



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

**California Indian Legal Services, Inc.**  
Compliance Review  
March 3-6, 2014

Recipient No. 705158

LSC Compliance Review Team

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## **I. EXECUTIVE SUMMARY**

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

**Finding 2:** Review of the recipient's intake policies, procedures, and case management system and interviews with staff evidenced that CILS' eligibility screening process supports its compliance related requirements. CILS' financial eligibility policy is consistent with 45 CFR Part 1611 and is properly applied during the eligibility screening process.

**Finding 3:** Review of the recipient's sampled cases evidenced substantial compliance with the income eligibility documentation requirements of 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:** Review of the recipient's sampled cases evidenced compliance with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

**Finding 5:** Review of the recipient's updated policies, procedures, and sampled cases evidenced compliance with the citizenship restrictions contained in 45 CFR Part 1626; however, one (1) citizenship attestation was not obtained where the client had dementia and had already been screened for citizenship.

**Finding 6:** Review of the recipient's sampled cases and related documents evidenced compliance with 45 CFR § 1611.9 (Retainer agreements).

**Finding 7:** Review of the recipient's policies and procedures and sampled cases evidenced compliance with 45 CFR Part 1636 (Client identity and statement of facts).

**Finding 8:** Review of the recipient's policies and procedures, sampled cases, and related documents evidenced compliance with 45 CFR §§ 1620.3(a) (Establishing priorities) and 1620.6 (Signed written agreement).

**Finding 9:** Review of the recipient's sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Legal assistance documentation requirements).

**Finding 10:** Review of the recipient's sampled cases evidenced that its application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

**Finding 11:** Review of the recipient's sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing of cases).

**Finding 12: Review of the recipient's sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Single recording of cases).**

**Finding 13: Review of the recipient's updated policies and interviews with management and staff evidenced compliance with 45 CFR Part 1604 (Outside practice of law).**

**Finding 14: Review of the recipient's policies, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1608 (Prohibited political activities).**

**Finding 15: Review of the recipient's updated policies, procedures, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1609 (Fee-generating cases).**

**Finding 16: Review of the recipient's fiscal records and notification letters sent to funding sources and interviews with management and staff evidenced compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).**

**Finding 17: 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, was not tested as CILS requested and was granted a waiver of its PAI expenditure requirement for the entire period of review.**

**Finding 18: Review of the recipient's policies, procedures, and fiscal records and interviews with management and fiscal staff evidenced compliance with 45 CFR Part 1627 (Subgrants and membership fees or dues).**

**Finding 19: Review of the recipient's policies, procedures, and fiscal records and interviews with management and fiscal staff evidenced compliance with 45 CFR Part 1635 (Timekeeping requirement).**

**Finding 20: Review of the recipient's sampled cases, policies, and fiscal records and interviews with management and staff evidenced compliance with former 45 CFR Part 1642 (Attorneys' fees).**

**Finding 21: Review of the recipient's updated policies, procedures, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

**Finding 22: Review of the recipient's updated policies, procedures, and sampled cases and interviews with management and staff evidenced compliance with 45 CFR Parts 1613 (Restrictions on legal assistance with respect to criminal proceedings) and 1615 (Restrictions on actions collaterally attacking criminal convictions).**

**Finding 23: Review of the recipient's policies, procedures, and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1617 (Class actions).**

**Finding 24: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1632 (Redistricting).**

**Finding 25: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).**

**Finding 26: Review of the recipient's policies, procedures, and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1637 (Representation of prisoners).**

**Finding 27: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1638 (Restriction on solicitation).**

**Finding 28: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).**

**Finding 29: Review of the recipient's sampled cases and interviews with management evidenced compliance with 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 recipient's fidelity bonding on staff evidenced compliance with 45 CFR Part 1629 (Bonding of recipients).**

**Finding 31: Review of the recipient's accounting records and interviews with fiscal staff evidenced compliance with 45 CFR Part 1630 (Cost standards and procedures).**

**Finding 32: Review of the recipient's internal control policies and procedures, responses to the LSC Segregation of Financial Duties Worksheet, and fiscal records and interviews with management and fiscal staff evidenced that CILS' accounting and reporting capabilities and its system of internal controls compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide.**

**Finding 33: Review of the recipient's TIG procedures, practices, and fiscal and other records related to TIG No. 11004 and interviews with management and fiscal staff evidenced substantial compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines.**

## II. BACKGROUND OF REVIEW

On March 3 through 6, 2014, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Compliance Review at California Indian Legal Services, Inc. ("CILS"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of two (2) OCE Program Counsels, one (1) OCE Fiscal Compliance Analyst, and two (2) OCE Temporary Employees. During the course of the Compliance Review, OCE visited CILS' main office in Escondido, as well as its Sacramento and Eureka offices. CILS also maintains an office in Bishop, CA; however, due to the small size of the office and its remote location, Bishop case files were reviewed in the Sacramento office.

The on-site review was designed and executed to assess the recipient's compliance with basic client eligibility, intake, case management, and regulatory and statutory requirements and to ensure that CILS has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed CILS 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 §§ 1620.3(a) 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 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees)<sup>1</sup>; 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); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion). The period of review focused on January 1, 2011 through December 31, 2013.

CILS is an LSC grant recipient that primarily receives Native American funding, but also receives a small amount of Basic Field funding. CILS' main office is located in Escondido, with branch offices in Sacramento, Eureka, and Bishop. CILS' service area encompasses the entire state of California, which is home to 110 federally-recognized tribes, dozens of unrecognized tribes, and hundreds of Indian groups, organizations, and associations. According to its June 4, 2012, Renewal Application for LSC funding, CILS provides a variety of federal Indian law services, as well as assistance with other issues identified as priorities, such as education and tax assistance, with its Native American funds. With its Basic Field funds, CILS provides services

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<sup>1</sup> On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

in the remote Eastern Sierra, through its office in Bishop, relating to a variety of poverty law issues, including landlord-tenant, estate planning, consumer, and public benefit issues. CILS is the sole California legal service provider of free and low-cost legal services regarding Indian issues and the sole provider of basic field services in the Eastern Sierra. Each CILS office conducts its own intake eligibility screening and CILS has requested and received a PAI waiver for each year in the review period.

At the time of the review, CILS had a total staff of 16; including eight (8) attorneys, one (1) paralegal, and seven (7) other staff. CILS has undergone some leadership changes in the last few years, beginning with the departure of its Executive Director in 2005 after 23 years. A new Executive Director served from 2007 through 2012, but was replaced by CILS' current Executive Director in 2013.

CILS' LSC Native American funding for 2011 was \$977,253 and its Basic Field funding was \$37,499; for 2012 it was \$832,097 and \$32,002, respectively; for 2013 it was \$815,953 and \$28,660, respectively; and for 2014, it is expected to be \$866,424 and \$23,983, respectively. In 2011, CILS was awarded TIG No. 11004 in the amount of \$26,600 which is active. In its 2011 Case Service Report ("CSR") submission to LSC, CILS reported 698 closed cases, and in its 2012 CSR submission, CILS reported 490 closed cases. CILS also reported for 2011 and 2012 that 62.2% and 63.9%, respectively, of its closed cases were of miscellaneous subject matter. CILS' largest identified legal type of cases represented for 2011 and 2012 were employment law cases, representing 18.5% and 22.2%, respectively, of closed cases. Additionally, CILS indicated for 2011 and 2012, that 93.3% and 91.6%, respectively, of its closed cases were limited service cases. Finally, CILS' 2011 and 2012 self-inspection certifications indicated a 0.0% error rate in CSR reporting.

By letter dated December 2, 2013, OCE requested that CILS provide a list of all cases reported to LSC in its 2011 CSR data submission (closed 2011 cases), a list of all cases reported in its 2012 CSR data submission (closed 2012 cases), a list of all cases closed between January 1, 2013, and December 31, 2013 (closed 2013 cases), and a list of all cases which remained open as of December 31, 2013 (open cases). CILS was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and CILS agreement of February 26, 2014, CILS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.<sup>2</sup> CILS' management and staff cooperated fully in the course of the review process.

The OCE team interviewed members of CILS' upper and middle management, staff attorneys, and support staff. CILS' case intake, case acceptance, case management, and case closure

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<sup>2</sup> In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

practices and policies were assessed. In addition to interviews, sample case files were reviewed. The sample closed case review period was from January 1, 2011 through December 31, 2013. A total of approximately 500 case files were reviewed. The sample was developed proportionately among 2011, 2012, and 2013 closed and open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with certain CSR instructions (*e.g.*, timely closing, proper application of the CSR case closure categories, and duplicate reporting, etc.).

During the on-site review, CILS exhibited a consistency of process and practices which support compliance-related activities. The review team observed that CILS contemplated LSC's requirements and implemented procedures to ensure a high degree of compliance with them; however, several of CILS' LSC required written policies and procedures were found to be outdated. The Team Leader and fiscal staff reviewed each of the LSC required policies and procedures with the Executive Director and Director of Administration in order to identify missing and/or outdated language. CILS management committed to redrafting its policies and procedures, with a goal of completing the revisions prior to the issuance of the Draft Report.

As indicated above, CILS was made aware of any identified compliance issues during the on-site review. This was accomplished by informing the case review intermediary, fiscal staff, intake staff, Director of Administration, and Executive Director of any compliance concerns uncovered as the review progressed. CILS appeared appreciative of OCE's assistance during the course of the review and was open to the feedback provided by the review team. OCE conducted an exit conference on March 6, 2014, during which CILS was provided again with OCE's preliminary findings.

CILS was advised that it would receive a Draft Report which would include all of OCE's findings and that it would have 30 days to submit comments. CILS committed to maintaining ongoing communications with the Team Leader in order to, where possible, make any additional needed adjustments prior to the issuance of the Draft Report. CILS followed through on its commitment to make needed adjustments prior to the issuance of the Draft Report, providing OCE with additional materials documenting its action.

On June 10, 2014, CILS provided OCE with updated and compliant LSC required policies and procedures which were reviewed and approved by its Board of Directors at their regularly scheduled June 7, 2014, Board meeting. The updated and approved policies included 45 CFR Parts 1604, 1605, 1609, 1612, 1613, 1626, 1637, 1639, and 1644. CILS provided additional materials to OCE on a rolling basis, as indicated in the applicable findings, to address several compliance concerns identified during the course of the on-site review and, as a result, there are very few items that require further action by CILS.

