS' policies and timekeeping records, and interviews with full-time attorneys who have engaged in the outside practice of law demonstrated compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 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 compliance review, BALS provided OCE with a copy of its policy governing the outside practice of law by full-time attorneys employed with BALS. The policy contains restrictions and procedures which comport with 45 CFR Part 1604. Additionally, the review of timekeeping records, as well as interviews with management and the staff who were granted permission to engage in outside practice activities from January 1, 2010 through December 31, 2012, demonstrated that the subject matter of the cited circumstances were within the guidelines

of 45 CFR § 1604.4, and that approval to engage in the activity was sought from and granted by the Executive Director.

Based on a review of BALS' 1604 policy and associated timekeeping records, as well as interviews with attorneys who engaged in the outside practice of law during the review period, BALS is in compliance with the requirements of 45 CFR Part 1604.

There are no recommendations or corrective actions required.

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

Finding 14: A limited fiscal and sampled case file review, as well as interviews conducted with management and staff, and an examination of public materials available in BALS' offices evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

A comprehensive review of BALS' pamphlets, brochures, flyers, etc. and an inspection of waiting areas and other public spaces in BALS' offices were conducted to assess compliance with 45 CFR Part 1608. The majority of the materials displayed at each office visited were informational flyers produced by the recipient providing landlord-tenant or debt collection information. In addition, the offices also displayed pamphlets from public service and other entities regarding subject matter such as marriage and family counseling, consumer credit counseling, and domestic violence assistance. Bulletin boards and other depictions in the offices' public space were reviewed. The materials were found to be free of any prohibited political message, expression, symbol, image, or allusion, and in compliance with 45 CFR Part 1608.

A limited review of the vendor list, chart of accounts, cash receipts and cash disbursement journals, general ledger, trial balance reports, and BALS' personnel manual demonstrated that for the years of 2011, 2012, and 2013, BALS did not appear to have expended LSC grant funds, personnel, or equipment for prohibited political activities and BALS is, therefore in compliance with 45 CFR § 1608.3(b).

A limited fiscal review, as well as review of sampled cases, disclosed no evidence that staff, while engaged in legal assistance activities supported under the Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. Finally, interviews with management disclosed no evidence that BALS employees have intentionally supported or identified BALS with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

As such, BALS is in compliance with the requirements of 45 CFR Part 1608.

There are no recommendations or corrective actions required.

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

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

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

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

BALS had a written policy governing fee-generating cases. The policy was outdated and failed to include specific procedures for accounting, allocating, tracking, and coding attorney fees. During the review, BALS updated the policy to include language specifically addressing the

accountability of attorney fees, therefore, bringing the policy into compliance with the requirements of 45 CFR Part 1609. Additionally, none of the sampled files reviewed, as well as interviews with members of management and staff, evidenced legal assistance with respect to fee-generating cases.

As such, BALS appears to be in compliance with the requirements of 45 CFR Part 1609. However, OCE requested that BALS provide, in its comments to the DR, confirmation that the updated 45 CFR Part 1609 policy has been adopted by BALS and the date on which and manner in which the updated policy was implemented and communicated to staff.

According to BALS' comments to the DR, its 45 CFR Part 1609 policy was updated on August 28, 2013; the ED, Deputy Director, Chief Operating Officer, and Controller were all verbally notified of the change on this date. BALS included the updated policy as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader to confirm they have viewed the video.

No additional action is required regarding this finding.

Finding 16: A limited review of BALS' accounting and financial records evidenced that it appears to be in substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity); however, BALS should make improvements in order to become fully compliant with CFR § 1610.5 (Notification).

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).

BALS does not appear to be engaged in any restricted activities which would present 45 CFR Part 1610 compliance issues based upon a limited review of trial balances for the review period, its chart of accounts, its vendor's list, observation of the physical location of the offices, and staff interviews. A limited review of the cash trial balances for the review period did not identify any inappropriate transfers pursuant to 45 CFR §§ 1610.7 or 1610.4. A limited review of fiscal activities, as well as the review of sampled cases, did not disclose any instances where non-LSC funds were used for purposes prohibited by 45 CFR Part 1610.

A limited review of the cash receipts journal and the list of individual donors, grants, contracts, and funding source notification letters from January 1, 2011 through June 30, 2013, disclosed substantial compliance with 45 CFR § 1610.5. LSC recipients are required by 45 CFR § 1610.5 to provide sources of funds in the amount of \$250 or more with written notification of the prohibitions and conditions tied to the use of the funds. BALS receives funding from federal governmental agencies, foundations, law firms, and individuals. The fiscal review disclosed that a majority of the time BALS sends written notifications to sources of funds in the amount of \$250 or more. An acknowledgement and notification letter was sent for two (2) of three (3) Cy Pres awards; however, one (1) of 24 notification letters reviewed was deficient as it failed to

mention that the funds may not be used in any manner inconsistent with the Legal Services Corporation Act or §504 of Public Law 104-134. BALS, when obtaining funds equal to or greater than \$250, should ensure that notice of the LSC restrictions are provided to the funder in accordance with 45 CFR § 1610.5(a).

In its comments to the DR, BALS indicated it has policies and procedures in place to ensure compliance with 45 CFR § 1610.5(a) and the Executive Director will be facilitating continued training on this issue with the Development Department.

No additional action by BALS is required with regards to this Required Corrective Action.

Finding 17: BALS is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or Private Attorney Involvement requirement.

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

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

Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct

and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and expenses relating to the PAI effort in its year-end audit.

Expenditures and Allocations

A review of BALS' Audited Financial Statement ("AFS") for Fiscal Year Ending December 31, 2012, evidence that support and expenses relating to the PAI effort were reported separately in compliance with 45 CFR § 1614.3(e)(2). The AFS indicated a total PAI expenditure of \$410,417 which translates to 16.6% of the total basic field grant (\$2,477,211), complying with the 12.5% requirement in 45 CFR § 1614.2(b)(1). Furthermore, the limited review evidenced that BALS correctly allocated the salaries of attorneys and paralegals on total workable hours which are supported by time records.

Ten personnel time records with time charged to PAI were reviewed and evidenced compliance with 45 CFR Part 1614 as the time reported was correctly indicated as PAI related. Most of BALS' PAI-related personnel costs support personnel at BAVLP and the subgrantees; however, top management and fiscal personnel who spend time on PAI do not allocate nor report time to PAI. It is required that management allocate their time based on reasonable data and that any time related to PAI should be either allocated or otherwise based on direct time as reported on timekeeping records. *See* 45 CFR § 1614.3(e)

In response to the DR, BALS indicated that top management and fiscal personnel involved in PAI activities will begin to allocate their time based on reasonable data. Specifically, BALS will calculate the percentage of its full-time employees who are engaged in PAI activities and use that percentage as its method of allocating the time of top management and fiscal personnel towards the management of PAI efforts. BALS updated its Accounting Manual on March 28, 2014 to include a supplement that documents the methodology used to calculate the indirect costs related to PAI. A copy of the supplement was provided to OCE for review was determined to meet the requirements of 45 CFR § 1614.3(e)(1)(i).

No additional action is required by BALS with regards to this Required Corrective Action.

Non-personnel costs are being allocated on the basis of reasonable operating data in compliance with the requirement of 45 CFR § 1614.3(e)(1)(i).

Twenty-four direct costs allocated to PAI were also reviewed and were found to be related to PAI activities and fully documented and approved.

Overview of the PAI Program

BALS' PAI program is comprised of several components, with the primary component being the BAVLP. Additionally, BALS' PAI program provides assistance throughout the area via three (3) subgrantees: CLP, GLS, and LAM.

In advance of the review, BALS provided OCE with a copy of its PAI Plan, which sets forth the legal needs of eligible clients in the service area and the delivery mechanisms potentially

available to provide opportunities for private attorney involvement. The PAI Plan reflected that BALS consulted with the legal community.²² BALS' PAI components were assessed and the on-site review found BALS' PAI practices consistent with its PAI Plan.

Bay Area Volunteer Lawyers Program

The BAVLP operates in the Edgecomb Courthouse in downtown Tampa with a staff of five (5) employees. Three (3) of the employees are attorneys, including the Pro Bono Manager; there is also an administrative assistant and a case referral manager. The BAVLP provides a diverse group of services, including referrals to pro bono attorneys (the Case Referral Panel), Client Intake (by pro bono attorneys), and the Mentor Panel (attorneys with specialized expertise assist less experienced volunteer attorneys handling pro bono cases or mentor BALS' staff attorneys). Also, there are several projects in which the attorneys provide support to individuals with legal problems, but do not provide legal assistance. These include the Domestic Violence Assistance Project ("DVAP"), Family Forms Clinic ("FFC"), and FFC en Español. Each of these will be explained in greater detail below. Additionally, BAVLP also coordinates a project known as "Community Counsel" which provides legal assistance to community groups and nonprofit organizations that serve low-income persons. Community Counsel referrals are made by BALS in conjunction with the BAVLP. BALS screens the clients and the BAVLP coordinates with private counsel to ensure adequate case oversight and case closing.

