



VIA US MAIL AND EMAIL

February 14, 2014

Thomas James Holgate, Executive Director
DNA-Peoples Legal Services, Inc.
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Re: Follow-Up Review to Follow-Up 2011 Review, Recipient No. 703068

Dear Mr. Holgate:

As noted in my October 3, 2013 letter, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") OCE has determined that actions taken by DNA-Peoples Legal Services, Inc. ("DNA") in response to the required corrective actions ("RCAs"), imposed in the Final Report issued on January 18, 2012, sufficiently address the concerns expressed therein.

OCE conducted an on-site Follow-up Review ("FUR-2011") of DNA on July 18-21, 2011. Based on that review, OCE identified several issues and RCAs designed to assist DNA in complying with the LSC Act, regulations, and applicable instructions. In the January 18, 2012 Final Report (hereinafter "Report"), there were nine (9) items slated for RCA. From July 22-25, 2013, OCE conducted an on-site Follow-up Review ("FUR-2013") to assess DNA's actions in response to that Report. The FUR-2013 evidenced that DNA has substantially addressed those RCAs.

In addition, the FUR-2013 team also assessed DNA's progress toward implementing DNA's outstanding 2013 Special Grant Conditions ("SGCs"). In LSC's initial letter regarding the FUR-2013's findings, it was noted that "[a]lthough DNA has made significant progress in implementing the SGCs, DNA must still provide LSC with evidence sufficient to close out SGCs Nos. 1.c., 3 and 4." Based on evidence provided by DNA during the on-site review and via email dated August 30, 2013 OCE has now determined that DNA has taken sufficient action to close all of its 2013 SGCs.

A. The Required Corrective Actions ("RCAs")

The FUR-2013 assessed the progress made in implementing the following RCAs:

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.),¹ § 5.5;

In DNA's response to the Report, DNA indicated that on September 29, 2011 all staff attended an on-line training on citizenship requirements, where LSC regulations and corresponding policies were reviewed.

The FUR-2013 evidenced that DNA has taken the necessary steps to fulfill this RCA with regard to ensuring 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.), § 5.5.

The FUR-2013 confirmed that training was conducted by webinar with attendees from various offices, and that refresher courses were provided in 2012 and 2013. DNA provided an outline of those trainings. In addition, interviews of the attendees, cases reviewed, and DNA's attestation form evidenced that DNA has completed the RCA. This RCA is now considered closed.

2. Ensure that the manual intake form used is revised to include a section regarding citizenship eligibility;

In response to the Report, DNA offered no comment to this RCA.

The FUR-2013 evidenced that DNA has taken the necessary steps to fulfill this RCA with regard to ensuring that the manual intake form used has been revised to include a section regarding eligibility.

The FUR-2013 revealed that DNA modified its manual intake form to include a section regarding citizenship eligibility, which is consistent with LSC requirements. This RCA is now considered closed.

3. Ensure staff verify citizenship eligibility during a telephone intake screening and obtain a signed citizenship attestation, or review alien eligibility documentation, during an in-person intake interview;

In response to this RCA, DNA stated that of the five (5) cases referred to in the Report as failing to contain a signed citizenship attestations, four (4) of those were for Native Americans in which their tribal census numbers were obtained, which would certify citizenship of the United States. Further response to this RCA, by DNA, indicated that on September 29, 2011, all staff attended an on-line training on citizenship requirements, where LSC regulations and corresponding policies were reviewed.

¹ In the time since the FUR-2011 took place, LSC has issued a new CSR Handbook. Although all citations in this letter are to the 2008 version, the FUR-2013 assessed the program's compliance with new version – CSR Handbook (2008 Ed., as amended 2011).

The FUR-2013 revealed that DNA is correct in their statement that the tribal census number is evidence of citizenship for Native Americans. In the Indian Citizenship Act of 1924, also known as the Snyder Act, Congress conferred citizenship upon all non-citizen Indians born within the territorial limits of the United States. Certifications from the official Navajo Indian Tribal census rolls of the United States Bureau of Indian Affairs may be treated as public records of birth. Accordingly, this documentation would be in compliance with 45 CFR § 1626.6(b)(2).