By letter dated July 10, 2014, OCE issued the Draft Report detailing its findings regarding the March 3-6, 2014 Compliance Review. CILS was asked to review the Draft Report and provide any written comments within 30 days. By letter dated August 1, 2014, CILS indicated that it was very pleased with Draft Report and provided comments regarding the actions taken to respond to the Required Corrective Actions contained in the Report. In short, CILS indicated that it had taken actions responsive to the two (2) Required Corrective Action items and reported that

relevant revised policies would be presented for approval at the next Board of Trustees meeting, scheduled for September 6, 2014.

### III. FINDINGS

**Finding 1: Review of the recipient’s automated case management system (“ACMS”) and interviews with staff evidenced that the ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.**

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.

CILS’ ACMS was reviewed to assess compliance with LSC requirements and determined to be sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

CILS has used PIKA Software as its ACMS since September 2008, when it transitioned from Turbo Cases. Open cases were imported into PIKA; however, due to transition challenges, cases closed before 2008 were not transferred. Accordingly, CILS continues to use Turbo Cases to check for conflicts prior to 2008.

In accordance with the CSR Handbook (2008 Ed., as amended 2011), §§ 3.1 and 3.5, CILS’ ACMS is capable of reporting cases to LSC by funding source, grant type, and office. Additionally, CILS has the ability to generate other unique ACMS reports and review data from multiple perspectives, as needed. Further, CILS does not rely on manual calculation and tabulation when compiling its CSRs.

Based on a comparison of the information yielded by the ACMS to information contained in the files sampled, as well as testing of its reporting functions, CILS’ ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

There are no recommendations or required corrective actions needed.

**Finding 2: Review of the recipient’s intake policies, procedures, and case management system and interviews with staff evidenced that CILS’ eligibility screening process supports its compliance related requirements. CILS’ financial eligibility policy is consistent with 45 CFR Part 1611 and is properly applied during the eligibility screening process.**

CILS’ intake, case management, and oversight procedures were assessed by interviewing staff conducting intake, staff attorneys, and middle and senior management during the course of the

on-site review. The review evidenced that CILS' intake policies and procedures were adequately carried out by staff and that these practices support its compliance-related requirements.

### **Financial Eligibility Policy Review**

~~CILS has adopted a written policy to guide its staff in complying with 45 CFR Part 1611 that is consistent with the Regulation. Staff maintains a copy of CILS' LSC Compliance Binder, which contains all LSC-required policies, in their workspaces for reference as necessary. Intake interviews evidenced that the policy is properly applied during the eligibility screening process.~~

### **Intake, Case Management, and Oversight**

#### *CILS' Intake Guidance for Staff*

CILS has developed a detailed Intake & Case Management Policy & Procedure Manual ("intake manual"), revised January 2010. The intake manual articulates CILS' application process and ACMS data entry protocols in a step-by-step format and contains a lengthy appendix with forms, questionnaires, checklists, sample memos, and other compliance related information. Additionally, each office maintains an LSC Compliance Binder ("compliance binder") which contains LSC regulations and CILS' implementing policies, the CSR Handbook (2008 Ed., as amended 2011), and other relevant information. A staff member from each office has the responsibility of updating the compliance binder as needed. The intake manual and compliance binder are available electronically to all staff.

At the time of the on-site review, senior management was in the process of updating both the intake manual and compliance binder, as several of the attached forms have been updated and some of the demonstrative text, such as ACMS screen shots, was outdated. All updated forms and ACMS changes have been sufficiently communicated to staff, as the review evidenced that staff was aware of the changes and actively using the updated forms. Additionally, it was determined that staff conducting intake follow the intake screening and ACMS data entry procedures set forth in the intake manual. There were, therefore, no compliance concerns with regard to the outdated items in the intake manual and binder.

OCE's review of the intake manual, however, flagged one (1) additional item in need of revision by CILS. CILS' intake manual detailed its policy of using the letter "K" as a method of case deselection. OCE's review of the intake manual and interviews with management and staff evidenced that, when used in conjunction with "funding code 7" (CILS' internal funding code used to indicate a deselected case), K is used by CILS to signify a case that should be removed from CSR reporting. CSR case closure category "K" (other), as well as all other LSC case closure categories, may only be used for cases that meet all of the requirements of a CSR reportable case. *See* CSR Handbook (2008 Ed., as amended 2011), Chapters II and V. Accordingly, the use of case closure category "K" to denote a deselected case – or any other case in which legal assistance was not rendered to an eligible client – is non-compliant. However, it was determined that, although the use of "K" as a deselect is not preferred, CILS' policy did not result in a pattern of error as there were no cases identified as having been

reported to LSC in error.<sup>3</sup> As such, CILS was advised to review § 3.5 of the CSR Handbook (2008 Ed., as amended 2011) and to choose a deselect letter that is not also one of the CSR case closure categories.

CILS management expressed an understanding of this requirement and indicated that a new letter would be chosen to signify a deselected case. On April 28, 2014, CILS' Executive Director indicated that its method of deselection had been changed and that the Director of Administration had corrected any open and recently closed files reflecting the letter "K." CILS Executive Director also indicated that its intake manual would be update to reflect these changes. Additionally, on June 10, 2014, CILS provided OCE with a screen shot demonstrating that its ACMS was reprogrammed to indicate the use of the letter code "X" for "other legal services" files that are not CSR reportable and to show that funding code "7" had been implemented for the deselection of cases from CSR reporting. CILS again indicated that it had reviewed all of its closed 2014 cases to ensure that they were properly closed.

### *Intake Eligibility Screening*

Each of CILS' offices uses support staff to conduct intake eligibility screening. Due to CILS' vast service area, the majority of intake eligibility screening is conducted over the telephone. All offices, however, also allow for walk-in applications during business hours. Less frequently, CILS conducts outreach intake for tribes when promoting its estate planning services and during tax season; however, the intake process for these cases is identical to the process detailed below as legal assistance is not provided on-site.

After a brief pre-screen for legal issue, intake staff will use a Client Information Sheet (a paper form) to guide the screening process. Interviews evidenced that intake staff asks appropriate eligibility questions and document responses on CILS' Client Information Sheet. The Client Information Sheet used follows the ACMS format and contains appropriate eligibility screening questions and a CSR compliant citizenship attestation.

Intake staff begins by asking for the applicant's full name and the name of the opposing party in order to conduct a conflict and duplicate case check in the ACMS. Intake staff also determines whether the applicant is in need of emergency assistance. If an emergency is identified, a managing attorney is contacted to make arrangements for the applicant.

Intake staff next obtains citizenship or eligible alien status information. If the intake interview is conducted in person, a written citizenship attestation or documentation of an eligible alien status is obtained at that time. Intake staff indicated that the majority of applicants are U.S. citizens, with the rare exception of an applicant with Jay Treaty status; Jay Treaty status applicants are asked to present their Legal Permanent Resident cards.

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<sup>3</sup> OCE identified very few cases closed with CSR case closure category "K" on the case lists provided by CILS prior to the on-site visit and several of those cases were targeted for review; however, case review evidenced that the cases were, in fact, CSR eligible cases. *See*, for example, Closed 2013 Case No. ESC-13-00063 and Closed 2011 Case No. 11-00157.

Financial eligibility screening follows, with household size and income and asset data recorded on the Client Information Sheet. If an applicant's income is between 125-200% of the Federal Poverty Guidelines ("FPG"), CILS staff uses a Gray Zone Checklist form as a guide to inquire into available 45 CFR § 1611.5 authorized exception factors that may allow the applicant to qualify for services. As is detailed in the intake manual, identified 45 CFR § 1611.5 expenses must be subtracted from the applicant's gross annual income and result in a net income of 125% or less of the FPG to be eligible for LSC-funded assistance. The completed Gray Zone Checklist is then scanned into the ACMS and sent electronically to the Executive Director or Director of Administration for the required approval. Once approved, the Gray Zone Checklist is electronically attached to the record in the ACMS.

Intake interviews, document reviews, and the ACMS review evidenced that staff is consistently inquiring into and documenting applicants' 45 CFR § 1611.7(a)(1) income prospects when conducting intake eligibility screenings. The question is asked by staff, is included as a checkbox in the ACMS, and is listed as a screening question on CILS' Client Information Sheet. CILS has not adopted the 45 CFR § 1611.4(c) government benefits exception.

Once all required financial eligibility data is recorded on the Client Information Sheet, intake staff is authorized to make a financial eligibility determination. Applicants who are found to be financially ineligible for LSC-funded legal assistance are informed at that time by intake staff. Ineligible applicants may be provided referrals or self-help packets. Tribes and tribal organizations that are ineligible for LSC-funded legal assistance may be informed of low-cost tribal services options.

Applicants determined to be financially eligible for services continue to be screened for information regarding their legal problem, to determine whether the case falls within CILS' 45 CFR Part 1620 priorities, and to determine the type of services available to the applicant under CILS' intake manual. Demographic information is also requested at that time. Upon completion of the Client Information Sheet, intake staff will immediately enter the information obtained into the ACMS and ask any follow-up questions as needed. Conflicts are checked on both the PIKA ACMS and Turbo Cases ACMS, as described in Finding 1. A duplicate case check occurs as part of the conflicts check, as the intake staff will also determine whether the applicant is a former or current client.

If a determination is made that an applicant meets CILS' LSC eligibility requirements, the applicant's legal issue falls within CILS' priorities, and a staff attorney or supervised advocate is available, the individual may be provided legal information or advice immediately after the intake is completed. In this scenario, the case will still be discussed at CILS' weekly case acceptance meeting, as discussed below, in order to determine whether the case should be closed or if additional legal services are warranted. If the only assistance an applicant receives is the provision of legal information, funding code "Cat. 9" is elected in the ACMS to indicate that the file is an "other legal services" matter. Cases indicated with the "Cat. 9" funding code are not reported to LSC in CILS' CSRs.

### *Case Acceptance, Closure, and Review*

Applicant cases are reviewed at weekly case acceptance meetings held at each office and attended by all office staff, as well as the Executive Director by telephone. Cases accepted for representation are then assigned to a staff attorney or advocate, depending on the office and legal issue.

Telephone applicants accepted for extended representation will be sent, via mail, a Client Service Agreement, Bureau of Indian Affairs authorization, if applicable, and a printed PIKA sheet containing a citizenship attestation. Accepted applicants are asked to sign and return the documents, typically also via mail, in order for extended services to be provided. The PIKA sheet has two (2) signature lines the applicant is asked to sign, one (1) verifying the accuracy of the eligibility information and one (1) attesting to U.S. citizenship.

Open case lists are generated for review at weekly meetings at least once per month, however the small size of each CILS office allows for the directing attorneys and Executive Director to be frequently apprised of the status of open cases. Middle and upper management maintain open door policies and a culture that promotes teamwork, as the review team observed staff frequently conferring with one another regarding case strategy.