Intake for PAI

Description of Intake

Initial eligibility intake screening for BAVLP clients are done by the CTI. A description of the CTI's intake procedures is discussed under Finding 2 of this report. Subsequently, clients who are eligible and whose cases qualify under BAVLP's "Intake Scheduling Guidelines" are scheduled for an additional screening with BAVLP to confirm eligibility. At the screening appointment, applicants complete a manual intake form which is reviewed by BAVLP staff to ensure compliance with LSC regulatory requirements. Applicants are then interviewed by a volunteer attorney. During the interview, applicants are given both an oral and written overview of the program and are advised of the complaint process in the event of either a denial or dissatisfaction with the legal assistance that is provided.

²² Note that in Florida, members of the private bar are strongly encouraged to provide pro bono legal assistance. Rule 4-6.1 Pro Bono Public Service provides, in relevant part,

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. The failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline. The professional responsibility to provide pro bono legal service to the poor may be discharged by:

- (1) annually providing at least 20 hours of pro bono legal service to the poor; or
- (2) making an annual contribution of at least \$350 to a legal aid organization.

<http://www.floridabar.org/divexe/rrtfb.nsf/FV/BF60AF4C185D99D085256BBC00533761> (last checked on September 20, 2013).

With respect to clients who receive legal assistance through BALS' subgrantees (CLP, GLS, and LAM), the intake process is similar to BALS' routine methods of intake, case acceptance, and case management; however, there are certain systemic differences. First, all the legal aid providers in the area operate off of the Regional Referral Matrix (normally referred to as "the Matrix") which is a matrix of service providers grouped geographically indicating the services each provides. For each subgrantee, a preliminary telephone pre-screening is conducted to ensure that the basic requirements of eligibility are met, and, if so, an intake appointment is made with the subgrantee. At the intake appointment, the applicant is fully screened and a citizenship attestation is signed, or the appropriate eligible alien documentation is provided. A review of all three (3) subgrantees evidenced that applicants are questioned regarding prospective income and that the manual intake form contains a specific location for this information to be recorded. Additionally, each subgrantee screens applicants for conflicts prior to making a referral to a pro bono attorney.

Subsequently, the volunteer intake attorney who conducted the initial interview with an applicant consults with a BAVLP staff attorney to determine proper disposition of the case. The volunteer attorney completes a Case Disposition Form which includes any advice provided and the planned course of action. A copy of the form is provided to all applicants. An applicant's case is then either: 1) accepted, and sent to the BAVLP Case Referral Manager who attempts to locate a volunteer attorney who will accept the case; 2) rejected, and a notice of rejection is sent to the applicant with information regarding the applicant's immediate responsibilities (e.g., "You should file an answer on or before _____..."; or 3) the application remains pending, and the applicant receives notice that additional information is required and that they must respond to all case related deadlines pending case acceptance.

Once a pro bono case is placed with a pro bono attorney, the case referral manager notifies the client, in writing, provides the client with the attorney's contact information, and advises the client that they must schedule an appointment directly with the attorney. The client is also sent a referral agreement form to be signed and returned to BAVLP. Once the referral agreement is signed and returned, a copy of the retainer is sent to the volunteer attorney. The case referral manager conducts a status update within 30 days after referral to confirm that the client has contacted the attorney. If the client has not contacted the attorney, the case referral manager contacts the client to ensure that they still require services.

Once the BAVLP case referral manager is informed that the attorney has met and will continue providing representation to the client, the case referral manager forwards the case to BAVLP's administrative assistant to conduct a status update within 90 days. The administrative assistant will attempt to obtain status updates by email; however, if the attorney does not respond within two (2) weeks, the administrative assistant will call the attorney or the attorney's assistant. In the event the volunteer attorney does not respond to the status update inquiries, the administrative assistant will notify the pro bono manager. The pro bono manager will also make attempts to contact the volunteer attorney's office, by email, telephone, or letter. A letter may also be sent to the client with a copy to the volunteer attorney.

When BAVLP is notified that representation has concluded, a closing letter is sent to the client with a client survey questionnaire. The volunteer attorney is asked to provide a brief summary of services provided, outcome, and the total number of hours worked on the case by the attorney and other members of the firm. Subsequently, the information is recorded into the ACMS. During the on-site visit, a sample of both open and closed cases maintained by BAVLP was reviewed. With the exception of the glitch in the ACMS noted above in Finding 1 (whereby some cases were classified as “staff” cases instead of “PAI”), no deficiencies were observed.

As mentioned above, the BAVLP also uses pro bono attorneys to provide legal information and limited assistance through both FFC and DVAP. As this is an informational clinic, eligibility screening is not conducted and the assistance provided is not reported as a case for CSR purposes. Observations revealed that advocates in the clinics initially inform applicants that no legal advice will be provided and that any assistance that is provided will not form an attorney/client relationship. Moreover, this is also made clear in all the written information provided at the clinics. Coordination and oversight of the clinics is done by a BAVLP staff attorney who remains on-site during operational hours.

In addition to the daytime FFC, there are also two (2) evening FFCs held at the courthouse, one is in Spanish and administered by the Tampa Bay Hispanic Bar Association (“TBHBA”) in conjunction with the BAVLP. The other evening FFC is hosted by the Young Lawyers Division (“YLD”) of the Tampa Bar. Both run concurrently with the Intake Clinic, discussed above, which operates in the Courthouse’s Jury Services Auditorium. BAVLP attorney staff are available to assist attendees of the clinic during the evening FFC, as needed. Each evening clinic has its own BAVLP trained attorney volunteer coordinator who operates the clinic and provides supervision and support to the clinic's volunteer attorneys. Some of the TBHBA's attorney volunteer coordinators have served as past volunteers at a FFC, either during the daytime, or at the TBHBA FFC. The attorney volunteer coordinator for the YLD FFC has participated in the daytime FFC since its inception.

BAVLP also operates DVAP, a domestic violence clinic which is similar to the FFC in that it provides support with completing form petitions for injunctions. Similar to the FFC, the assistance is only informational in nature and, therefore, eligibility screening is not conducted and the assistance provided is not reported as a case for CSR purposes. Similar to the FFC volunteer attorneys, the DVAP attorneys inform attendees that they are not being provided legal assistance and that no attorney-client relationship is being formed based on the assistance that is provided.

Subgrants to the Community Law Program, Gulfcoast Legal Services, and Legal Aid of Manasota

Since 2004, BALS has also provided pro bono legal assistance through three (3) subgrantees: CLP, GLS, and LAM.

The CLP is located in St. Petersburg and provides legal assistance to the residents of southern Pinellas County. As a subgrantee of BALS, CLP refers cases to volunteer attorneys and also uses volunteer attorneys to provide individuals assistance through the following informational clinics: Bankruptcy Clinic; Divorce/Family Law Clinic; Elder Law Clinic; Housing Clinic; General Civil Clinics; Probate Clinic; and Unemployment Compensation Clinic. While CLP has

a staff of four (4), the only positions which are funded in part by the LSC subgrant are the Project Director and the Pro Bono Coordinator.

GLS is headquartered in St. Petersburg, and, at the time of the onsite review, the BALS subgrant was supporting GLS' Clearwater branch office in order to provide assistance in the Northern Pinellas County service area.²³ Similar to CLP, this subgrant was established to refer cases to volunteer attorneys. At the time of the onsite review, the GLS Pro Bono Coordinator was the only position funded by the BALS subgrant, with 95% of her salary derived from LSC funding and a commensurate portion going to indirect expenses. Similar to other subgrantees, GLS provided both direct legal assistance and a small degree of non-reportable legal information.

LAM provides assistance to low-income individuals in Sarasota and Manatee counties. Similar to CLP and GLS, LAM refers cases to volunteer attorneys and has volunteer attorneys provide individuals assistance through clinics. LAM administers a Dissolution of Marriage Clinic where volunteer attorneys provide legal assistance by completing pro se divorce pleadings.

Intake Screening by Subgrantees

CLP and LAM conduct a complete eligibility screening of its applicants for legal assistance prior to referring them to pro bono attorneys for extended representation. If an applicant is eligible, CLP and LAM will schedule an appointment with a volunteer attorney who will provide limited legal assistance on-site, and determine whether extended representation is necessary. The volunteer attorney will either take the case for extended representation or recommend that it be referred to another volunteer attorney in the area. The eligibility information and assistance provided is entered directly into CLP or LAM's ACMS.

The GLS office was conducting a pre-screen of applicants for eligibility prior to arranging an appointment with a pro bono attorney. Like CLP and LAM, if the applicant appeared eligible following the prescreen, an appointment would be scheduled with a volunteer attorney to provide limited legal assistance on-site and determine whether extended representation is necessary. At the initial appointment, the volunteer attorney collected the applicant's citizenship information, and the required income and asset eligibility information using a paper intake form, and then provided limited legal assistance to the client. Subsequent to the appointment, the eligibility information was reviewed and entered into the ACMS by GLS' pro bono coordinator. A determination of eligibility was not made until after legal assistance has been provided by the volunteer attorney. In the DR, BALS was advised that GLS was not in compliance with 45 CFR § 1611.4(a), and was required to make determinations of financial eligibility prior to providing limited assistance to the applicant.

In its comments to the DR, BALS indicated that GLS is no longer a PAI subcontractor effective January 1, 2014. BALS has established a volunteer lawyer's program ("VLP") for northern Pinellas County (the previous geographic area of GLS' subcontract), which has also expanded into west Pasco County. BALS indicated that the new office will adhere to BALS' policies and procedures, which are consistent with 45 CFR § 1611.4(a). According to BALS, intake eligibility screening will be consistent with BAVLP's intake procedures and policies.