The FUR-2013 evidenced that DNA has taken the necessary steps to fulfill this RCA by ensuring that staff verify citizenship eligibility during a telephone intake screening and obtain a signed citizenship attestation, or review alien eligibility documentation, during an in-person intake interview. The FUR-2013 also confirmed that training was conducted by webinar with attendees from various offices, and that refresher courses were provided in 2012 and 2013. DNA provided an outline of those trainings. In addition, interviews of the attendees and the sampled cases reviewed evidenced that DNA has completed this RCA and is in compliance with 45 CFR § 1626.6. This RCA is now considered closed.

4. Ensure that staff has an understanding of the applicability of 45 CFR § 1626.4 and Program Letter 06-02, Violence Against Women Act 2006 Amendments;

In response to this RCA, DNA indicated that, on September 29, 2011, all staff attended an on-line training on citizenship requirements, where LSC regulations and corresponding policies were reviewed.

The FUR-2013 evidenced that DNA has taken the necessary steps to fulfill this RCA with regard to ensuring that staff acquire a better understanding of the applicability of 45 CFR § 1626.4 and Program Letter 06-02, Violence Against Women Act 2006.

The FUR-2013 confirmed that training was conducted by webinar on September 29, 2011 with attendees from various offices, and that refresher courses were provided in 2012 and 2013. DNA provided an outline of those trainings. In addition, interviews of the attendees evidenced that staff has a better grasp on the applicability of 45 CFR § 1626.4 and Program Letter 06-02, Violence Against Women Act 2006 Amendments. This RCA is now considered closed.

5. Remove defaults from the ACMS in the fields determined to be critical to eligibility, e.g. income, assets, number in the household, citizenship/eligible alien status, and LSC eligibility;

In its comments to the Report, DNA provided no response to this RCA.

The FUR-2013 evidenced that DNA has taken the necessary steps to fulfill this RCA with regard to removal from the ACMS the default associated with the asset field. The FUR-2013 revealed that the default field pertaining to assets has been removed.² This RCA is now considered closed.

² The only default noted by the FUR-2011 was in the asset field.

6. Ensure that intake staff receives training regarding the requirement to inquire into a group's means to obtain private counsel, pursuant to 45 CFR Part 1611.6(a), in conjunction with determining the group's eligibility for services;

In its comments to the Report, DNA provided no response to this RCA.

The FUR-2013 revealed that training was conducted by webinar with attendees from various offices, and that refresher courses were provided in 2012 and 2013. DNA provided an outline of the trainings which included group eligibility requirements. In addition, interviews of the attendees evidenced that DNA has completed this RCA. This RCA is now considered closed.

7. Include language in the PAI contracts of the regulatory definition of staff attorney and require that the PAI attorneys notify DNA of potential issues. Additionally, DNA should implement a policy ensuring that money paid to contract attorneys does not represent over half of the contract attorney's professional annual income;

DNA's response to this RCA indicated that DNA would add language to the contracts of PAI attorneys explaining the definition of a staff attorney, and the attorneys' obligation to notify DNA if their income received from DNA begins to approach one-half of their total income. Furthermore, DNA indicated it would create a procedure whereby the program would check with contract attorneys about their quarterly income, and compare it to the amounts DNA has paid them during that quarter.

The FUR-2013 evidenced that DNA has complied with this RCA.

The FUR-2013 confirmed that DNA implemented changes in their PAI contracts for 2012 and 2013, which included language explaining the definition of a staff attorney and the PAI attorneys' obligation to notify DNA if their income begins to approach one-half of their gross annual income. DNA's current PAI contract, under Section 5, entitled "LSC Regulations," states that "contractors understand that DNA is obliged to follow the federal regulations of Legal Services Corporation, its main funder. These can be found at 45 CFR 1600-1644.³ Specifically for the purposes of this contract, those regulations require DNA, and therefore the Contractor, to only refer DNA clients to pro bono attorneys who meet LSC's eligibility requirements. DNA is primarily responsible for ensuring clients meet these regulations, but if Contractors become aware that a client may not meet them, he/she will notify DNA." In addition, the contract states "contractors agree to notify DNA if the income he/she receives from DNA begins to comprise more than one-half of the expected gross annual income on their tax returns for the current calendar year."