Once a case is ready for closure, the assigned case handler is responsible for selecting the applicable CSR Handbook (2008 Ed., as amended 2011), Chapter VIII, case closure category, adding closing notes to the file, sending a closing letter to the client, electronically attaching relevant documents to the ACMS record, and closing the file in the ACMS. Closed files are then routed for CILS' standard internal audit.

CILS' internal audits are conducted by a designated staff member who has not worked on the closed case and must be conducted within 30 days of case closure. CILS prioritizes this time frame as a way to support the timely closing of cases and allowing, if necessary, enough time to reach out to the former client if any required documents are missing in the file. The auditor completes CILS' LSC Compliance Audit Checklist ("audit checklist") while reviewing closed cases. The audit checklist, most recently revised January 2012, requires the auditor to indicate, by checking off appropriate boxes, whether the file contains LSC required information and documentation. After the standard internal audit is completed, the applicable office's Directing Attorney will then review the case, including the closing memoranda and audit checklist. Finally, the Executive Director conducts the concluding review.

### *Review of Standard Hard-Copy Forms*

Samples of CILS' printed ACMS PIKA sheet, Client Information Sheet, Gray Zone Checklist, Group/Tribal Financial Certification, Client Service Agreement, Grievance Policy, LSC Compliance Audit Checklist, and ACMS screen shots were collected and assessed for compliance with LSC requirements. The forms were also reviewed for the purpose of determining whether eligibility was conducted in a sufficiently uniform and consistent manner by all staff conducting intake. All forms reviewed were found to be consistent throughout all

offices and compliant with LSC regulations; however, the on-site team made two (2) recommendations while on-site that would further support CILS' compliance efforts.

#### *Group and Tribal Financial Eligibility Certification*

CILS' financial eligibility policy describes its group eligibility documentation requirements consistent with 45 CFR § 1611.6. CILS maintains a series of Group and Tribal Financial Eligibility Certification forms to use when conducting intake for groups. The forms were drafted with the intention of covering both 45 CFR §§ 1611.6(a)(1) and (a)(2) groups and indicate the eligibility requirements of each group. It is intended that an officer of the applicant group complete and sign the form attesting that the group is made up of individuals that meet CILS' financial eligibility guidelines or has a principal activity of delivering services to persons in the community who would qualify for CILS' assistance, that it has no means of securing private counsel, and that it will provide CILS' a copy of its current operating budget or attest that it does not have financial statements or an operating budget. Sampled case review and interviews evidenced that the form is used as an attestation by CILS, requiring an applicant group's primary officer to indicate that the group meets the indicated regulatory requirements and that documents and information sufficient to comply with LSC regulations are reviewed and documented by CILS' staff.

During the course of the on-site review, however, OCE communicated to CILS its recommendation that the group eligibility form be amended to include a signature line for intake staff to sign indicating that they have reviewed and found adequate the information and/or documentation provided by the applicant group in order to provide another layer of regulatory compliance support to its group eligibility screening process.

#### *Gray Zone Checklist and Spend-Down*

CILS' 45 CFR Part 1611 Client Eligibility Guidelines and interviews indicated that CILS employs a "spend-down" when screening applicants with income between 125 – 200% of the FPG for its adopted § 1611.5 authorized exceptions (a spend-down is the practice of subtracting identified § 1611.5 expenses from applicants' total income in an attempt to bring the income level to 125% or below of the FPG). Also, when screening for § 1611.5 authorized exceptions, CILS' procedures, as indicated in its intake manual, require that staff complete a Gray Zone Checklist and submit it to management for approval.

While on-site, the review team discussed with CILS' management that LSC Regulations do not required it to "spend-down" applicants' income or to obtain management approval when using identified 45 CFR § 1611.5 expenses to determine that an applicant is eligible for services. In addition, considering CILS' small size, it was suggested that the efficiency of such procedures should be taken into consideration. This guidance was received enthusiastically by CILS, as it indicated that eliminating the spend-down and Gray Zone approval process would be beneficial to both staff conducting intake and management required to review and approve forms.

On June 10, 2014, CILS communicated to OCE its decision to discontinue the use of the Gray Zone Checklist and the corresponding approval process. CILS provided OCE with an ACMS

screen-shot demonstrating changes that had been made to the eligibility screening section. The screen shot displayed a new drop-down section titled “income justification” which allows intake staff to select an applicable 45 CFR § 1611.5 authorized exception from the drop-down menu. CILS indicated that, in addition to the drop-down, staff records additional details concerning the designated authorized exception(s) in the “case notes” section of the ACMS.

### **Intake Review Conclusion**

Based on the materials reviewed, observations of intake staff, and interviews with management and staff, CILS’ intake procedures and case management system support the recipient’s compliance-related requirements.

### **Finding 3: Review of the recipient’s sampled cases evidenced substantial compliance with the income eligibility documentation requirements of 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.<sup>4</sup> *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% 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 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” for CSR purposes 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.

Review of the recipient’s sampled cases evidenced substantial compliance with the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended

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<sup>4</sup> A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG, with two (2) exceptions. The client in one (1) file reviewed had indicated income exceeding 200% of the FPG and CILS used the LSC authorized income exception of 45 CFR § 1611.5(a)(1), regarding the *maintenance* of governmental benefits, as the basis for the client's eligibility; however, the client had sought assistance with *obtaining* the Earned Income Tax Credit Benefit and, therefore, the exception did not apply. *See* Closed 2013 Case No. SAC-13-00251. The client in another file reviewed had indicated income between 125-200% of the FPG, but the Gray Zone Checklist could not be located. *See* Closed 2013 Case No. ESC-13-00265. As no other instances of these errors were noted, they appeared to be the result of human error rather than a misunderstanding of LSC regulations or a structural defect.

Based on case sampling, CILS evidenced substantial compliance with 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG.

There are no recommendations or required corrective actions needed.

**Finding 4: Review of the recipient's sampled cases evidenced compliance with the asset eligibility documentation requirements of 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.**

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.<sup>5</sup> *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

In the event that a recipient authorizes a waiver of the asset ceiling due to the unusual circumstances of a specific applicant, the recipient shall keep such records as may be necessary to inform LSC of the reasons relied on to authorize the waiver. *See* 45 CFR § 1611.3(d)(2).

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

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<sup>5</sup> A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Based on case sampling, CILS evidenced compliance with 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

There are no recommendations or required corrective actions needed.

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**Finding 5: Review of the recipient’s updated policies, procedures, and sampled cases evidenced compliance with the citizenship restrictions contained in 45 CFR Part 1626; however, one (1) citizenship attestation form could not be located, though the file indicated the applicant had already been screened for citizenship.**

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant’s oral response to the recipient’s inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5, and LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse’s or parent’s family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.<sup>6</sup> Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient’s CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, “Violence Against Women Act 2006 Amendment” (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, are the victims of sexual assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

As noted previously, several policies in effect at the time of the review, including the 45 CFR Part 1626 policy, were outdated. The text of CILS’ Part 1626 policy was compliant with the Regulation, however the individual section citations included in the text of the policy did not correspond with the applicable sections in the current version of Part 1626. On June 10, 2014, CILS provided OCE with an updated 45 CFR Part 1626 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy was reviewed and found to be consistent with the requirements of Part 1626, as all included regulatory citations were found to be accurate.

Sampled cases evidenced compliance with the citizenship restrictions of 45 CFR Part 1626, as all files reviewed contained evidence of citizenship screening; however, one (1) client’s electronic file contained evidence of citizenship screening, but a written attestation could not be located in the case file. *See* Closed 2012 Case No. ESC-12-00383 (client had been diagnosed with dementia and had been brought to the office by her daughter). LSC Regulations, at 45 CFR § 1626.6(a), require that all applicants seen in person attest to their citizenship in writing. As no

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<sup>6</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

cases were found to have been reported to LSC in CILS' CSRs without evidence of citizenship screening, no pattern or substantial risk of error was identified.

Based on the materials reviewed and case sampling, CILS evidenced compliance with the citizenship restrictions of 45 CFR Part 1626 and, in all but one (1) case, compliance with the documentation requirements of 45 CFR § 1626.6(a).

**Finding 6: Review of the recipient's sampled cases and related documents evidenced compliance with 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 a recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practicable and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.<sup>7</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

A review of CILS' standardized retainer evidenced that it was consistent with the requirements of 45 CFR § 1611.9. Sampled cases evidenced properly signed retainer agreements where required.

Based on the materials reviewed and case sampling, CILS evidenced compliance with 45 CFR § 1611.9.

There are no recommendations or required corrective actions needed.

**Finding 7: Review of the recipient's policies and procedures and sampled cases evidenced compliance with 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).

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<sup>7</sup> However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

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).

~~CILS has adopted a written policy and procedure to guide its staff in complying with 45 CFR Part 1636 that is consistent with the Regulation. Sampled cases evidenced compliance with the identification and documentation requirements of 45 CFR Part 1636.~~

Based on the materials reviewed and case sampling, CILS evidenced compliance with 45 CFR Part 1636.

There are no recommendations or required corrective actions needed.

**Finding 8: Review of the recipient’s policies and procedures, sampled cases, and related documents evidenced compliance with 45 CFR §§ 1620.3(a) (Establishing priorities) and 1620.6 (Signed written agreement).**

LSC regulations require that recipients adopt a written statement of priorities that determines the cases which may be undertaken by the recipient, regardless of the funding source. *See* 45 CFR § 1620.3(a). Except in an emergency, recipients may not undertake cases outside its priorities. *See* 45 CFR § 1620.6.

CILS has adopted a written policy and procedure to guide its staff in complying with 45 CFR Part 1620 that is consistent with the Regulation. The review evidenced that an Agreement to Abide by CILS Priorities (“priorities agreement”) is signed by required staff in compliance with 45 CFR § 1620.6. While on-site, five (5) randomly selected priorities agreements were provided to the review team further evidencing compliance. Interviews with management and staff evidenced appropriate knowledge regarding the requirements of 45 CFR §§ 1620.3(a) and 1620.6. Finally, all sampled cases were within CILS’ approved priorities.

Based on the materials reviewed and interviews with management and staff, CILS evidenced compliance with 45 CFR §§ 1620.3(a) and 1620.6.

There are no recommendations or required corrective actions needed.

**Finding 9: Review of the recipient’s sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Legal assistance documentation requirements).**

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance. *See* 45 CFR §§ 1620.2(a) and 1635.2(a). Consequently, whether the assistance that a recipient provides to an applicant is a “case”, reportable in the

CSR data, depends, to some extent, on whether the case is within the recipient's priorities and whether the recipient has provided some level of legal assistance, limited or otherwise.