²³ In its comments to the DR, BALS informed LSC that, effective January 1, 2014, GLS was no longer a subgrantee.

Case Oversight

The review evidenced that each subgrantee has an appropriate level of case oversight. After each referral, the pro bono coordinator follows up with the volunteer attorney and/or the client to ensure that contact has been made. The pro bono coordinator at each subgrantee obtains status updates every 90 to 180 days, depending on the type of case. Sampled case review revealed that case status updates were generally completed on a quarterly basis at each subgrantee. Additionally, the BALS compliance officer reviews the subgrantees' open and closed cases on a semiannual basis.

Case Closing

At the completion of a case, the volunteer attorney completes a Case Disposition Form²⁴ which indicates the level of assistance provided in the case, the result of the case, and the number of hours devoted to the case. Upon receipt of the Case Disposition Form, the subgrantees pro bono coordinator(s) review the information to ensure it is consistent with the CSR Handbook and then enter the information into the subgrantees' ACMS.

A review of the sampled subgrantee cases reported to LSC revealed substantial compliance with LSC intake and regulatory requirements.

Conclusions

Interviews with staff of the BAVLP and the three (3) subgrantees evidenced that the pro bono program operates in a consistent manner. Each subgrantee has systems in place to conduct efficient oversight of the volunteer attorneys' progress on cases. Case review evidenced that the PAI cases are closed in a timely manner and with the appropriate closing codes. Finally, the semi-annual review of all case work by BALS' compliance officer facilitates uniformity and compliance with the regulations and other LSC requirements. Therefore, BALS is in substantial compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which are designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, as stated previously, the review revealed that GLS failed to properly screen for income and asset eligibility, as an eligibility determination is not made prior to clients receiving limited legal assistance. This practice was found to be in non-compliance with 45 CFR § 1614.3(d) ("direct services to *eligible* clients"), as BALS is required to make an eligibility determination prior to providing legal assistance.

²⁴ Forms used by the subgrantees have been developed in conjunction with BALS staff to ensure consistency and compliance with the LSC requirements.

Finding 18: BALS is in compliance with the requirements of 45 CFR § 1627.4(a) which prohibit recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization and 45 CFR § 1627.3, the requirements for subgrants.

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* 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. 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%. 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 subgrantees as apply to recipients. Recipients are responsible for ensuring that subgrantees 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.

As stated previously, BALS has subgrants with CLP, LAM and GLS. The fiscal review of BALS' policy for subgrants and membership fees or dues indicated consistency with LSC requirements. The fiscal review of BALS' accounting records for selected general ledger expenses that track and account for litigation expenses, which included fees and dues payments from January 1, 2011 through December, 31 2012, evidenced that all non-mandatory dues and fees were paid with non-LSC funds. As such, BALS is in compliance with the requirements of 45 CFR § 1627.4(a).

There are no recommendations or corrective actions required.

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

Finding 19: Review of BALS' policies and sampled files, as well as a limited review of fiscal and other records, and interviews with management and staff, evidenced compliance with 45 CFR Part 1635 (Timekeeping requirement).

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. 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.

BALS has a written policy governing time records. Review of this policy found it to be in compliance with 45 CFR §§ 1635.3(b) and (c).

BALS uses an automated time management system that records and accounts for time spent by attorneys and paralegals who work on cases, matters, and supporting activities. The fiscal review of case handlers' timekeeping records, sampled from two (2) different pay periods, disclosed that the records are electronically and contemporaneously kept. BALS' timekeeping system was found to be able to aggregate time record information on both closed and pending cases by legal problem type, consistent with the provisions of 45 CFR § 1635.3(c). The time spent on each case, matter, or supporting activity was recorded in compliance with 45 CFR §§ 1635.3(b) and (c). All staff interviewed demonstrated a familiarity with the timekeeping system.

The limited fiscal review of the certifications of BALS' part-time attorneys and paralegals evidenced that BALS is in compliance with the requirements under 45 CFR § 1635.3(d).

However, it was recommended to BALS during the review that a form be developed for part-time attorneys and paralegals to certify that they will not engage in restricted activity during any period of time during which they are compensated by BALS and that they will not use BALS' resources for restrictive activities. In response to OCE's recommendation, BALS drafted a revised Part Time Attorneys, Paralegals and Legal Interns, Restricted Activities Policy Form which encompasses the requirements in 45 CFR § 1635.3(d).

There are no recommendations or corrective actions required.

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

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

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.²⁵ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).²⁶

The limited fiscal review of BALS' accounting records, including a review of audited financial statements for 2011 and 2012, was subsequent to the restrictions of 45 CFR Part 1642 being lifted. Additionally, the sampled files reviewed did not contain a prayer for attorneys' fees. BALS is in compliance with the requirements of former 45 CFR Part 1642.

There are no recommendations or corrective actions required.

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

²⁵ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* former 45 CFR § 1642.2(a).

²⁶ 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.

Finding 21: Review of BALS' policies and sampled files, as well as a limited review of fiscal and other records, and interviews with management and staff evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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

A limited fiscal and document review, including a review of Semi-Annual Legislative and Administrative Activity submissions, and documentation supporting the Semi-Annual Reports for the review period, as well as interviews with management and staff, was conducted to assess compliance with 45 CFR Part 1612. None of the sampled files evidenced that BALS staff participated in any lobbying or other prohibited activities while engaged in legal assistance activities. Finally, a review of fiscal documentation maintained by BALS, pursuant to 45 CFR § 1612.6, evidenced compliance with 45 CFR § 1612.10.

There are no recommendations or corrective actions required.

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

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

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

BALS has a written policy containing the 45 CFR Parts 1613 and 1615 restrictions. Review of this policy found it to be in compliance with LSC regulations.

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction. Interviews with management and staff also confirmed that BALS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

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

Finding 23: Review of the BALS’ policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. See 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed 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).

BALS has a written policy concerning the initiation or participation in class action lawsuits as required by 45 CFR Part 1617. Review of this policy found it to be in compliance with Part 1617.

None of the sampled files reviewed involved initiation or participation in a class action. Interviews with management and staff, as well as review of the recipient’s policies, confirmed that BALS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1617.

There are no recommendations or corrective actions required.

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

Finding 24: Review of BALS’ policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

BALS has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures. Review of this policy found it to be in compliance with Part 1632.

None of the sampled files reviewed involved initiation or participation in redistricting activities. Interviews with management and staff confirmed that BALS is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

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

Finding 25: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Recipients are prohibited from defending any person in a proceeding to evict 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.

BALS has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633. Review of this policy found it to be in compliance with Part 1633.

None of the sampled files reviewed involved defense of any such eviction proceeding. Interviews with management and staff confirmed that BALS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

There are no recommendations or corrective actions required.

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

Finding 26: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

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

BALS has a written policy governing the representation of incarcerated persons as required by 45 CFR Part 1637. Review of this policy found it to be in compliance with Part 1637.

None of the sampled files reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff confirmed that BALS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There are no recommendations or corrective actions required.

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

Finding 27: Review of the BALS’ policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.²⁷ This restriction has been contained in all subsequent appropriations acts.²⁸ This new 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.”

BALS has a written policy containing the 45 CFR Part 1638 restrictions and has implemented procedures. Review of this policy found it to be in compliance with Part 1638.

Interviews with management and staff confirmed that BALS is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1638.

There are no recommendations or corrective actions required.

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

Finding 28: Review of the BALS’ policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

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

BALS has a written policy governing the restrictions on assisted suicide, euthanasia, and mercy killing as required by 45 CFR Part 1643. Review of this policy found it to be in compliance with Part 1643.

None of the sampled files reviewed evidenced involvement in these activities. Interviews with management and staff confirmed that BALS is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

There are no recommendations or corrective actions required.

²⁷ *See* Section 504(a) (18).

²⁸ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

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

Finding 29: Review of the BALS' policies and sampled files, as well as interviews with management and staff, evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

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

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

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

BALS has a written policy governing the restrictions on abortion, school desegregation litigation, and military selective service as required by 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10). Review of this policy found it to be in compliance with the aforementioned regulations.

None of the sampled files evidenced involvement with these prohibited activities. Interviews with management and staff confirmed that BALS is not involved in the aforementioned prohibited activities and is in compliance with these requirements.

There are no recommendations or corrective actions required.

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

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

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. 45 CFR § 1644.3 requires that the following information be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

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

BALS has a written policy governing the disclosure of case information as required by 45 CFR Part 1644. Review of this policy found it to be in compliance with Part 1644.

There are no recommendations or corrective actions required.

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

Finding 31: A limited review of BALS' internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.).

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide For LSC Recipients (2010 Ed.), the CSR Handbook, the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process effected by an entity's governing body, management and other personnel, designed to provide reasonable assurances regarding the achievement of objectives in the following categories: (1) Effectiveness and efficiency of operations; (2) Reliability of financial reporting; and (3) Compliance with applicable laws and regulations. *See* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Edition).

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

BALS Fiscal Structure and Operating Systems

Fiscal Structure

BALS' fiscal department consists of a Controller, with overall fiscal and accounting responsibilities, who reports to the Chief Operating Officer and Executive Director.