A review of the vendor history reports, invoices, invoice coding, 2012 audited financial statements and June 2013 interim financial statements revealed that DNA compensated two (2) PAI contract attorneys in 2012 in the amounts of \$10,561.48 and \$3,739.00, respectively, using non-LSC funds. In addition, as of June 2013 year-to-date, DNA had compensated one (1) PAI contract attorney in the amount of \$7,920.66, using non-LSC funds.

³ The definition of a staff attorney can be found at 45 CFR § 1600.1.

According to DNA's Board-approved Accounting Manual dated February 11, 2012, under the PAI policy section, DNA's Fiscal Manager/Director of Finance is responsible for preparing the quarterly report of PAI and forwarding this report to the Executive Director and other appropriate management staff. Pursuant to this procedure, when reduced-fee contractors are utilized for PAI activities, the Administrative Director will contact those contractors twice per year, to ensure that no more than half of their gross annual income is derived from DNA. This process was confirmed by the Administrative Director. If more than half of the contractor's income is derived from DNA, the fiscal year's payments to those contractors can no longer be counted as PAI expenses and DNA would need to go back and designate all payments made to, and cases handled by, that contractor as staff. The Fiscal Manager/Director of Finance will make an adjustment in DNA's Accounting system to reflect same. This RCA is now considered closed.

8. Deposit funds into a bank account without fees, or if one is not available, a bank that has minimal fees. If a bank fee is paid, the fee should be distributed proportionately among the various funding sources that DNA receives money from which has been deposited into the account; and

In response to this RCA, DNA indicated that its current bank, Wells Fargo, refused to reduce DNA's monthly fees. According to DNA, they reviewed every item that was charged and were able to delete several items which resulted in a monthly savings of approximately \$200.00. Furthermore, DNA indicated it was obtaining proposals from other banks in the area that charged little or no cost for a similar type of account.

The FUR-2013 evidenced that DNA has complied with this RCA.

The FUR-2013 review of DNA's general fund account, payroll account, and investment account for the time periods January 2012 through June 2013 revealed that DNA incurred bank fees of \$6,600.90, \$210.00, and \$-0- respectively. An analysis of DNA's general ledger, general journal entries, audited financial statement, and interim financial statement for these periods, as well as a supporting schedule maintained on an excel spreadsheet that reconciles back to DNA's general ledger, disclosed that DNA allocated bank fees of \$1,457.58, \$4,736.74, and \$606.58, respectively, to the following funding sources Fundraising, New Mexico Legal Service, and LSC Native American.

According to DNA's guidelines which are outlined in its Accounting Manual, under the section entitled "Bank Fees," "all fees charged by the bank must be allocated to funding sources in proportion to the funding provided by that funding source, with the exception of the proportion of the fees to be charged to a funding source that will not pay for this type of expense, will be charged to Unrestricted Funds." The bank fees identified on the excel spreadsheet provided to OCE indicated that bank fees (during the review period from January 1, 2012 through June 30, 2013) were reported and allocated amongst various funding sources, and the LSC fund was charged or assessed bank fees, at less than an amount of their equitable portion. Based on DNA's total support and contributions for 2012 and June 2013 year-to-date, LSC's portion was

\$3,191,888 or 78%, and \$1,561,125 or 55% respectively. DNA only charged the LSC fund \$35.00 or 1% in 2012 and \$571.58 or 33% to date in 2013. This RCA is considered closed.