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

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or another hard-copy document in a case file, 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.

Based on case sampling, CILS evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6.

There are no recommendations or required corrective actions needed.

**Finding 10: Review of the recipient's sampled cases evidenced that its application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).**

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the case closure categories in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.1.

Sampled cases evidenced that CILS' application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011) with few errors noted. Sampled cases evidenced two (2) files that were closed with case closure category "A" (Counsel and Advice) when category "B" (Limited Action) would have been more appropriate. *See* Closed 2011 Case Nos. ESC-11-01184 (case handler had third-party communication) and ESC-11-01184 (case handler provided document preparation assistance). Two (2) files reviewed were closed with case closure category "L" (Extensive Service), but were found to contain evidence of legal work that would have been better categorized under category "B" (Limited Action). *See* Closed 2014 Case Nos. BIS-13-00437 and BIS-13-00150 (case handlers conducted third-party communications and either drafted or obtained a document on their client's behalf). As these files were recently closed, CILS was able to correct the case closure categories while the review team was on-site. Two (2) additional files reviewed were closed with category "L" (Extensive Service), but were found to contain evidence of legal work that would have been better categorized under category "H" (Administrative Agency Decision). *See* Closed 2013 Case Nos. BIS-13-00780 (case handler represented client at school expulsion hearing) and BIS-13-00206 (case handler represented client at hearing to review and approve an

Individualized Education Plan). None of the errors identified were found to be part of a pattern of error and, thus, no substantial risk of error was identified.

Although there was no pattern or substantial risk of error identified, the necessity of case files being closed with the CSR case closure category that reflects the highest level of service provided to the client was discussed with CILS management while the review team was on-site. CILS management indicated that it would take steps to ensure that all staff attorneys and advocates who close cases have a thorough understanding of the CSR case closure categories.

Based on the materials reviewed and case sampling, CILS' application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011).

There are no recommendations or required corrective actions needed.

**Finding 11: Review of the recipient's sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing of cases).**

To the extent practicable, recipients shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).<sup>8</sup> There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L in the 2008 Edition, as amended 2011, of the CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible, or inadvisable and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally, LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

Based on case sampling, CILS evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3.

There are no recommendations or required corrective actions needed.

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<sup>8</sup> The time limitation of the 2001 CSR Handbook that a brief service case should be closed "as a result of an action taken at or within a few days or weeks of intake" has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). This category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Case Closure Category "L" (Extensive Service).

**Finding 12: Review of the recipient's sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Single recording of cases).**

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

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

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

Based on case sampling, CILS evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.2.

There are no recommendations or required corrective actions needed.

**Finding 13: Review of the recipient's updated policies and interviews with management and staff evidenced compliance with 45 CFR Part 1604 (Outside practice of law).**

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in 45 CFR Part 1604, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

As noted previously, several policies in effect at the time of the review, including the 45 CFR Part 1604 policy, were updated subsequent to the on-site review. CILS' Part 1604 policy, while not wholly non-compliant with the regulation, was extremely brief and did not contain a procedure for management approval. On June 10, 2014, CILS provided OCE with an updated 45 CFR Part 1604 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy was reviewed and found to be comprehensive and consistent with the requirements of Part 1604.

CILS' Executive Director indicated that no staff members had participated in outside practice of law activities. Interviews with staff supported this assertion and no outside practice of law activities were identified.

Based on the materials reviewed and interviews with management and staff, CILS evidenced compliance with 45 CFR Part 1604.

There are no recommendations or required corrective actions needed.

**Finding 14: Review of the recipient's policies, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1608 (Prohibited political activities).**

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

CILS has a written policy to guide its staff in complying with 45 CFR Part 1608 that is consistent with the Regulation. CILS' Executive Director indicated that staff members had not participated in prohibited political activities and interviews with staff supported this assertion as no prohibited political activities were identified. Additionally, a review of hard-copy informational materials and publications which CILS makes available to applicants and clients that are published by CILS and other federal, state, and private organizations, as well as a review of CILS' website, evidenced no content prohibited by 45 CFR §§ 1608.4, 1608.5, and 1608.6. This finding was further supported by a limited review of CILS' fiscal records which provided no indication that the program was involved in any prohibited political activity during the period of review.

Based on the materials reviewed and interviews with management and staff, CILS evidenced compliance with 45 CFR Part 1608.

There are no recommendations or required corrective actions needed.

**Finding 15: Review of the recipient's updated policies, procedures, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1609 (Fee-generating cases).**

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

Recipients may provide legal assistance in such a case if it has been rejected by the local lawyer referral service or two (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area

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

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

In light of recent regulatory changes, LSC has prescribed certain specific requirements for fee-generating cases. *See* Program Letters 09-3 (December 17, 2009) and 10-1 (February 18, 2010). LSC has determined that it will not take enforcement action against any recipient that filed a claim for, or collected or retained, attorneys' fees during the period of December 16, 2009 through March 15, 2010. Enforcement activities related to claims for attorneys' fees filed prior to December 16, 2009, or fees collected or retained prior to December 16, 2009, are no longer suspended and any violations which are found to have occurred prior to December 16, 2009, will subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action. Attorneys' fees received by a recipient for representation supported in whole or in part with LSC funds shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the LSC funds expended bears to the total amount expended to support the representation. Further, attorneys' fees received shall be recorded during the accounting period in which the money from the fee award is actually received by the recipient and may be expended for any purpose permitted by the LSC Act, regulations and other applicable law at the time the money is received. *See* 45 CFR § 1609.4.

As noted previously, several policies in effect at the time of the review, including the 45 CFR Part 1609 policy, were updated subsequent to the on-site review. CILS' Part 1609 policy, while not wholly non-compliant with the regulation, did not contain a corresponding procedure. On June 10, 2014, CILS provided OCE with an updated 45 CFR Part 1609 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy was reviewed and found to be consistent with the requirements of Part 1609.

Sampled cases evidenced that legal assistance was not provided in any unauthorized fee-generating cases. Interviews with the Controller further failed to disclose any unauthorized fee-generating cases during the period of review. Moreover, CILS' Executive Director indicated that staff members had not provided unauthorized legal assistance in a fee-generating case and interviews with staff supported this assertion as no unauthorized fee-generating cases were identified.

Based on case sampling, the materials reviewed, and interviews with management and staff, CILS evidenced compliance with 45 CFR Part 1609.

There are no recommendations or required corrective actions needed.

**Finding 16: Review of the recipient's fiscal records and notification letters sent to funding sources and interviews with management and staff evidenced compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).**

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

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

Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether an independent organization receives a transfer of LSC funds, whether such funds subsidize restricted activities, and whether the LSC recipient is legally, physically, and financially separate from the organization.

Whether sufficient physical and financial separation exists is determined on a case by case basis and evaluated on the totality of the circumstances. In making the determination, a variety of factors must be considered. The presence or absence of any one (1) or more factors is not determinative. Factors relevant to the determination include:

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

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

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

forms of identification should clearly distinguish the recipient from any organization that engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

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

### **Restricted Activities**

A limited review of CILS' chart of accounts, observations of its physical location, and interviews with CILS' staff the program does not appear to be engaged in any restricted activities which would present 45 CFR Part 1610 compliance issues.

A limited review of CILS' accounting and other financial records found no evidence of CILS' participation in the statutory restrictions defined by 45 CFR § 1610.2. CILS does not have contracts with other organizations to provide personnel, accounting, information technology, or other support services that would require compliance with 45 CFR Part 1610. An analysis of CILS' expenditure of LSC funds during the period of review indicated that no LSC funds were transferred to other organizations. An on-line search found no news articles or other indications that CILS is involved in restricted activities. Additionally, interviews with the Executive Director confirmed that the recipient is not involved in any restricted activities and that its use of non-LSC funds and its transfer of LSC funds are not inconsistent with the Regulation.

### **Funding Source Notification**

LSC regulations, at 45 CFR § 1610.5, prohibit recipients from accepting funds in the amount of \$250 or more "from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds." Further clarification of this requirement is provided in the Final Rule pertaining to 45 CFR Part 1610 (Use of Non-LSC Funds, Transfers of LSC Funds, Program Integrity) published at 27696 Fed. Reg., Vol. 62, No. 98, Wednesday, May 21, 1997, which states:

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

for their work under court appointments; nor does it include payments to the recipient for rent, bank interest, or sale of goods, such as manuals.

CILS has established a process to provide the required written notification to its individual contributors. Four (4) randomly selected funders of \$250 or more were identified in order to review the notification letters sent to them in response to their contribution. The Controller advised that one (1) letter would not be available as the donation was recently made in December 2013, and the letter had not yet been sent. The other three (3) letters selected for review were provided to the review team and found to be in compliance with the requirements of 45 CFR § 1610.5, as they included notification of the prohibitions and conditions which apply to the funds.

Interviews with CILS' Controller and Director of Operations, however, revealed that CILS was not providing sources of non-LSC funds with the same written notification of the prohibitions and conditions which apply to the funds. The interviews indicated that the error had occurred due to a misunderstanding of the regulation's applicability to tribal funds. The review team informed CILS' management that notification must be provided to all sources of funds in the amount of \$250 or greater, regardless of whether the funds will be used for CSR-eligible purposes, because, although many of the prohibitions attached to funds provided for LSC-eligible purposes do not apply to donations of tribal funds, it is important to inform funding sources that those particular prohibitions do not attach to the funds as long as they are expended "...in accordance with the specific purposes for which the tribal funds were provided." *See* 45 CFR § 1610.4(a).

CILS' management concurred with the review team's guidance and advised that it would ensure that all sources of funds in the amount of \$250 or greater would be provided the notification required by 45 CFR § 1610.5. On June 18, 2014, the Director of Administration confirmed that, subsequent to the on-site visit, it had "...incorporated the additional regulatory language...into the non-LSC (tribal funds) donor letters" and the Controller supported the statement by indicating that, based on his required review of letters sent to donors of more than \$1,000, he could "...confirm that the correct language is contained in those letters."

Based on the materials reviewed and interviews with management and staff, CILS evidenced compliance with 45 CFR Part 1610.

Since CILS has proactively taken action to address any compliance concerns noted during the course of the review, there are no recommendations or required corrective actions needed.

**Finding 17: 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, was not tested as CILS requested and was granted a waiver of its PAI expenditure requirement for the entire period of review.**

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12.5% of its LSC annualized basic field award for the involvement of private attorneys in the

delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI" or Private Attorney Involvement requirement.