Pursuant to the recommendations contained in the Accounting Guide for LSC Recipients (2010 Ed.), Chapter 1, § 1-7, the Executive Director presents to BALS' Board of Directors ("BOD") financial statements, cash on hand schedules, and budgets compared to actual variance statements. Additionally, the BOD reviews the audited financial statements, management letters, and recommendations for changes and improvements submitted by BALS' external auditor.

BALS has developed a comprehensive Accounting and LSC Compliance Manual which sets forth the internal control procedures, the accounting policies and procedures, and the fiscal duties and responsibilities of BALS' Board of Directors and staff.

Internal Controls and Documentation

A limited fiscal review assessed whether BALS has a system of authorizations and approvals in place for all significant actions and financial transactions of the organization consistent with the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § A(1) (Accounting Procedures and Internal Controls). The review found that BALS has internal controls in place and maintains appropriate documentation.

Segregation of Duties

As part of the fiscal review, interviews were conducted with fiscal staff, limited reviews of the fiscal policies and procedures were completed, credit card payments were sampled and reviewed, and BALS' responses to the LSC Internal Control Worksheet were analyzed so as to identify internal control deficiencies within the financial operations. The limited fiscal review indicated that BALS maintains sufficient staffing assignments and has in place sufficient management oversight to provide adequate segregation of fiscal duties and responsibilities.

Bank Reconciliations

The Accounting Guide for LSC Recipients (2010 Ed.) recommends that bank statement reconciliations to the general ledger be conducted on a monthly basis and that they be reviewed and approved by a responsible individual. The review must be appropriately documented, signed, and dated.

BALS maintains numerous bank accounts which are used for various purposes. The on-site review determined that the bank statement reconciliation process is performed monthly and is consistent with the recommendations contained in the Accounting Guide for LSC Recipients (2010 Ed.). BALS' bank statements are received monthly by the BOD President who opens and signs the bank statements which are then forwarded to the bookkeeper who performs the bank reconciliation. The bank reconciliations are then reviewed and approved by the Controller, President, and ED as part of the monthly closing process. A limited review of BALS' bank statement reconciliations revealed that the bank statements are reconciled timely and that the review is appropriately documented.

Cash Receipts

A limited review of BALS' responses to the Cash Receipts portion of the Internal Control Worksheet revealed no exceptions.

Furthermore, a limited review of BALS' cash receipts logs, monthly deposits, cash receipts journal, bank statements, and general ledger, as well as interviews with staff, determined that BALS properly records its cash receipts to the cash receipts log, including regular deposits, donor contributions, and client trust deposits. Fourteen cash receipt transactions for fiscal years 2010, 2011, and 2012, were reviewed from the cash receipts log revealing that cash receipts are deposited in a timely manner to the BALS' bank accounts and that they are reconciled to the cash receipts log and cash receipts journal on a monthly basis.

BALS is in compliance with the Accounting Guide for LSC Recipients (2010 Ed.) with regard to cash receipts.

Cash Disbursements

A limited review of BALS' cash disbursement journals, bank statements, and general ledger, as well as interviews with staff, determined that BALS is in compliance with the requirements of the Accounting Guide for LSC Recipients (2010 Ed.), App VII, §§ G1 and 3-5.4.

BALS recently updated its accounting manual which includes an extensive disbursement overview that covers the invoice and expenditures approval process, check signing process, mailing and filing payables, check stock storage, and handling of voided checks. Furthermore, BALS online office manual contains several policies which address the following: travel authorization and reimbursement, consumable supplies, litigation expenses, other purchases, and dues and fees.

The review of the cash disbursement journals for years 2011, 2012, and through July 31, 2013, evidenced that the ED signs every check, which is another indicator of BALS' efficient internal control process. The review further revealed that BALS does not maintain a petty cash fund, nor does it engage in electronic banking transactions.

Credit Cards

BALS' corporate credit card is issued to the President and ED and has a \$1,000 credit limit. The credit card is permitted for use in paying court fees, online purchases of supplies and equipment, and other program expenses requiring credit card payment. Prior to using the credit card, a purchase order form must be submitted to the President and ED and the appropriate manager for approval. The monthly credit card statements are stamped the day they are received by the Accounting Clerk, and the credit card transactions are matched with the appropriate invoices or other documentation prior to the processing of payments. The credit card statements and corresponding payments are approved by the Controller and/or COO, President, and ED.

A review of 2011, 2012, and May and June 2013, credit card statements was conducted and evidenced no deficiencies.

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

IV. RECOMMENDATIONS²⁹

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

1. Remove the ACMS default in response to the ACMS question: “is the caller a victim of domestic violence?”;

In its comments to the DR, BALS indicated it had removed the default from the ACMS and provided an ACMS screen shot as evidence of the change.

2. Include victims of domestic violence and human trafficking on the drop down menu in the ACMS when screening for citizenship eligibility;

In its comments to the DR, BALS indicated it is currently working with its ACMS developer to include “domestic violence/human trafficking” or “VAWA exception” options to its citizenship drop down menu.

3. Review the BAVLP cases to determine the reason why several closed PAI cases are appearing on the ACMS as staff cases; and

In its comments to the DR, BALS indicated that the BAVLP managing attorney reviewed the VLP closed cases that were selected for review. She identified the glitch with regard to the ACMS data entry and has addressed it with BALS' IT Manager, who is working with the ACMS developer to correct the issue.

4. Review its asset policy and develop at least one (1) standard "catch all" question to capture additional assets not listed and train staff members accordingly.

In its comments to the DR, BALS indicated it had updated its ACMS and paper application to include the “catch all” question: “Do you have any other assets or any other property?” BALS also provided ACMS screen shots and a copy of the paper application which evidenced the updates. According to BALS, it notified its staff of the updates on January 31, 2014 and also included the updated policy as an agenda item at BALS’ annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn’t attend is required to send a certification message to BALS’ Deputy Director as well as their team leader confirming they have viewed the video.

²⁹ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors. By contrast, the items listed in “Required Corrective Actions” must be addressed by the program, and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, BALS was required to take the following corrective action:

1. Ensure that all case files contain signed and dated citizenship attestations pursuant to 45 CFR Part 1626 and that the attestations comply with the requirements of CSR Handbook (2008 Ed., as amended in 2011), § 5.5;

In its comments to the DR, BALS indicated that individual staff was contacted regarding the cases identified as lacking the required 45 CFR Part 1626 documentation in the review. BALS indicated that its policies and procedures remain in place and it will conduct continued compliance training. BALS included citizenship as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required with regard to this Finding.

2. Ensure intake screeners screen applicants in accordance with its board-approved asset policy and that instructions provided to staff regarding the screening of assets are consistent with BALS' policy;

In its comments to the DR, BALS indicated it had updated its ACMS and paper application to include the "catch all" question: "Do you have any other assets or any other property?" BALS also provided screen shots and a copy of the application which evidenced the updates. According to BALS, it notified its staff of the update on January 31, 2014. The updated policy was included as an agenda item at BALS' annual all-staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required regarding this Finding.

3. Ensure that intake screeners inquire about income prospects during the intake process in accordance with 45 CFR § 1611.7;

In its comments to the DR, BALS indicated that intake staff was notified of this requirement and BALS will provide continued compliance training on this issue. BALS indicated that the DR was reviewed at BALS' annual all staff compliance training held on February 21, 2014. A copy of the agenda was provided to OCE with a list of attendees

and BALS further indicated that a video of the training was sent to every staff member who was unable to attend the training. According to BALS, each individual who didn't attend is required to send a certification message to BALS' Deputy Director as well as their team leader confirming they have viewed the video.

No additional action is required regarding this Finding.

4. Ensure that that notice of the LSC restrictions are provided to the funders who contribute funds equal to or greater than \$250 in accordance with 45 CFR § 1610.5(a);

In its comments to the DR, BALS indicated it has policies and procedures in place to ensure compliance with 45 CFR § 1610.5(a) and the Executive Director will be facilitating continued training on this issue with the Development Department.

No additional action is required regarding this Finding.

5. Allocate management's time based on reasonable data and ensure that the time related to PAI is either allocated or otherwise based on direct time, as is reported on BALS' timekeeping records;

According to BALS, any level of involvement in PAI activities by an attorney is documented in LegalServer as part of its regular timekeeping procedures. Non-attorney time will be documented in accordance to the employee's job description. No additional action is required regarding this Finding. BALS updated its Accounting Manual on March 28, 2014 to include a supplement that documents the methodology used to calculate the indirect costs related to PAI. A copy of the supplement was provided to OCE for review and was determined to meet the requirements of 45 CFR § 1614.3(e)(1)(i).

6. Ensure GLS makes an eligibility determination for each application prior to providing legal assistance.

In its comments to the DR, BALS indicated that GLS is no longer a PAI subcontractor effective January 1, 2014. BALS has established a volunteer lawyer's program ("VLP") for northern Pinellas County (the previous geographic area of GLS' subcontract), which has also expanded into west Pasco County. BALS indicated that the new office will adhere to BALS' policies and procedures, which are consistent with 45 CFR § 1611.4(a). According to BALS, intake eligibility screening will be consistent with BAVLP's intake procedures and policies.

No additional action is required regarding this Finding.

Draft Report Recipient No. 610050
Bay Area Legal Services' Response

Bay Area Legal Services (BALS) respectfully submits the following response to the thirty-one findings including recommendations, required corrective actions and additional information requested.