9. Develop an Accounting Manual which adequately defines administrative internal controls and significant fiscal processes in a manner necessary to meet the requirements of LSC Grant Assurances, LSC Regulations and the Accounting Guide for LSC Recipients (2010 Edition).

In response to this RCA, DNA indicated it was updating the procedures in its Accounting Procedures Manual to be consistent with the General Accounting Principles, LSC Grant Assurances, LSC regulations, and Accounting Guide for LSC Recipients. DNA also indicated that it was using a consultant to assist in updating its accounting software along with revamping its procedures to use the software more completely, creating more useful financial reports, and providing intensive training to its accounting and administrative staff.

The FUR-2013 evidenced that DNA has complied with this RCA.

The FUR-2013 confirmed that DNA's Accounting Manual adequately defines its administrative internal controls and that its fiscal policies and procedures meet the necessary requirements that are required or recommended by LSC Grant Assurances, LSC Regulations, and the Accounting Guide for LSC Recipients (2010 Edition), with the exception of attorneys' fees. From interviews with the Director of Finance and Administrative Director, DNA has a policy regarding attorney fees (45 CFR Part 1609) but has not incorporated this policy into its Accounting Manual. However, there is no fiscal authority requiring DNA to incorporate this policy into their Accounting Manual. This RCA is considered closed.

B. The 2013 Special Grant Conditions ("SGCs")

As a condition of continued LSC funding for calendar year 2013, DNA agreed to comply with the following SGCs:

1. On or before January 31, 2013, DNA was required to:
 - a) Advise LSC (rathl@lsc.gov; competition@lsc.gov) as to the current status for implementing the revised policies and procedures contained in its Accounting Procedures Manual, which were drafted in response to Year 2012 Special Grant Condition ("SGC") No. 1.a, and outline any policies that must be further developed or revised

By letter dated February 25, 2013, DNA was provided notification that this SGC had been successfully completed.

- b) Submit to LSC (rathl@lsc.gov; competition@lsc.gov) a copy of DNA's Board of Directors-approved resolution regarding bank or other financial institution fees and a copy of DNA's written policies and procedures for distributing any bank or

other financial institution fees/charges proportionally among the various funding sources whose funds are deposited in such account(s).

DNA has completed this SGC. Through interview with DNA's Administrative Director it was determined that DNA's written policy and procedures for distributing any bank or other financial institution fees/charges proportionally among the various funding sources was included in the packet presented to the Board in its Accounting Procedures Manual, which was approved by Board resolution dated February 11, 2012. A copy of the resolution approving the Accounting Manual and a copy of the packet relating to DNA's written policy and procedures for distributing bank or other financial institution fees/charges proportionally among the various funding sources was provided to the OCE team.

Review of the information provided by DNA during FUR-2013, as well as information provided by email on August 30, 2013, revealed that DNA has taken sufficient action responsive to OCE's concerns regarding this issue. By letter dated October 28, 2013, DNA was advised that this SGC had been successfully completed.

- c) Submit to LSC (rathl@lsc.gov; competition@lsc.gov) a copy of its Board of Directors-approved fraud risk assessment and monitoring program, including the Board's written policy and associated procedures for reviewing organizational risks on an annual basis. As had previously been detailed in Year 2012 SGC No. 1.b.

Although a copy of DNA's Board approved policy had not been submitted to LSC at the time of the on-site review, as required under SGC No. 1.c, substantial completion was noted with respect to this SGC during the FUR-2013. Through interview with DNA's Administrative Director it was determined that DNA's Board had approved a Fraud Risk Prevention Policy by Resolution at its meeting on April 27, 2013. A copy of this Resolution of the Board of Directors was provided to the OCE FUR-2013 review team on-site.

Review of the information provided by DNA during FUR-2013, as well as information provided by email on August 30, 2013, revealed that DNA has taken sufficient action responsive to OCE's concerns regarding this issue. By letter dated October 28, 2013, DNA was advised that this SGC had been successfully completed.