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

CILS requested and was granted a waiver of its PAI expenditure requirements for its fiscal years ending June 30, for 2012, 2013, and 2014. Based upon the information provided to LSC in CILS' fiscal year 2014 PAI waiver request letter, dated March 1, 2013, and the provisions of 45 CFR §§ 1614.6(c)(3) and 1614.6(c)(6), CILS' request was granted by LSC on March 21, 2013.

**Finding 18: Review of the recipient's policies, procedures, and fiscal records and interviews with management and fiscal staff evidenced compliance with 45 CFR Part 1627 (Subgrants and membership fees or dues).**

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's

programmatic activities.<sup>9</sup> Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Fed. Reg. 28485 (June 2, 1983) and 48 Fed. Reg. 54207 (November 30, 1983).

Additionally, 45 CFR § 1627.4 states that:

- (a) LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.
- (b) Paragraph (a) of this section does not apply to the payment of membership fees or dues mandated by a government organization to engage in a profession, or to the payment of membership fees or dues from non-LSC funds.

CILS has a written policy to guide its staff in complying with 45 CFR Part 1627 that incorporates the Regulation's restrictions by reference and indicates that LSC funds may be used to pay for its staff attorney's bar dues. CILS management indicated that it does not maintain subgrants and, therefore, did not adopt a procedure related to subgrants.

A limited review of CILS' accounting records revealed no instances of noncompliance with the requirements of 45 CFR § 1627.4. The review, therefore, evidenced compliance with 45 CFR § 1627.4(a), as all non-mandatory membership fees and dues were paid with non-LSC funds. Additionally, CILS management indicated prior to the on-site visit that it had not made any transfer of LSC funds to a third party, or sub-recipient, under the definitions set forth in 45 CFR § 1627.2. The on-site review lent supported this statement, as the material reviewed and interviews conducted did not identify any subgrants that were made during the period of review.

Based on the materials reviewed and interviews with fiscal staff, CILS evidenced compliance with 45 CFR Part 1627.

It is recommended that CILS review 45 CFR Part 1627 in its entirety to evaluate whether changes should be made to its own corresponding policy in order to incorporate additional language that details the policies and procedures to be followed should CILS, in the future, elect to engage in a subgrant agreement by transferring LSC funds to a third party.

There are no required corrective actions needed.

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<sup>9</sup> Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000.00 is included.

**Finding 19: Review of the recipient's policies, procedures, and fiscal records and interviews with management and fiscal 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.

CILS maintains a comprehensive 45 CFR Part 1635 timekeeping policy and procedure in its intake manual to guide advocate staff (attorneys, paralegals, and law clerks) with regard to the requirements of the Regulation. The policy and procedure was reviewed and found to be consistent with Part 1635.

Interviews with the Controller evidenced that CILS requires all staff to document time in CILS' timekeeping system to ensure compliance with the timekeeping requirements of 45 CFR § 1635.1 and 45 CFR Part 1630. Additionally, CILS' Controller provided adequate timekeeping documentation to support the allocation of salaries. Furthermore, interviews with the Executive Director and Controller indicated that CILS does not employ any attorneys or paralegals who also work for an organization engaging in restricted activities.

Based on the materials reviewed and interviews with management and fiscal staff, CILS evidenced compliance with 45 CFR Part 1635.

There are no recommendations or required corrective actions needed.

**Finding 20: Review of the recipient's sampled cases, policies, and fiscal records and interviews with management and staff evidenced compliance with 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.<sup>10</sup> However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Therefore, at its January 30, 2010, meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010, recipients may claim, collect, and retain attorneys' fees for work performed, regardless of when such work was performed.

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

As a result of the repeal of 45 CFR Part 1642, CILS' Board voted to repeal its own 45 CFR Part 1642 policy on September 11, 2010. CILS' current 45 CFR Part 1609 policy, which was approved by its Board on June 7, 2014, as well as the Part 1609 policy in effect at the time of review, includes guidance for staff with regard to pursuing attorneys' fees in a manner that is consistent with the fee-generating case restrictions of Part 1609.

Interviews with the Executive Director indicated that there were no attorneys' fees requested, awarded, collected, or retained for cases serviced directly by CILS during the period of review that would violate former 45 CFR Part 1642. Furthermore, no sampled cases involved any issues relating to former 45 CFR Part 1642.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with former 45 CFR Part 1642.

There are no recommendations or required corrective actions needed.

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<sup>10</sup> The regulations defined "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* former 45 CFR § 1642.2(a).

**Finding 21: Review of the recipient's updated policies, procedures, sampled cases, and fiscal records and interviews with management and staff evidenced compliance with 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

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

As noted previously, several policies in effect at the time of the review, including the 45 CFR Part 1612 policy, were updated subsequent to the on-site review. CILS' Part 1612 policy, while not wholly non-compliant with the regulation, did not contain a corresponding procedure. On June 10, 2014, CILS provided OCE with an updated 45 CFR Part 1612 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy was reviewed and found to be consistent with the requirements of Part 1612. Additionally, the Executive Director provided the review team with a copy of a memorandum distributed to CILS' staff in August 2013, which provided guidance related to lobbying and 45 CFR Part 1612.

Pursuant to 45 CFR § 1612.10(c), CILS had previously notified LSC in its Semi-Annual Legislative and Administrative Activity Reports that it had no activities falling under 45 CFR Part 1612 to report. While on-site, CILS' Executive Director also indicated that staff members had not participated in any prohibited public rulemaking or lobbying activities. This assertion was supported by a limited review of CILS' fiscal records, which provided no indication of lobbying or other restricted activities during the review period. Additionally, as discussed *supra* in Finding 14 with regard to Part 1608, a review of hard-copy informational materials and publications that CILS makes available to applicants and clients, which are published by CILS and other federal, state, and private organizations, as well as a review of CILS' website, did not evidence any content prohibited by 45 CFR §§ 1612.4, 1612.8, and 1612.9. Furthermore, sampled cases did not raise any issues regarding the requirements of 45 CFR Part 1612.

Based on case sampling, the materials reviewed, and interviews with management, CILS evidenced compliance with 45 CFR Part 1612.

There are no recommendations or required corrective actions needed.

**Finding 22: Review of the recipient's updated policies, procedures, and sampled cases and interviews with management and staff evidenced compliance with 45 CFR Parts 1613 (Restrictions on legal assistance with respect to criminal proceedings) and 1615 (Restrictions on actions collaterally attacking criminal convictions).**

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Nor may recipients provide legal assistance in an

action in the nature of a habeas corpus seeking to collaterally attack a criminal conviction. *See* 45 CFR § 1615.1.

As noted previously, CILS provided OCE with several updated policies and procedures subsequent to the on-site review. In addition to the updated policies, on June 10, 2014, CILS provided OCE with a newly drafted 45 CFR Part 1613 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy and procedure, while not required by LSC, was reviewed and found to be consistent with the requirements of Part 1613.

No sampled cases involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction, as prohibited by 45 CFR Parts 1613 and 1615. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Parts 1613 and 1615.<sup>11</sup>

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Parts 1613 and 1615.

There are no recommendations or required corrective actions needed.

**Finding 23: Review of the recipient’s policies, procedures, and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1617 (Class actions).**

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed, or otherwise declared by a court of competent jurisdiction, as a class action pursuant to Federal Rules of Civil Procedure, Rule 23, or a comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).<sup>12</sup>

CILS has a written policy and procedure to guide its staff in complying with 45 CFR Part 1617 that is consistent with the Regulation. No sampled cases involved the initiation or participation in a class action. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1617.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1617.

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<sup>11</sup> LSC Regulations, at 45 CFR § 1613.2, state that “[a] misdemeanor or lesser offense tried in an Indian tribal court is not a ‘criminal proceeding,’” and, thus, this type of representation is not prohibited by Part 1613. Additionally, LSC Program Letter 12-3 (November 8, 2012), on Criminal Proceedings in Tribal Courts, informed LSC recipients that “Congress has amended section 1007(b)(2) of the LSC Act to permit LSC recipients to use LSC funds to represent persons in all criminal proceedings in tribal courts” and that LSC recipients may report such cases in their CSRs. *See* 42 USC § 2996f(b)(2).

<sup>12</sup> It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

There are no recommendations or required corrective actions needed.

**Finding 24: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 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.

CILS has a written policy to guide its staff in complying with 45 CFR Part 1632 that is consistent with the Regulation. No sampled cases involved participation in litigation related to redistricting. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1632.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1632.

There are no recommendations or required corrective actions needed.

**Finding 25: Review of the recipient's policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).**

Recipients are prohibited from defending any person in a proceeding to evict that person from 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 of other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

CILS has a written policy to guide its staff in complying with 45 CFR Part 1633 that is consistent with the Regulation. No sampled cases involved the defense of eviction proceedings prohibited by 45 CFR Part 1633. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1633.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1633.

There are no recommendations or required corrective actions needed.

**Finding 26: Review of the recipient’s policies, procedures, and sampled cases and interviews with management evidenced compliance with 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.

On June 10, 2014, CILS provided OCE with an updated 45 CFR Part 1637 policy and procedure, which was approved by its Board of Directors on June 7, 2014. The policy was reviewed and found to be consistent with the requirements of Part 1637. No sampled cases involved participation in civil litigation, or administrative proceedings challenging the conditions of incarceration, on behalf of an incarcerated person as is prohibited by 45 CFR Part 1637. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1637.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1637.

There are no recommendations or required corrective actions needed.

**Finding 27: Review of the recipient’s policies and sampled cases and interviews with management evidenced compliance with 45 CFR Part 1638 (Restriction on solicitation).**

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.<sup>13</sup> This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the recipient 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.”

CILS has a written policy to guide its staff in complying with 45 CFR Part 1638 that is consistent with the Regulation. No sampled cases or documentation, such as community education materials and recipient literature, indicated recipient involvement in activity prohibited by 45 CFR Part 1638. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1638.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1638.

There are no recommendations or required corrective actions needed.

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<sup>13</sup> *See* Section 504(a)(18).

**Finding 28: Review of the recipient’s policies and sampled cases and interviews with management evidenced compliance with 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 to advocate for any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

CILS has a written policy to guide its staff in complying with 45 CFR Part 1643 that is consistent with the Regulation. No sampled cases indicated involvement in activity prohibited by 45 CFR Part 1643. Furthermore, the Executive Director stated that CILS has not engaged in any activity prohibited by Part 1643.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with 45 CFR Part 1643.

There are no recommendations or required corrective actions needed.

**Finding 29: Review of the recipient’s sampled cases and interviews with management 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.