Background of Review/ Background of Recipient

Pg. 5 Par. 2 "The majority of BALS' legal assistance is provided by the attorneys who work in CTI".

BALS' response: "While the majority of cases closed are served by CTI, the majority of time is invested in extended services. "

Finding 1: ACMS

1.) Remove the ACMS default in response to the ACMS question: "is the caller a victim of domestic violence" (**Recommendation #1**) Result: Completed by BALS and ACMS screen shot attached as Exhibit 1.

2.) Include victims of domestic violence and human trafficking on the drop down menu in the ACMS when screening for citizenship eligibility. (**Recommendation #2**) Result: BALS is working with ACMS developer to include and complete as soon as possible.

3.) Review the BAVLP cases to determine the reason why several closed PAI cases are appearing on the ACMS as staff cases. (**Recommendation #3**) Result: The BAVLP managing attorney reviewed the VLP closed cases that were selected for review by the LSC Auditors in August 2013. She identified the glitch with regard to the ACMS data entry and has addressed the same with BALS' I.T. Manager and corrective action is being taken. BALS is working with ACMS developer to complete as soon as possible. Moving forward this should not occur again.

4.) Review its asset policy and develop at least one (1) standard "catch all" question to capture additional assets not listed and train staff members accordingly (**Recommendation #4**) Result: Completed by BALS and ACMS screen shot and application attached as Exhibit 2 and 3. All staff notified on January 31, 2014 and it is an agenda item for BALS' annual compliance training on February 21, 2014.

Finding 2: Intake procedures and practices

Pg. 10 Par. 1 "A few staff members lacked knowledge concerning Program Letter 06-2 (Violence Against Women Act 2006 Amendments.)"

BALS' response: Program Letter 06-2 will be reviewed at BALS' annual compliance training on February 21, 2014.

Pg. 11 Par.1"The day-to-day operations of the CTI are supervised by a full-time paralegal who also provides legal services. "

BALS' response: The day-to-day operations of the CTI Screening Unit are supervised by a full-time paralegal who also provides legal services.

1.) Ensure intake screeners screen applicants in accordance with its board-approved asset policy and that instructions provided to staff regarding the screening of assets are consistent with BALS' policy. **(Required Corrective Action #2)** Result: BALS' board approved revised asset policy on November 19, 2013 as Exhibit 4 attached. Prescreen asset questions and instructions added to conform to policy as Exhibit 5 and 6 attached. All staff notified on November 22, 2013. "Catch all question" included as referenced in Recommendation #4. The Supervision Policy has been revised to include additional oversight over screening and intake through random and periodic monitoring for compliance in attached Exhibit 7. The important revisions are highlighted in yellow. Please note that the revised policy provides for additional oversight not only for CTI but for all teams. The Compliance Staff Person's job description has been revised to include a "mystery shopper" responsibility in Exhibit 8. All managing attorneys notified on January 31, 2014. This Required Corrective Action is an agenda item for BALS' annual compliance training on February 21, 2014.

2.) Ensure that intake screeners inquire about income prospects during the intake process in accordance with 45 CFR 1611.7. **(Required Corrective Action #3)** Result: The Supervision Policy has been revised to include additional oversight over screening and intake through random and periodic monitoring for compliance in attached Exhibit 7. The Compliance Staff Person's job description has been revised to include a "mystery shopper" responsibility in Exhibit 8. All managing attorneys notified on January 31, 2014. This Required Corrective Action is part of an agenda item for BALS' annual compliance training on February 21, 2014.

3. Citizenship and alien status screening – not a required corrective action but a weakness noted. Result: The Supervision Policy has been revised to include additional oversight over screening and intake through random and periodic monitoring for compliance in attached Exhibit 7. The Compliance Staff Person's job description has been revised to include a "mystery shopper" responsibility in Exhibit 8. All managing attorneys notified on January 31, 2014. This is part of an agenda item for BALS' annual compliance training on February 21, 2014.

Finding 3: Income eligibility documentation

No individual comment

Finding 4: Asset eligibility documentation

No individual comment

Finding 5: Restriction on legal assistance to aliens

Pg. 21 Par.1: Open case 09-0417631 did not conform with the requirement that the signature line be tied only to the citizenship attestation.

BALS' response: Open case 09-0417631 does conform to the requirement. BALS current application has been revised since 2009 and the citizenship attestation is in a different location on the application. It is the 1 case out of the approximately 1053 cases reviewed that used its particular application which suggests that the 09 citizenship attestation was overlooked. BALS will provide any supporting documentation as requested.

1.) Ensure that all case files contain signed and dated citizenship attestations pursuant to 45 CFR Part 1626 and that the attestations comply with the requirements of CSR Handbook (2208 Ed., as amended in 2011), Sec 5.5. **(Required Corrective Action #1)** Result: Individual staff has been contacted as to cases

identified in the audit. Policy and procedures remain in place and there will be continued process compliance training. This is an agenda item on BALS' annual compliance training on February 21, 2014.

Finding 6: Retainer agreements

No individual comment.

Finding 7: Client identity and statement of facts

No individual comment

Finding 8: Priorities in use of resources

No individual comment

Finding 9: Description of legal assistance provided

No individual comment

Finding 10: CSR Case Problem and closure and problem codes

Limited patterns of error noted in the sampled files.

BALS' response: Individual staff has been contacted as to cases identified in the audit. Policy and procedures remain in place and there will be continued process compliance training. This is part of an agenda item on BALS' annual compliance training on February 21, 2014.

Finding 11: Dormancy and untimely closure of cases

Limited errors noted in the sampled files.

BALS' response: Individual staff has been contacted as to cases identified in the audit. Policy and procedures remain in place and there will be continued process compliance training. This is part of an agenda item on BALS' annual compliance training on February 21, 2014.

Finding 12: Duplicate cases

No individual comment.

Finding 13: Outside Practice of Law

No individual comment

Finding 14: Prohibited political activities

No individual comment

Finding 15: Fee-generating cases

1. Confirmation that the updated 45 CFR Part 1609 policy has been adopted by BALS, and the date on which, and manner in which, the updated policy was implemented and communicated to staff.

(Additional Information Requested) Result:

Section 119 – Attorney Fees of the Bay Area Legal Services, Inc. Office Manual was updated on August 28, 2013 while LSC OCE was performing fieldwork onsite. Appropriate staff (President and CEO, Deputy

Director, COO and Controller) was notified verbally on that date. This is an agenda item on BALS' annual compliance training on February 21, 2014.

Finding 16: Use of non-LSC funds, transfer of LSC funds, program integrity and Notification

Ensure that the notice of the LSC restrictions are provided to the funders who contribute funds equal to or greater than \$250 in accordance with 45 CFR 1610.5(a). **(Required Corrective Action #4) Result:** Policy and Procedures are in place and there will be continued process compliance training by CEO/President to Development Department.

Finding 17: Private attys. 1614.3(a), (b), (c), (d), (e)

1. Allocate managements' time based on reasonable data and ensure that the time related to PAI is either allocated or otherwise based on direct time, as is reported on BALS; timekeeping records. **(Required Corrective Action #5) Result:** Pursuant to the corrective action, top management and fiscal personnel involved in PAI activities will begin to allocate their time based on reasonable data such as approximate number of employees, and report same.
2. Ensure GLS makes an eligibility determination for each application prior to providing legal assistance. **(Required Corrective Action #6) Result:** Effective Jan. 1, 2014, GLS is no longer a PAI subcontractor. BALS has established a volunteer lawyer's program for northern Pinellas (previous geographic area of GLS' subcontract) and has also expanded into west Pasco. New office will conform to existing BALS policies and procedures.

Finding 18: Membership fees and subgrants

No individual comment

Finding 19: Timekeeping requirement

No individual comment

Finding 20: Attorneys' fees

No individual comment

Finding 21: Restrictions on lobbying and certain other activities

No individual comment

Finding 22: Criminal proceedings

No individual comment

Finding 23: Class actions

No individual comment

Finding 24: Redistricting

No individual comment

Finding 25: Certain evictions

No individual comment

Finding 26: Representation of prisoners

No individual comment

Finding 27: Restriction on Solicitation

No individual comment

Finding 28: Restriction on assisted suicide, euthanasia and mercy killing

No individual comment

Finding 29: Prohibition on abortion, school desegregation and military selective service act and desertion

No individual comment

Finding 30: Disclosure of case information

No individual comment

Finding 31: Accounting Guide for LSC Recipients (2010 Ed.)

There was a title change of Executive Director to CEO/ President prior to the LSC visit. Older documents that were audited reflected the title of Executive Director. These comments clarify the title.

Fiscal Structure

Pg. 45 Par 2: "the Executive Director ("ED") presents to BALS' Board of Directors ("BOD")..."

BALS' response: "the CEO/President presents to BALS' Board of Directors ("BOD")..."

Bank Reconciliations

Pg. 46 Par. 2: "BALS' bank statements are received monthly by the BOD President who opens and signs the bank statements which are then forwarded to the bookkeeper who performs the bank reconciliation. The bank reconciliations are then reviewed and approved by the Controller, President and ED as a part of the monthly closing process."

BALS' response: "BALS' bank statements are received monthly by the CEO/President who opens and signs the bank statements which are then forwarded to the bookkeeper who performs the bank reconciliation. The bank reconciliations are then reviewed and approved by the Controller and CEO/President as a part of the monthly closing process."