- d) Submit to LSC (rathl@lsc.gov; competition@lsc.gov) a report detailing the status of DNA's compliance with its Independent Public Accountant's ("IPA") finding 11-2 to immediately request a waiver for the 2011 excess funds and continue to communicate with LSC regarding the 2010 excess carryover.

By letter dated February 25, 2013 DNA was provided notification that this SGC had been successfully completed.

- e) Submit to LSC (rathl@lsc.gov; competition@lsc.gov) a report detailing any excess funds currently remaining from its 2010 and 2011 LSC funding along with

the recipient's plans to spend the excess funds or return these funds to LSC, as applicable.

By letter dated February 25, 2013, DNA was provided notification that this SGC had been successfully completed.

2. On or before February 28, 2013, Recipient shall submit to LSC (rathl@lsc.gov; competition@lsc.gov) a report regarding its progress towards implementing a fully operational computer system with the necessary structure, function and report generation capabilities to adequately meet the requirements of LSC regulations and Grant Assurances, as well as the Accounting Guide for LSC Recipients, as had been previously detailed in Year 2012 SGC No. 2.a.

By e-mail dated February 27, 2013, DNA provided a response to this SGC and was provided notification by OCE, in a letter dated April 16, 2013, that this SGC had been successfully completed.

3. On or before April 30, 2013, Recipient shall submit to LSC (rathl@lsc.gov; competition@lsc.gov), for review and approval, a revised/updated Accounting Procedures Manual which includes DNA's bank fees allocation policy and procedures as noted in SGC 1.b. and DNA's fraud risk assessment and monitoring program policy and procedures as noted in SGC No. 1.c.

At the time of the FUR-2013, this SGC had been partially completed by DNA. During OCE's on-site FUR-2013, it was determined that a draft response to SGC No. 3 was prepared but never sent to OCE. It was reported by the Administrative Director that a letter was drafted, dated June 18, 2013 to the OCE Director to follow-up on SGCs Nos. 3 and 4. The letter was provided to the Finance Director to add the dates that training for fiscal staff on DNA's Fraud Risk Prevention Policy would occur, however, it was never sent to OCE.

As previously described under the analysis for SGC No. 1.b., it was determined that DNA's bank fees allocation policy and procedures were included in its Accounting Procedures Manual, which was approved by Board resolution dated February 11, 2012. A copy of the resolution approving the Accounting Manual and a copy of the packet relating to DNA's written policy and procedures for distributing bank or other financial institution fees/charges proportionally among the various funding sources was provided to the OCE team.

As previously stated under the analysis for SGC No.1.c., it was determined that DNA's Board had approved a Fraud Risk Prevention Policy by Resolution at its meeting on April 27, 2013. During the FUR-2013, it was further determined that this policy was not currently included in DNA's Accounting Manual. The Administrative Director advised that the Board minutes from its April meeting were not yet complete, therefore the program did not have a written record concerning where its Fraud Risk Prevention Policy resides. She further advised that her recollection is that, at its April 27, 2013 meeting, the Board wanted the policy to be included both in DNA's Accounting Manual and in its Personnel Policies and Procedures Manual. Through interview

with the Finance Director it was stated that if he determined the Board had not previously passed a Resolution at its April 27, 2013 meeting to add its approved Fraud Risk Prevention Policy as an addendum to DNA's Accounting Procedures Manual, then he would add an agenda item for the Board to pass such resolution at its next meeting which was scheduled for August 2013.

Review of the information provided by DNA during FUR-2013, as well as information provided by email on August 30, 2013, revealed that DNA has taken sufficient action responsive to OCE's concerns regarding this issue. By letter dated October 28, 2013, DNA was advised that this SGC had been successfully completed.

4. On or before June 28, 2013, Recipient shall submit to LSC (rathl@lsc.gov; competition@lsc.gov) evidence of the Board of Director's approval of the LSC-approved, revised/updated Accounting Procedures Manual, which includes DNA's bank and other financial institution fees allocation policy and procedures as noted in SGC No. 1.b. and DNA's fraud risk assessment and monitoring program policy and procedures as noted in SGC No. 1.c. The Recipient shall also submit a training schedule for all fiscal staff regarding both new and existing fiscal/internal controls policies and procedures contained in the Board approved Accounting Procedures Manual.