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Furthermore, the Executive Director stated that CILS was not engaged in any litigation that would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

Based on the materials reviewed and interviews with management, CILS evidenced compliance with the above LSC statutory prohibitions.

There are no recommendations or required corrective actions needed.

**Finding 30: Review of the recipient's fidelity bonding on staff evidenced compliance with 45 CFR § 1629.1 (Bonding of recipients).**

LSC regulations, at 45 CFR Part 1629, require that recipients carry fidelity bonds or insurance at a minimum level of 10% of their annualized LSC funding level for the previous fiscal year and that the bond or insurance not be less than \$50,000.

CILS' Accounting Manual, Policy A-004, requires that CILS maintain an employee dishonesty bond of at least \$100,000, which would meet the requirements of this section. The policy is consistent with the guidelines contained in the LSC Accounting Guide. The on-site review evidenced that CILS maintains employee fidelity bond coverage of \$500,000, which exceeds the requirements of 45 CFR § 1629.1.

Based on its current level of insurance coverage, CILS evidenced compliance with 45 CFR § 1629.1.

There are no recommendations or required corrective actions needed.

**Finding 31: Review of the recipient's accounting records and interviews with fiscal staff evidenced compliance with 45 CFR Part 1630 (Cost standards and procedures).**

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

CILS has a written policy to guide its fiscal staff in complying with 45 CFR Part 1630 that is consistent with the Regulation. CILS' Part 1630 policy identifies restricted and prohibited purchases; for example, the policy indicates that the prior approval of the Executive Director is needed for alcohol purchases and that such purchases should be charged to CILS' unrestricted

funds. A limited review of CILS' financial records and interviews with the Controller did not identify any restricted or prohibited purchases charged to its LSC funds.

Based on the materials reviewed and interviews with fiscal staff, CILS evidenced compliance with 45 CFR Part 1630.

There are no recommendations or required corrective actions needed.

**Finding 32: Review of the recipient's internal control policies and procedures, responses to the LSC Segregation of Financial Duties Worksheet, and fiscal records and interviews with management and fiscal staff evidenced that CILS' accounting and reporting capabilities and its system of internal controls compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide.**

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

An LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process put in place, managed and maintained by the recipient's board of directors and management which is designed to provide reasonable assurance of achieving the following objectives: (1) safeguarding of assets against unauthorized use or disposition; (2) reliability of financial information and reporting; and (3) compliance with regulations and laws that have a direct and material effect on the recipient. *See* Chapter 3 of the LSC Accounting Guide.

The LSC Accounting Guide provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Control Checklist that provides guidance to recipients 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.

**Fundamental Criteria and Internal Controls**

As discussed in § 3-5 of the LSC Accounting Guide regarding Fundamental Criteria, an LSC recipient, under the direction of its board of directors, is required to establish and maintain adequate accounting records and internal control procedures. The LSC Fundamental Criteria is a listing of the elements of an adequate accounting and financial reporting system. Compliance with the Fundamental Criteria can assist recipient boards with their fiduciary and stewardship obligations and may reduce the possibility of serious ethical, financial, and compliance breaches.

Good internal controls can improve the effectiveness of a recipient's operations, the reliability of grantee financial information, the compliance with laws and regulations, and the safeguarding of assets.

CILS has developed a Standard Financial Operating Policies and Procedures ("CILS Accounting Manual") which is program-wide and incorporates many of the fiscal duties and responsibilities of its Board members as well as its staff. The CILS Accounting Manual is updated periodically with the most recent update having occurred in 2011.

### *Accounting Manual*

Section 3-4(5) of the LSC Accounting Guide indicates that "[e]ach recipient must develop a written accounting manual that describes the specific procedures to be followed by the recipient in complying with the Fundamental Criteria."

CILS has an Accounting Manual, supplemented by policy statements, which is available to all staff in CILS' Employee Handbook as well as CILS' LSC Compliance Binder. CILS' fiscal policies and procedures in place at the time of the review were generally consistent with the guidelines contained in the LSC Accounting Guide. CILS' policies were created and approved by its Board in July 2009, and they were subsequently revised in 2011 to incorporate the 2010 Edition of the LSC Accounting Guide. Any identified policy and/or procedural weaknesses were resolved by CILS prior to the issuance of the Draft Report, as it provided OCE with several updated and compliant LSC required policies and procedures on June 10, 2014, which were reviewed and approved by its Board of Directors during the Board's regularly scheduled June 7, 2014, Board meeting.

A review of the applicable CILS Board Minutes evidenced, however, that the presentation and approval of the 2011 Accounting Manual revisions were not documented. CILS must ensure that its Board documents the review and approval of updates to its Accounting Manual, as required by the LSC Accounting Guide, § 1-7.

### *Segregation of Financial Duties*

The LSC Accounting Guide, § 3-4.3, states that:

Accounting duties should be segregated to ensure that no individual simultaneously has both the physical control and the record keeping responsibility for any asset, including, but not limited to cash, client deposits, supplies, and property. Duties must be segregated so that no individual can initiate, execute, and record a transaction without a second independent individual being involved in the process.

A review of CILS' responses to the Segregation of Financial Duties Worksheet evidenced that there are appropriate internal controls in place to ensure that a single employee does not control all facets of a process or transaction (from start to finish) involving recipient assets. CILS fiscal department consists of a Controller who maintains CILS accounting system and generates fiscal

documentation for the use and approval of CILS' executive management and Board. The Controller reports to the Executive Director. Segregation of fiscal duties requires the participation of several other administrative and management personnel, including the Escondido Legal Assistant (who manages the cash receipts log and deposits), the Escondido Executive Assistant (who manages the cash disbursements and billing), the Director of Administration (who manages human resources, salary, and payroll review), the Escondido Directing Attorney (who manages disbursements review and check signing), and the Executive Director (who receives bank statements and reviews bank reconciliations).

In addition, to provide an additional level of control, the Board Chair conducts a quarterly post-review of the credit card expenditures by reviewing the statement of the credit card issued to the Executive Director, as well as the Executive Director's travel vouchers. The document reviews are conducted at CILS' quarterly Board meetings and are certified reviewed by the Board Chair's signature on the face of the document.

#### *Board of Directors Fiscal Oversight*

The LSC Accounting Guide, § 1-7 – Responsibilities of the Financial Oversight Committee or Committees, states that “[e]ach recipient’s governing body has a fiduciary responsibility to the program and must establish a financial oversight committee or committees.”

CILS' Board of Directors maintains separate Audit and Finance Committees, in addition to several other permanent and temporary committees. These committees are actively involved in CILS operations, making regular recommendations and reports relating to several of its financial processes. A review of the Board's minutes noted examples of conformance with the responsibilities of such committees, including the review of CILS' investments. Duties of the Audit and Finance Committees are referenced in CILS' Accounting Manual. Based on a limited review of CILS' policies and procedures and through on-site interviews with CILS' Controller and Board Chair, it was determined that CILS has an engaged Board which performs the responsibilities of a financial oversight committee, as described in the LSC Accounting Guide.

CILS' annual budget is established by its Board, which creates a framework for program management to exercise administrative decisions without necessitating the involvement of the Board. The Board, however, receives budget to actual summaries prior to each Board meeting that include actual to budget comparisons with variances for each month and year to date. At its quarterly meetings, the Board also reviews reports presented by CILS' Executive Director and Controller, including CILS' annual audit. The Board approves travel expenses submitted by the Executive Director and is charged with approving salary increases and pension fund contributions. Board members do not have signature authority on CILS' bank accounts.

CILS' annual audit for fiscal year ended (“FYE”) June 30, 2013, was reviewed by the Board's Audit Committee on September 25, 2013, prior to its presentation to the Board's Executive Committee on September 26, 2013, at which time it was approved for filing. The Executive Committee's actions were reported to and accepted by the full Board on December 7, 2013. The auditor reported an unqualified opinion and did not indicate any findings or instances of non-compliance.

The Board is also responsible for verifying that all filing requirements and tax obligations are complied with, including the filing of IRS Form 990. *See* LSC Accounting Guide, § 1-7. CILS is in compliance with this requirement as it distributes electronic copies of its FYE June 30, Form 990 to all Board members for review prior to the filing of the return. CILS, however, must ensure that its Accounting Manual and/or Board bylaws be updated to reflect this practice and that the applicable Board minutes reflect such a review. *See* LSC Accounting Guide, §§ 1-7 and 3-5.2(b).

### *Accounting Software*

The LSC Accounting Guide requires that a recipient maintain a double-entry fund based accounting record for LSC funds. While preferable, this record is not required to be maintained in a recipient's general ledger but may, instead, be maintained in a subsidiary ledger. Section 2-1.2 of the LSC Accounting Guide notes that “[b]ecause LSC requires separate disclosure as part of the financial statements (either within the overall statement of activities or as a separate schedule), LSC recipients should maintain a fund-based accounting system at least for LSC funds.” Section 2-5 indicates that “[i]n general, accounting records shall be maintained on a double-entry basis using fund accounting and must be adequate to enable a recipient to prepare its annual financial statements, internal reports, and other management reports.”

Section 3.5 of the LSC Accounting Guide lists the elements of an adequate accounting and financial reporting system, with § 3-5.8 defining the General Ledger design as one that “...should accommodate fund accounting, and/or cost center accounting/functional accounting and other financial requirements in accordance with the most expedient procedures in the circumstances,” and that the requirements, “(whichever are not incorporated into the general ledger) may be provided for outside of the general ledger.” Finally, the opening paragraph of Appendix II reiterates that, generally, “...accounting records should be maintained on a double-entry method utilizing fund accounting” and indicates that the system should be appropriate to recipient's needs.

CILS uses QuickBooks Online for its accounting needs and maintains the software and its accounting data on the provider's (Intuit) server. The accounting data is encrypted using 128-bit Secure Sockets Layer, which is backed-up regularly by the vendor on redundant servers. While QuickBooks is not a dedicated fund accounting software, CILS uses its “classes” feature to establish its Chart of Accounts and funding codes, which makes the system capable of providing double-entry accounting in a manner which meets the requirements of the LSC Accounting Guide.

CILS' LSC fund accounting is maintained in an MS Excel Workbook subsidiary ledger for its annual reporting to LSC and its independent auditor. However, as presently utilized, the accounting system is not fully capable of fund accounting and requires extensive subsidiary recordkeeping and adjusting of entries making the tracing of individual transactions problematic, as they are only fully accomplished with extensive multi-fund adjustments. While consolidated revenue and expense data is readily available to CILS' Board and management, they are limited in their timely receipt of LSC fund-specific financial information. Therefore, as the reporting of LSC fund expenditures are required by calendar year (grant) and by CILS fiscal year

(independent audit), the posting of combined direct and allocated expenses, giving a complete picture of LSC revenue to expense, is accomplished only twice annually.