Cash Disbursements

Pg. 47 Par.3:"evidenced that the ED signs every check, which is another indicator of BALS' efficient internal control process."

BALS' response: "evidenced that the CEO/President signs every check, which is another indicator of BALS' efficient internal control process."

Credit Cards

Pg. 47 Par 1: "BALS' corporate credit card is issued to the President and ED and has a \$1,000 credit limit."

BALS' response: "BALS' corporate credit card is issued to the CEO/President and has a \$1,000 credit limit."

Pg. 47 Par. 1: "a purchase order form must be submitted to the President and ED and the appropriate manager for approval."

BALS' response: "a purchase order form must be submitted to the CEO/President and the appropriate manager for approval."

Pg. 47 Par 1: "The credit card statements and corresponding payments are approved by the Controller and/or COO, President and ED."

BALS' response: "The credit card statements and corresponding payments are approved by the Controller and/or COO, and CEO/President."

1. No Default in the question "is the caller a victim of domestic violence"

Hide

Is the caller a victim of domestic violence?²⁴ Please Select ▾

Citizenship Status²⁴: Please Select ▾

Hide

Is the caller a victim of domestic violence?²⁴ Please Select ▾

Citizenship Status²⁴: Yes No

Have you or a member of your Yes No

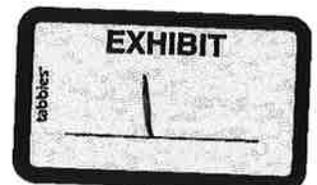
Hide

Is the caller a victim of domestic violence?²⁴ Yes ▾

How is the Abuser related to the Applicant?²⁴ Please Select ▾

Citizenship Status²⁴: Boyfriend Girlfriend Not related Other Spouse

Have you or a Yes No



Do you or a member of your household have any other assets or any other property?

Do you or a member of your household have any other assets or any other property?

After Selecting Yes

Advocate's analysis needed under assets. (See BALS Sec 103 for exempt assets)

Assets: Assets are cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash and currently and actually available to the applicant. Normal household furnishings are not considered to be readily convertible to cash and are not regarded as assets.

Do you or a member of your household have any other assets or any other property?

Other Assets?

Financial Notes*

Non-Excluded Assets*

Name (First*, Middle, Last*, 2nd Last/Suffix)	First Name*	Middle	Last Name*	Suffix
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Application for Legal Services (Appendix 113B Rev. February 2014)

1. Last Name _____ First Name _____ Middle Name _____
 2. Address _____ City _____ Zip _____
 3. Are you: Single Married Divorced Separated Widow/er Disability Date of Birth _____
 4. SSN (last 4 Digits) _____ Home Phone: _____ Cell Phone: _____
 5. Spouse's Name _____ Your Work Phone: _____
 6. Number of adults (18 & over) in household, including yourself _____ Number of children (under 18) in household _____
 7. Name, Address, Phone # of Relative/Neighbor/Friend _____
 8. Who is the opposing person/company/agency involved in the legal problem about which you have come to see us?

 9. Have you or a member of your household ever served in the military, including serving in the Reserves or National Guard?
 Yes No
 10. Do you or a member of your household own the home in which you are living (principal residence)? Yes No
 11. Do you or a member of your household have cash in bank accounts and/or on hand? Yes No Amount \$ _____
 12. Do you or a member of your household own property other than household furnishings and automobiles used for transportation? (examples: land, second home, boat, cars NOT used for transportation, RV vehicle, stocks or bonds) Yes No
 13. Do you or a member of your household have any other assets or any other property? Yes No
- Note: If yes to #12 and/or #13, Advocate's analysis needed in Legal Server under assets. (See BALS Sec 103 for exempt assets)**
14. Your Employer _____ Address _____

Income of Household	Weekly	Bi-Weekly	Monthly
Your GROSS salary or self employment income: (before taxes or deductions are taken out)			
Other Household Members' GROSS income:			
Child Support / Alimony			
Unemployment Compensation / Workers Compensation			
Social Security / SSI			
Cash Public Assistance (TANF/ WAGES / AFDC; NOT FOOD STAMPS)			
VA / Retirement / Pension			
Other Income (including in-kind contributions from family, friends, cash)			

15. Will your income significantly change within the next 15 days? Yes (**Advocate follow-up needed**) No
16. I need help concerning: _____

PLEASE READ AND SIGN

B.A.L.S. may be required to disclose certain information to its funding sources. The types of information currently subject to such disclosure are time records, eligibility records, the client's name, and the general nature of the problem.
The information I have given on this application is TRUE AND CORRECT to the best of my knowledge. I consent to B.A.L.S. verifying this information by contacting my employer, bank or any other person necessary for such verification. I have read the above policies and agree to apply for legal services on the terms set out above.

17. Signature: _____ Date: _____

18. Are you a U.S. Citizen? Yes No *If you checked "Yes", you MUST sign below.*

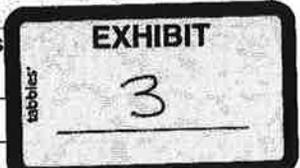
I am a Citizen of the United States: Signature: _____ Date: _____

--- OFFICE USE ONLY ---

Eligible Not Eligible For statistical purposes only: R _____ S _____ Legal problem a res

Total Income = _____ Non-Exempt Assets = _____

Intake Attorney / Paralegal: _____ Date: _____





Enter text... Search

- Staff Menu
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- Appendixes
- Forms
- Memos Of Significance
- Protocols & Best Practices
- Income Guidelines
- Phone Extensions By Name
- Phone Extensions By Office
- Training Materials
- Legal Server
- Online Email

103 Individual Eligibility for Representation

In compliance with 45 C.F.R. 1611, this Section sets forth requirements relating to the financial eligibility of individual applicants for legal assistance supported with LSC funds and Bay Area's responsibilities in making financial eligibility determinations.

1) **Assets:** Assets are cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash and currently and actually available to the applicant. Normal household furnishings are not considered to be readily convertible to cash and are not regarded as assets.

The following items are excluded from consideration as assets:

- the applicant's or household members' principal residence;
- vehicles used by the applicant or household members for transportation;
- work related equipment needed for employment of a family member, provided its owner is producing income or attempting to produce income with it;
- cash value of IRS qualified retirement and educational savings accounts, which include IRAs, 403(b) and 401(K) accounts;
- IRS qualified health/medical savings accounts;
- professionally prescribed health aids associated with a medical condition (i.e. wheelchairs, scooters etc.);
- value of farmland essential to employment or self-employment;
- any assistance received on account of major disaster.

Asset Ceilings: In order to be determined to be financially eligible for legal assistance supported in whole or in part by LSC funds, an applicant or other household members' assets must be at or below \$5,000.00 or the asset ceiling must be waived.

Waiver of Asset Ceilings: The CEO/President or Deputy Director may waive the asset ceiling(s) for particular applicants under unusual circumstances. The reason(s) for such waiver(s) must be recorded in the case file and the records made available for review by LSC.

Domestic Violence Victims: In establishing the income or assets of an applicant who is a victim of domestic violence to determine if the applicant is eligible for legal assistance, Bay Area shall consider only the assets and income of the applicant and members of the applicant's household other than those of the alleged perpetrator of the 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 of the domestic violence;
- jointly held by any member of the applicant's household with the alleged perpetrator of the domestic violence.

2) **Income:** Income is the actual current annual total cash receipts before taxes of all persons who are resident members of the applicant's household and contribute to the support of the applicant's household. The applicant must have lived or must intend to live in the household for a significant (i.e. not temporary) period of time. Total cash receipts include, but are not limited to:

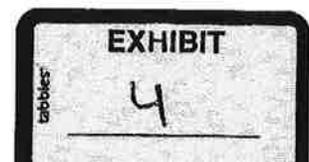
- wages and salaries before any deduction;
- income from self-employment after deductions for business or farm expenses;
- regular payments from governmental programs for low income persons or persons with disabilities;
- social security payments;
- unemployment compensation payments
- worker's compensation 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 or royalties ;
- income from estates or trusts;
- other regular or recurring sources of financial support such as in-kind contributions 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;
- non-cash benefits, including Food Stamps or Medicaid;
- maximum of \$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 maximum annual income ceiling for individuals and households served by Bay Area using LSC funds is 125% 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. The income guidelines effective 02/09/2013 are:

Number in Household	MONTHLY	YEARLY
1	\$1,196.92	\$14,363



2	\$1,615.67	\$19,388
3	\$2,034.42	\$24,413
4	\$2,453.17	\$29,438
5	\$2,871.92	\$34,463
6	\$3,290.67	\$39,488
7	\$3,709.42	\$44,513
8	\$4,128.17	\$49,538

(Previous guidelines are available here - 2012 - 2011)

For households with more than eight members, add \$5,025 per year or \$418.75 per month for each additional member in the household;

To calculate monthly figures, multiply weekly income by 52, then divide by 12; multiply bi-weekly income by 26, then divide by 12;

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.