At the time of the FUR-2013, this SGC had been partially completed by DNA. As previously described above under the discussion for SGC No.3, during OCE's on-site FUR-2013 it was determined that a draft response to SGCs Nos. 3 and 4 was prepared but never sent to OCE. A copy of the resolution approving the Accounting Manual and a copy of the packet relating to DNA's written policy and procedures for distributing bank or other financial institution fees/charges proportionally among the various funding sources was provided to the OCE team.

DNA provided evidence of the Board of Director's approval of the LSC-approved, revised/updated Accounting Procedures Manual, which includes DNA's bank and other financial institution fees allocation policy and procedures (as noted in SGC No.1.b.) The Board of Directors approved DNA's Fraud Risk Prevention Policy on April 27, 2013; however, because the April Board minutes were not yet finalized at the time of the FUR- 2013 onsite OCE review, it was not clear if DNA's Fraud Risk Prevention Policy had been formally included as an addendum to DNA's Accounting Manual, as noted in SGC No. 3. The Finance Director advised that if he determined the Board had not previously passed a Resolution at its April 27, 2013 meeting to add its approved Fraud Risk Prevention Policy as an addendum to DNA's Accounting Manual, then he would add an agenda item for the Board to pass such resolution at its next meeting which is scheduled in August 2013.

Prior to the FUR-2013, DNA had not submitted to LSC the training schedule required pursuant to SGC No. 4 for all fiscal staff regarding both new and existing fiscal/internal controls policies and procedures contained in the Board of Directors approved Accounting Procedures Manual. During OCE's FUR-2013, the Finance Director provided documentation related to five (5) relevant trainings that DNA had provided to its fiscal staff in 2012, which included training on the following:

- DNA's Accounting Manual (January 9–13, 2012) including training on allocation of bank fees;
- Microsoft Dynamics accounting software (May 14-16, 2012) including training on requisitions, purchasing, inventory, and accounts payable modules;
- Fiscal reports review and writing (June 20, 2012);
- Kemps (timekeeping) and Solomon (accounting software) relationship for payroll (July 24-24, 2012); and
- Accounting software training to refresh the fiscal staff training provided in June 2012 (November 7-9, 2012).

The Finance Director advised that another training session would be scheduled for August 2013 to train DNA's fiscal staff regarding its newly adopted Fraud Risk Prevention Policy.

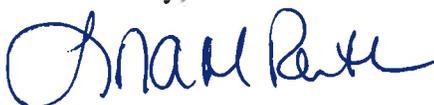
LSC's October 3, 2013 letter advised that, in order to complete and close SGC No. 4, DNA must submit to the OCE Director its response to this SGC which provides evidence which demonstrates that its previously approved Fraud Risk Prevention Policy was included as an addendum to DNA's Accounting Manual. Additionally, the letter noted that DNA's submission to the OCE Director should outline a training schedule, as described above, for all fiscal staff regarding both new and existing fiscal/internal controls policies and procedures contained in the Board approved revised/updated Accounting Manual.

Review of the information provided by DNA during FUR-2013, as well as information provided by email on August 30, 2013, revealed that DNA has taken sufficient action responsive to OCE's concerns regarding this issue. By letter dated October 28, 2013, DNA was advised that this SGC had been successfully completed.

In summary, DNA has adequately addressed the concerns raised by the prior FUR-2011 with respect to the nine (9) RCAs. Additionally, review of the information provided by DNA during FUR-2013, as well as information provided by email on August 30, 2013, revealed that DNA has taken sufficient action to respond to complete all 2013 SGCs.

If you have any questions or concerns about the information contained in this letter, please contact Joseph H. Green, Jr., Program Counsel at 202-295-1537.

Sincerely,



Lora M. Rath, Director,
Office of Compliance and Enforcement