As direct fund accounting is not available using QuickBooks software, it is recommended that CILS' LSC subsidiary ledger be posted to include allocated costs at least quarterly so that the financial reports provided to the Board contain current revenue to expense figures.

### *Cost Allocations*

Section 3-5.9(c) – Allocations, of the LSC Accounting Guide specifies that:

Common expenses shall be allocated among the sources on the basis agreed to by the applicable funding organizations, and in the absence of approved methods the allocation should be fair, consistent, and in an equitable manner to the individual cost centers, and funds. Further, the allocation formula should be adequately documented in writing with sufficient detail for the auditor, LSC, OIG, GAO, and others, to easily understand, follow, and test the formula.

CILS' Accounting Manual, Policy A-501, defines its cash receipts policies and procedures. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. Under the CILS policy, costs for administration and pooled operations are placed in a shared cost "Department" and are allocated based on the actual time of advocates charged during the period as compared to totals across the agency as a whole. CILS' Policy A-501 incorporates the step-by-step processes required to maintain its expense allocation worksheet. Section 5.4 – Exceptions, of Policy A-501, specifies expense categories that may not be allocated, including, but not limited to, alcohol, dues, late fees and penalties, interest on debts, and capital expenditures. The subsidiary journal is maintained as an Excel Workbook with embedded links to spreadsheets containing continuous data from July 2008 to the present date. For financial reporting under CILS established procedures, costs are reported monthly by chart of accounts line items and fund source cost allocations are made quarterly.

### *Bank Statement Reconciliation*

The LSC Accounting Guide states that bank statement reconciliations to the general ledger should be conducted on a monthly basis, should be reviewed and approved by a responsible individual, and must be appropriately documented and signed and dated. *See* LSC Accounting Guide, § 3-5.2(d). Additionally, outstanding checks should be investigated and resolved in accordance with the procedures detailed in Appendix VII, § I-7 – Bank Reconciliation Procedures, of the LSC Accounting Guide.

CILS' Accounting Manual, Policy A-105, defines its bank statement reconciliation policies and procedures. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. CILS' bank statement reconciliation procedures are as follows: bank statements are reconciled monthly by the Controller who downloads an electronic copy of each bank statement and reconciles them to the general ledger using QuickBooks software; paper statements for each of CILS' accounts are mailed to its main office and delivered unopened to

the Executive Director; the Controller provides the printed reconciliations to the Executive Director; and the Executive Director reviews and compares the printed reconciliations to the mailed statements received from each account. An on-site review of all statements for October through December 2012 and 2013 was conducted and evidenced that all of the reconciliations were performed timely and were appropriately documented. The reconciliations included the CILS client trust account, although the account carried a zero (0) balance during the entire period of review.

### *Cash Receipts*

Pursuant to the LSC Accounting Guide, Appendix VII, §§ H8, H12, and H14 (Accounting Procedures and Internal Controls), LSC recipients must have procedures to ensure that cash received in the office is properly handled to ensure cash receipts are not commingled and are reconciled to the cash receipts log on a timely basis.

CILS' Accounting Manual, Policy A-106, defines its cash receipts policies and procedures. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. A limited review of the procedures, as applied by staff, evidenced that CILS maintains adequate controls, considering the small staff sharing in the financial duties. CILS' cash receipts procedures are as follows: the Executive Assistant opens the mail and logs and restrictively endorses any cash receipts; received items are delivered to the Controller who designates revenue codes and forwards the items to the Executive Assistant who prepares the duplicate deposit slips with copies of the checks; deposits are done by the Legal Assistant who provides the Controller with the duplicate bank deposit slip and the check copies; the Controller enters the deposits in the general ledger; and the deposit is reconciled to the cash receipts log by the Executive Director who signs the log.

### *Petty Cash*

Pursuant to the LSC Accounting Guide, § 3-5.4(c) – Cash Disbursements: Recordkeeping, a recipient should “[r]eview petty cash reimbursements periodically to ensure required procedures are being followed.” Section 3-5.4(c) further indicates that “[o]ccasional surprise counts greatly reduce the opportunities for misuse of petty cash.”

CILS does not maintain petty cash accounts.

### *Cash Disbursements*

Pursuant to the LSC Accounting Guide, § 3-5.4(c) – Cash Disbursements: Disbursements Journal/Voucher Register, LSC recipients should have an effective method established to “...record and categorize disbursements and then summarize them for recording in the general ledger.” Bills and invoices should be marked "paid" or otherwise canceled to avoid duplicate payment. See Program Letter 12-2, Compliance Guidance: Fiscal Management Issues (April, 2, 2012).

CILS' Accounting Manual, Policy A-400, defines its cash disbursement policies and procedures to ensure that financial transactions are properly recorded and adequately controlled. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. CILS' cash disbursements procedures are as follows: disbursements are processed weekly; all payables are reviewed and placed in the accounts payable folder by the Executive Assistant; the Controller reviews the accounts payables and enters "checks to be printed" with the appropriate accounting codes; the Executive Assistant prints the checks created by the Controller and submits the checks with documentation to the Executive Director for signature; all checks are signed by a second approved check signer; and no checks are made to cash.

### *Client Trust Accounts*

Section 2-2.3 of the LSC Accounting Guide requires that recipients open a separate escrow account exclusively for client trust funds. Section 3-5.7 further requires that LSC grantees establish a method to monitor these accounts under general ledger control and reconcile the total of the individual client funds to the general ledger on a monthly basis.

CILS' Accounting Manual, Policy A-102, defines its policies and procedures regarding client trust accounts. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. CILS' client trust accounts policies require that client funds be deposited in a dedicated and Board approved bank account. CILS' client trust account procedures are as follows: the account is reconciled monthly within 10 working days following receipt of the bank statement by a staff member who is uninvolved with client deposits; two signatures are required prior to disbursement; pre-numbered receipts are given to clients for all funds received; and CILS maintains copies of all receipts, a cash disbursements journal, and a record of client trust activity. Further, client funds that have been inactive for a period of six (6) months are reviewed to determine if they should be escheated to the state in accordance with state law.

A limited on-site review of the client trust accounts, as reflected in the general ledger and client trust account bank statements, evidenced that CILS closely follows its policy and that the necessary internal controls are in place. Interviews with staff further evidenced that there were no client trust funds on deposit during the period of review.

### *Electronic Banking*

Many recipients of LSC funding conduct a significant portion of their financial transactions electronically. LSC transmits funds electronically to all recipients. The LSC Accounting Guide, Appendix VII – Accounting Procedures and Internal Control Checklist, ¶ M: Electronic Banking, indicates that LSC grantees should consider having documented policies and procedures for any electronic banking activities. The guidelines recommend policies for electronic deposits, wire transfers, online transfers, telephone transfers, and electronic disbursements.

CILS' Accounting Manual, Policy A-108, defines its electronic banking policies and procedures. The policies and procedures are consistent with the guidelines contained in the LSC Accounting Guide. The policy defines CILS' authorized incoming, outgoing, and interfund electronic

transfers. As structured, CILS' electronic banking is limited to that deemed necessary for efficient fiscal operations.

### *Real Property*

Section 9 of the LSC Property Acquisition and Management Manual ("PAMM") requires that recipients develop written policies and procedures which implement, at a minimum, the requirements of PAMM Sections 3 (Acquisition Procedures for Personal Property) and 4 (Acquisition Procedures for Real Property). The PAMM also requires recipients to capitalize and depreciate all nonexpendable property with a cost in excess of \$5,000 and a useful life of more than one year. These requirements are consistent with the \$5,000 capitalization and depreciation threshold in the LSC Accounting Guide, Appendix IV, ¶ 1.

A limited on-site review for the period of review evidenced that CILS maintains subsidiary property records and requires formal approval for the purchase of physical assets. CILS' Accounting Manual, Policy A-405, establishes a property account and depreciation schedule, under the direction of the Director of Administration, wherein CILS records as an asset, capitalizes, and depreciates property with a cost exceeding \$1,000.

### *Personnel and Payroll*

CILS' hiring and selection policies are maintained in its Employee Handbook, as well as the procedure by which compensation is established. CILS' Compensation Committee, which consists of its Executive and Personnel Committees, makes recommendations to the Board regarding staff compensation, benefits, and pay grade structure. CILS' Board must approve any changes to the salary plan and such approvals are appropriately reflected in Board minutes.

CILS utilizes the position of the Director of Administration to establish necessary segregation of duties within the personnel and payroll functions. The Director of Administration serves as CILS' Human Resources Director and is, therefore, responsible for obtaining required employment documents. All payroll changes, including hiring, probation, promotion, pay change, and termination, must be submitted to the Director of Administration.

The Director of Administration reviews biweekly timesheets that have been approved by employees' supervisors and the payroll register is approved by the Executive Director prior to it being forwarded to ADP for processing. CILS utilizes ADP as its payroll service and maintains a separate imprest payroll account with Union Bank. The payroll account is not a zero-balance account, but, instead, is maintained with a balance and the biweekly payroll transfers are generated by CILS' Controller rather than by the ADP order. This process has resulted in bank service fees savings of nearly \$1,500 annually.

### **Internal Controls Review Conclusion**

Based on the fiscal and related materials reviewed and interviews with management and staff, CILS evidenced that its accounting and reporting capabilities and its system of internal controls compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide. The Draft Report directed CILS to take corrective action to ensure that its Board of Directors

document the review and approval of updates to its Accounting Manual, as required by the LSC Accounting Guide, § 1-7, and also required that the CILS Accounting Manual and/or Board bylaws be updated to reflect the practice of reviewing IRS Form 990 and that the applicable Board minutes reflect such a review. *See* the LSC Accounting Guide, §§ 1-7 and 3-5.2(b).

In its August 1, 2014 submission, CILS indicated that CILS had updated its Banking, Client Trust Account, Corporate Credit Card, Electronic Banking, Department Listing, Donations, Cash Disbursements, Payroll Processing and Cost Allocation policies and procedures in July 2011. In response to the Draft Reports directive to document review and approval of these changes, CILS reported that those policies would be presented for review and approval at the next Board of Trustees meeting, scheduled for September 6, 2014. CILS is requested to submit evidence of the Board of Trustees' approval, in the form of minutes or other documentation, in order to fully close out this corrective action. Additionally, CILS noted that its Tax Filing policy and procedure had been updated and would also be presented for review and approval at the next Board of Trustees meeting, scheduled for September 6, 2014. CILS is requested to submit evidence of the Board of Trustees' approval, in the form of minutes or other documentation, in order to fully close out this corrective action. Submission of this documentation should take place by October 31, 2014.