Bay Area Legal Services Inc.
1302 N. 19th Street, Suite 400
Tampa, FL 33605-5230
813.232.1343 | 1.800.625.2257



(Applicant)

Gross Monthly Income \$

Percentage of Poverty N/A

Kids age 8 or younger or expecting a child? Yes No

Do you or a member of your household own the home in which you are living (principal residence)? Yes No

Do you or a member of your household have cash in bank accounts and/or on hand? Yes No

Do you or a member of your household own property other than household furnishings and automobiles used for transportation? Yes No

Advocate's analysis needed under assets. (See BALS Sec 103 for exempt assets)

Assets: Assets are cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash and currently and actually available to the applicant. Normal household furnishings are not considered to be readily convertible to cash and are not regarded as assets.

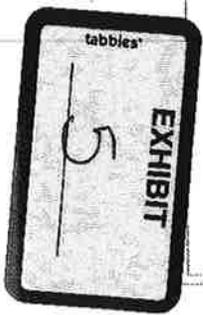
Non-Excluded Assets* \$

Name (First*, Middle, Last*, 2nd Last/Suffix)
First Name* Middle Last Name* Suffix

Enter the zip code and Legal Server will automatically find the city/county.

Street Address

Address 2



(Applicant)

Gross Monthly Income \$ (Application)

Percentage of Poverty N/A

Kids age 8 or younger or expecting a child? Yes No

Do you or a member of your household own the home in which you are living (principal residence)? Yes No

Do you or a member of your household have cash in bank accounts and/or on hand? Yes No
Examples: Land, second home, boat, cars NOT used for transportation, RV vehicle, stocks, or bonds)

Do you or a member of your household own property other than household furnishings and automobiles used for transportation? Yes No

Advocate's analysis needed under assets. (See BALG Sec 103 for exempt assets)

Assets: Assets are cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash and currently and actually available to the applicant. Normal household furnishings are not considered to be readily convertible to cash and are not regarded as assets.

Non-Excluded Assets \$

Name (First, Middle, Last, 2nd Last/Suffix)
First Name Middle Last Name Suffix

Enter the zip code and Legal Server will automatically find the city/county.

Street Address

Address 2



Supervision Policy

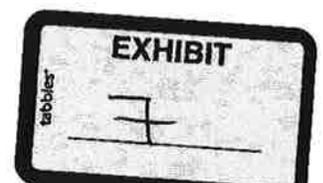
- 1) Designated supervisor: Every staff attorney and paralegal ("advocate") shall have a designated supervisor. In most cases, this will be a team leader. Each advocate shall also have a backup supervisor who will act in the absence of a designated supervisor. Advocates working for the Centralized Telephone Intake Unit are supervised as described in paragraph 5, below.
- 2) Case reviews: Supervisors will review, note, and confirm follow-up in every case handled by a paralegal, without exception. For attorneys, supervisors will perform regular, periodic case reviews. These case reviews will consist of an actual case file review of at least 25% of the attorney's open cases. Following this case review, there will be a verbal case review meeting. These meetings will generally discuss upcoming deadlines, research needed, and additional pleading(s) or case strategy. Additionally, supervisors will randomly and periodically monitor the telephone and office intakes provided by their team advocates to ensure that they verify applicant information in compliance with LSC regulations.
- 3) The supervisors for any advocates who provide legal information services through a courthouse-based program will randomly visit these sites and monitor the services provide to ensure that these advocates are in compliance with Florida Bar and LSC regulations.
- 4) First Year Attorney Requirements: The following polices shall apply for all first year attorneys;
Monitoring of Assignments: In the first three months of employment, supervisors should generally arrange a weekly meeting with first year attorneys. These meetings should monitor assignments and resolve any other issues. A supervisor should assign cases to a first year attorney only after discussion at the weekly team meeting. For each case, a first year attorney should have a designated mentor. A "designated mentor" is defined as an attorney with at least two years of experience assigned by a team leader. The supervisor or designated mentor will be available to review pleadings, correspondence or to answer any other questions that arise.

For the remainder of the year, a supervisor or designated mentor can reduce this monitoring based on performance. However, a supervisor or designated mentor will always be available for consultation and advice.

Case loads: Attorneys in their first year of practice should have smaller case loads than more experience staff attorneys in the office. In determining the appropriate case load for first year attorneys, a supervisor or designated mentor should consider the complexity of the cases, the litigation status and possible co-counseling with more experienced attorneys in the office. This lower case load will give first attorneys the time to observe hearings, attend trainings and meet more frequently with supervisors.

Supervision of administrative and courtroom advocacy: First year attorneys should generally spend at least three months observing administrative and courtroom advocacy. This should include participating in the initial client interview, legal research, drafting of pleadings, witness preparation and co-counseling at a hearing or courtroom appearance. Supervisors and designated mentors should also set aside time for questions and discussions with first year attorneys in this process.

For the remainder of the first year, new attorneys should be available to represent clients in administrative or courtroom proceedings. A supervisor or designated mentor should initially attend these hearings. This appearance should be followed by a verbal meeting with the supervisor or designated mentor evaluating the performance. Depending on the level of competency, the supervisor or designated mentor can decide to increase or decrease the level of direct supervision. However, the supervisor or designated mentor is still available at all times for consultation and advice.



Review of written work product: In the first three months, a supervisor or designated mentor should generally review correspondence with legal advice and any pleadings before mailing or filing. For the remainder of the year, the supervisor or designated mentor can decide to increase or decrease the level of direct supervision. This will depend on the first year attorney's demonstrated level of competency. However, the supervisor or designated mentor is still available at all times for consultation and advice. A supervisor or designated mentor should encourage first year attorneys to join at least one state or national e-mail work group as a resource for assistance with pleadings and other materials.

A supervisor or designated mentor may consider referring advocates to ABA Standard 7 for guidance on topics such as litigation strategy, motion practice and discovery.

5) Centralized Telephone Intake advocates. Because supervision of staff based at multiple sites and with extended schedules presents different challenges, the case review and first year attorney requirements are modified as follows for this team:

- a. The CTI Manager will perform regular case reviews on a bimonthly basis. Following this case review, the manager will e-mail comments, instructions, and case strategy suggestions to the advocates as needed for their review and follow-up.
- b. The CTI Manager will review, note, and confirm follow-up for every file submitted by a CTI paralegal, without exception.
- c. First year attorneys will submit every completed intake to the CTI Manager for review, until such time as the manager wholly or partially releases the attorney from this requirement.
- d. The CTI Manager will periodically and randomly monitor the telephone intake provided by advocates to ensure that they are verifying applicant information in compliance with LSC regulations.

6) Every intake screener is supervised primarily by the Screener Supervisor, who works under the supervision of the CTI Manager. Intake screeners are also subject to periodic and random monitoring of calls from new applicants for services, to ensure they are completing the caller's application in compliance with LSC regulations.

7) Supervisor training: Bay Area recognizes that training is a vital and important component of effective leadership. All supervisors must receive periodic supervisory training. Bay Area will attempt to sponsor annual or semi-annually supervisor trainings when funding permits. Supervisors may also individually request to attend additional supervisory training. Bay Area will give strong consideration to approving the cost of attendance at these trainings.

Supervisor caseload: Bay Area recognizes the challenges a supervisor faces in maintaining caseloads and other leadership responsibilities while seeking to effectively supervise. Accordingly, Bay Area approves and expects a supervisor to have a smaller, less complex case load than other advocates. This caseload should be generally lowered if the number of team members increase, especially first year attorneys. This will allow a supervisor appropriate time to adequately perform his/her duties.

403a5 LSC Compliance Staff Member

Salary range: \$15.00 per hour or up DOE

Major Functions

This is a part-time professional position requiring highly experienced administrative abilities to aid and assist BALS in LSC regulatory compliance. This position requires excellent organizational and problem-solving skills as well as the ability to listen to and support various office personnel. The position requires excellent verbal and written communication skills. It requires the ability to train and educate. The position is under the supervision of the Deputy Director.

Illustrative Duties

- a) Train and support one designated member from each team or subcontractor on LSC regulatory compliance.
- b) Assist the teams through a monthly review of closed files and submit a written report to the CEO/President, Deputy Director and team leader.
- c) Coordinate a semi-annual "mystery shopper" approach as an additional oversight method to monitor performance and submit a written report to the CEO/President, Deputy Director and team leader.
- d) Assist the subcontractors through a quarterly review of closed files and submit a written report to the CEO/President, Deputy Director and subcontractor.
- e) Coordinate and conduct annual training to include LSC regulatory compliance.
- f) Orient new personnel on LSC regulatory compliance.
- g) Raise awareness of best practices.
- h) Assist in revising policies as necessary to enhance best practices and LSC regulatory compliance.

Desirable Qualifications

- 1) Ability to organize and prioritize responsibilities.
- 2) Ability to work well and communicate well with others.
- 3) Considerable knowledge of LSC regulations or ability to learn.
- 4) Considerable knowledge of the civil legal system or ability to learn.
- 5) Ability to prepare reports
- 6) Ability to train personnel.



7) Ability to identify and raise awareness of issues

8) Ability to establish and maintain effective working relationship with other employees and subcontractors.

Minimum Qualifications

1) Graduate from a standard high school, including or supplemented by college level courses.

2) Experience with basic office software.

4) Excellent communication skills

5) Demonstrated ability to accept major responsibility and to work effectively in an independent but supervised environment.

6) Ability to travel frequently to other offices.

Lora Rath

From: Joan Boles <jboles@bals.org>
Sent: Friday, March 07, 2014 8:59 AM
To: Craig S. Dober
Cc: Judith Copeland
Subject: RE: Bay Area Legal Services

Hi Craig,

Judy keeps the list which I am asking her to forward to you. There was a conflict with a statewide housing training that some of our advocates went to. However, our trainings are videoed and the video has been sent to each staff person not in attendance. Each individual sends a certification message to Judy and to their team leader when they have viewed it.

I'll be in contact with you next week as to the questions.

Thank you,

Joan

Joan Boles
Deputy Director
Bay Area Legal Services
www.bals.org

-----Original Message-----

From: Craig S. Dober [<mailto:doberc@lsc.gov>]
Sent: Thursday, March 06, 2014 1:12 PM
To: Joan Boles
Subject: RE: Bay Area Legal Services

Joan,

Thanks for sending me the agenda. I just spoke to management and they are requesting, if possible, you can send me a list of participants who attended the staff meeting.

Also if you want to schedule a time either tomorrow or next week to discuss the couple of issues you had questions about, let me know.

Thanks,

Craig S. Dober
Program Counsel
Office of Compliance & Enforcement
Legal Services Corporation
(202) 295-1523

-----Original Message-----

From: Joan Boles [<mailto:jboles@bals.org>]
Sent: Friday, February 21, 2014 4:24 PM
To: Craig S. Dober
Subject: RE: Bay Area Legal Services

Hi Craig,

Attached is the Agenda. I believe the training went very well as we have received a lot of positive feedback. Judy and I will review the evaluations next week.

Thanks so much for your willingness to answer my questions. If it easier for you we can always communicate by email.

Good luck in Arkansas!

Joan

> 2. Judy and I have a question about open pre 2008 cases and attestations. Is there a way that we can remedy the fact that the reg. changed after the case was opened i.e. have the client sign a current attestation, copy of the birth certificate in the file?

> Many thanks,

> Joan

>

> Joan Boles

> Deputy Director

> Bay Area Legal Services

> www.bals.org<<http://www.bals.org>>

>

>

FEBRUARY 21, 2014 MEETING

NAME

Aguilar, Maydelin

Ankenbruck, Laura *Laura*

Arledge, Ann *Ann Arledge*

Baker, Sally *Sally Baker*

Barrow, Connie *Connie*

Beaty, Susan

Boles, Joan *Joan Boles by ASD*

Breen, Linda

Brempong, Rose *Rose Brempong*

Brody, Lisa *Lisa Brody*

Bromfield, Stuart (CLC Intern)

Brown, Pat *Pat Brown*

Buffkin, Stephanie

Buie, Deborah *Deborah*

Cajinarobledo, Esther

Cheek, Ellen

Chen, Mitzi *Mitzi*

Cohen, Jennifer

Copeland, Judith *Judith Copeland*

Craig, Melissa

Daloisio, Carol

Dieter, Donna *Donna Dieter*

NAME

Kramer, Erica *Kramer*

LaCasse, J.P. *J.P. LaCasse*

Lang, Kristen *Kristen Lang*

Lawyer, Marty

London, Bari (Intern)

Lugo, Nancy *Nancy Lugo*

Magdalena, Gretel *Gretel Magdalena*

Mann, Linda

McKay, LaFawn *LaFawn*

McKinnon, Mary *Mary McKinnon*

Melendez, Shayra *Shayra*

Millison, Marina

Moody, Carol

Moss, Jim

Motley, Dick

Motley, Sue-Helen *yes*

Mungon, Sylvia *Sylvia*

Myers, Steve *Steve Myers*

Obradovich, Maria

Pataky, Randi

Paulus, Karen *Karen Paulus*

Penner, Nancey *Nancey Penner*

DiFiore, Tom

Elliott, Bud

Fagan, Germaine

Feller, Maurice

Fernandez, Kyle

Figueroa, Migdalia

Frias, Lorena

Fuqua, Ronda

Garcia, Adolfo

Garcia, Ismelda

Gaul, Mark

Grabel, Jeff

Granger, Geneva

Greene, Tonja

Gutierrez, Anola

Ha, Thao

Haberland, Mary

Harrison, Russ

Helms, Jane

Hengelbrok, Jim

Hestorff, Emily

Holmes, Elaine

Hower, Henry

Pickett, Mae

Pinkston, Gale

Quiros, Sofia

Reed, Judy

Reigle, Dan

Resendez, Marcela

Signed on pg 3.

Rivas, Lupita

Rozum, Michael

Sandler, Susan (CCP)

Santiago, Maria-Teresa

Santini, Frank

Savatakis, Annie

Savinon, Schiara

Sears, Lois

Sokol-Parra, Stella

Stuckey, Mike

Srsic, Alexandra

Susalla, Jason

Tager, Heather

Thomas, Rebecca

Trujillo, Virginia

Valdes, Marlene

Velasco, Xaxira

Hudson, Jena

J. O. H.

Inglis, Katherine

Katherine Inglis

Jones, Amy

Jones, Elaine

Junquera, Carmen

Kauget, Alyse

Alyse

Kelly, Jane

Kennis, Elva

Elva Kennis

King, Erin

Erin King

Johnston, Dollie

Pickering, Polly

Maude Resendez

Erin King

Sheila Seig

Vera, Naida

Watson, Albert (Intern)

Welch, Cathy

Cathy Welch

Whitaker, Susan

Susan Whitaker

Whiteside, Caitlin

Williams, Judy

Woltmann, Dick

Dick Woltmann by DSD

Woltmann, Kathy

Kathy Woltmann

AGENCY MEETING AGENDA

FEBRUARY 21, 2014 – MORNING SESSION

TIME	SPEAKER
9:00 AM – 9:03 AM	Dick Woltmann: Greeting:
9:03 AM – 9:30 AM	Joan Boles: LSC Audit Review
9:30 AM – 9:50 AM	Judy Copeland: Asset Eligibility
9:50 AM – 10:00 AM	Break
10:00 AM – 10:30 AM	Jim Hengelbrok: Alien Eligibility
10:30 AM – 10:50 AM	Tom DiFiore: Fee Generating Regulations and Procedures
10:50 AM – 11:00 AM	Break
11:00 AM – 11:30 AM	JP LaCasse & Amy Jones: What's New in Operations?
11:30 AM – 11:50 AM	Jim Hengelbrok: Other Languages in the Workplace
11:50 AM – Noon	Rose Brempong: Introduction and Important Initiatives for Development
Noon	Lunch

AGENCY MEETING AGENDA

FEBRUARY 21, 2014 – AFTERNOON SESSION

TIME	SPEAKER
Arrive for lunch at 12:15 pm	
1:00 PM – 1:03 PM	Dick Woltmann: Greeting:
1:03PM – 1:30 PM	Joan Boles: LSC Audit Review
1:30 PM – 1:50 PM	Judy Copeland: Asset Eligibility
1:50 PM - 2:00 PM	Break
2:00 PM – 2:30 PM	JP LaCasse and Amy Jones: What's New in Operations?
2:30 PM – 2:50 PM	Tom DiFiore: Fee Generating Regulations and Procedures
2:50 PM – 3:00 PM	Break
3:00 PM – 3:30 PM	Jim Hengelbrok: Alien Eligibility
3:30 pm – 3:40 PM	Rose Bremprong: Introduction and important initiatives for Development
3:40 PM– 4:00 PM	Jim Hengelbrok: Other Languages in the Workplace
4:00 PM	End of Meeting

Lora Rath

From: Joan Boles <jboles@bals.org>
Sent: Thursday, March 13, 2014 2:59 PM
To: Craig S. Dober
Cc: J P LaCasse
Subject: BALS: Finding 17

Hello Craig,

You asked that we elaborate on the methodology for the PAI allocation in Finding 17 of the draft audit report. I am sending in this response as prepared by JP LaCasse, BALS' COO.

Bay Area Legal Services Inc. will allocate top management and fiscal personnel time who spend time on PAI in the following manner:

Full time equivalent employees engaged in PAI activities / Full time equivalent of total Bay Area employees = percentage of time allocated to PAI by top management and fiscal employees involved in PAI activities.

For example, if Bay Area had 100 employees, and 8 of those were engaged in PAI activities, $8/100 = 12.5\%$ of the time of top management and fiscal employees involved with PAI activities would be allocated to PAI.

Please let me know if you have any questions or concerns.

Thank you,
Joan

Joan Boles
Deputy Director
Bay Area Legal Services
www.bals.org



Accounting Manual Supplement

Private Attorney Involvement (“PAI”)

Bay Area Volunteer Lawyers Program (“BAVLP”) Staff

Bay Area Legal Services’ case management and timekeeping system, Legal Server, will be used to document the attorney time spent on PAI. For the non-attorney staff that do not enter time into Legal Server, the amount of time spent on PAI will be documented by reference to current job descriptions. The list of duties in this regard is fairly specific and should adequately reflect the employee’s level of involvement in PAI activities.

Management and Fiscal Allocation Methodology

Bay Area Legal Services Inc. will allocate top management and fiscal personnel time who spend time on PAI in the following manner: Full time equivalent employees engaged in PAI activities / Full time equivalent of total Bay Area employees = percentage of time allocated to PAI by top management and fiscal employees involved in PAI activities.

For example, if Bay Area had 100 employees, and 8 of those were engaged in PAI activities, $8/100 = 12.5\%$ of the time of top management and fiscal employees involved with PAI activities would be allocated to PAI.