Finally, it is recommended that, as direct fund accounting is not available using QuickBooks software, that CILS' LSC subsidiary ledger be posted to include allocated costs at least quarterly so that the financial reports provided to the Board contain current revenue to expense figures.

**Finding 33: Review of the recipient's TIG procedures, practices, and fiscal and other records related to TIG No. 11004 and interviews with management and fiscal staff evidenced substantial compliance with the TIG grant assurances and other applicable LSC regulations, rules, and guidelines under the scope of this review.**

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

**TIG Grant No. 11004**

CILS received a grant award from LSC for TIG No. 11004 in the amount of \$26,600, with an 18 month term date from October 1, 2011 through March 31, 2013. Included in this award amount was \$1,600 designated for a mandatory LSC TIG conference fee.

According to the original application:

This project involves the selection, evaluation and installation of a comprehensive IP desktop video conferencing system for all four CILS offices. The creation of a statewide video conferencing system would enable more effective communication and training for our staff while reducing travel time and increasing staff time that can be spent on client case work. This project also holds the potential benefit of client and non-client use for a fee.

A limited review of relevant materials and interviews with staff concerning TIG No. 11004 was conducted. Since its inception in 2011, \$11,600 of the TIG grant has been disbursed, leaving a remaining balance of \$15,000. The remaining balance reflected in CILS' financial records is consistent with LSC's internal records. An on-site review of CILS' accounting records and interviews with its Controller evidenced that there remains \$1,920.59 in unexpended for TIG No. 11004.

The Director of Operations indicated that CILS experienced several delays in fulfilling its TIG milestones because it became evident that its current IT infrastructure was not compatible with what was needed to successfully complete the original TIG project plan. Several unforeseen technological improvements and upgrades to CILS' systems would have been necessary for the project to continue. For example, as CILS began the process of upgrading its system as part of the original TIG project plan, issues regarding its bandwidth and internet action speed were identified. CILS' management determined that IT technology had progressed substantially since its TIG application, resulting in a need for unexpected improvements and system upgrades for the project to proceed, which would have exceeded the funds CILS had available to support the project. In addition to the technological issues, the individual assigned to work on the project by CILS' vendor, who had the knowledge and expertise necessary to implement the project, left the company and the vendor could not provide a suitable replacement. Therefore, CILS is currently working with LSC's Office of Program Performance to close-out the TIG grant.

### **Grant Assurances**

During the on-site visit, OCE fiscal staff reviewed compliance with 2011 TIG Grant Assurances 7, 8, and 9, which were in effect at the time TIG No. 11004 was awarded. The review evidenced compliance with these TIG Grant Assurances.

Review of the final budget for TIG No. 11004 and expenses incurred to date demonstrated compliance with TIG Grant Assurance No. 7, as funds totaling \$11,600, disbursed by LSC pursuant to this grant, were used solely for the TIG project for which the grant was awarded. As noted previously, CILS' accounting records and interviews with its Controller identified \$1,920.59 in unexpended TIG funds. No funding obligations to date were found that would have exceeded the grant award amount, in accordance with TIG Grant Assurance No. 8. Compliance with TIG Grant Assurance No. 9 was also noted with respect to LSC regulations regarding fund transfers and subgrants, 45 CFR Parts 1610 and 1627.

## **Subgrant Agreements/Vendor Contracts**

CILS entered into one (1) contract with a third-party, the San Diego Futures Foundation, related to TIG No. 11004. This contract was budgeted for five (5) hours of technical support at \$55/hour, for a total of \$275. A review of CILS' actual expenses evidenced that, through December 31, 2013, it had expended \$325 for the contract and, therefore, the third-party contract with the San Diego Futures Foundation does not qualify as a subgrant per 45 CFR § 1627.3.

Pursuant to the LSC Accounting Guide, Chapter 3-5.16, on Contracting and Documenting, "...the statement of work should be sufficiently detailed so that contract deliverables can be identified and monitored to ensure that the deliverables are completed." As stated in 45 CFR § 1630.3(a)(9), "[e]xpenditures by a recipient are allowable under the recipient's grant or contract only if the recipient can demonstrate that the cost was ... [a]dequately and contemporaneously documented in its business records..." Review of payments made under the San Diego Futures Foundation contract evidenced adequate documentation with no exceptions noted.

## **Timekeeping**

LSC's timekeeping requirement indicates its purpose, at 45 CFR § 1635.1, as intending "...to improve accountability for the use of all funds of a recipient by:

- (a) 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;
- (b) Enhancing the ability of the recipient to determine the cost of specific functions; and
- (c) Increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

Additionally, the Office of Management and Budget ("OMB") Circular A-122 – Cost Principles for Non-Profit Organizations, requires a non-profit to maintain records of employee time, to account for a full day of work, and to be able to identify time devoted to grant projects.

Interviews with the Controller evidenced that CILS requires all staff to document time in CILS' timekeeping system to ensure compliance with the timekeeping requirements of 45 CFR § 1635.1 and 45 CFR Part 1630. CILS' Controller provided adequate timekeeping documentation to support the allocation of salaries in the amount of \$4,899 for TIG No. 11004 which were expended between January 2012 and December 2013.

## **Property Asset Management Manual ("PAMM")**

A review of assets purchased as part of TIG No. 11004 evidenced compliance with the PAMM and 45 CFR § 1630.5(b), as no assets were found to exceed \$10,000.

## **Functionality of the TIG Project**

The project is not functional.

## **TIG Reporting in CILS' Audited Financial Statements**

The on-site review of CILS' 2012 and 2013 audited financial statements evidenced that TIG No. 11004 was not separately reported in CILS' audited statements, as is required by § 2-2.1 – Recognition of LSC Grant and Contract Support, of the LSC Accounting Guide and 45 CFR § 1628.3(g). Moving forward, CILS must take corrective action to report separately all TIG expenses and revenues in its audited financial statements. As discussed in § 2-2.1 of the LSC Accounting Guide, separate reporting may be achieved by "...providing a supplemental schedule of related revenue and expense or a separate column within the financial statement reporting on grant activities."

This requirement was communicated to CILS management while the review team was on-site and CILS indicated that it would report its TIG funds separately on all future audited financial statements. On June 19, 2014, CILS provided OCE with a copy of its schedule of expenses used to calculate LSC expenditures for calendar year 2013 evidencing that it had incorporated a separate column for TIG expenses. The Controller further confirmed that a separate column for TIG expenditures is included in CILS' 2013-2014 audit materials.

Since CILS has proactively taken sufficient corrective action to address this required item, no further action is needed.

#### IV. RECOMMENDATIONS<sup>14</sup>

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

1. Amend its group eligibility form to include a signature line for intake staff to sign indicating that they have reviewed and found adequate the information and/or documentation provided by the applicant group in order to provide another layer of regulatory compliance support to its group eligibility screening process; (Finding 2)

CILS offered no comments in response to this recommendation.

2. Review 45 CFR Part 1627 in its entirety to evaluate whether changes should be made to its own corresponding policy in order to incorporate additional language that details the policies and procedures to be followed should CILS, in the future, elect to engage in a subgrant agreement by transferring LSC funds to a third party; (Finding 18) and

CILS offered no comments in response to this recommendation.

3. As direct fund accounting is not available using QuickBooks software, post CILS' LSC subsidiary ledger to include allocated costs at least quarterly so that the financial reports provided to the Board contain current revenue to expense figures. (Finding 32)

CILS offered no comments in response to this recommendation.

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<sup>14</sup> Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

By contrast, the items listed in "Required Corrective Actions" must be addressed by the program, and will be enforced by LSC.

## V. REQUIRED CORRECTIVE ACTIONS

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

1. Ensure that its Board of Directors documents the review and approval of updates to its Accounting Manual, as required by the LSC Accounting Guide, § 1-7; (Finding 32) and

In its August 1, 2014 submission, CILS indicated that CILS had updated its Banking, Client Trust Account, Corporate Credit Card, Electronic Banking, Department Listing, Donations, Cash Disbursements, Payroll Processing and Cost Allocation policies and procedures in July 2011. In response to the Draft Reports directive to document review and approval of these changes, CILS reported that those policies would be presented for review and approval at the next Board of Trustees meeting, scheduled for September 6, 2014. CILS is requested to submit evidence of the Board of Trustees' approval, in the form of minutes or other documentation, in order to fully close out this corrective action. Submission of this documentation should take place by October 31, 2014.

2. Ensure that its Accounting Manual and/or Board bylaws are updated to reflect the practice of reviewing IRS Form 990 and that the applicable Board minutes reflect such a review. *See* LSC Accounting Guide, §§ 1-7 and 3-5.2(b). (Finding 32)

In its August 1, 2014 submission, CILS noted that its Tax Filing policy and procedure had been updated and would also be presented for review and approval at the next Board of Trustees meeting, scheduled for September 6, 2014. CILS is requested to submit evidence of the Board of Trustees' approval, in the form of minutes or other documentation, in order to fully close out this corrective action. Submission of this documentation should take place by October 31, 2014.



# CALIFORNIA INDIAN LEGAL SERVICES

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*Dorothy Alther, Executive Director*

August 1, 2014

Lora M. Rath, Director  
Legal Service Corporation  
3333 K Street, NW 3<sup>rd</sup> Floor  
Washington, DC 20007-3522

Re: Response to Compliance Draft Report, Recipient No. 705158

Dear Ms. Rath;

California Indian Legal Services (CILS) is in receipt of the Legal Service Corporation (LSC) Draft Report for the site-visit conducted during the week of March 3, 2014. CILS was very pleased with the Draft Report and our compliance with LSC regulations and policies.

The Draft Report has only two (2) Corrective Action items. The following are actions CILS has taken to respond to the items listed in the Report:

**Corrective Action #1.** Ensure that its [CILS's] Board of Directors documents the review and approval of updates to its Accounting Manual, as required by the LSC Accounting Guide.

**Response:** As a result of the revised 2010 LSC Accounting Guide and routine improvements in procedures, CILS updated the following Accounting Policies and Procedures in July 2011:

- A100 Banking
- A102 Client Trust Account
- A104 Corporate Credit Card
- A108 Electronic Banking
- A204 Department Listing
- A301 Donations
- A400 Cash Disbursements
- A406 Payroll Processing
- A501 Cost Allocation

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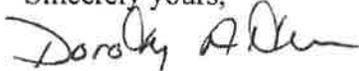
These updated policies will be presented for approval at the next Board of Trustees meeting, scheduled for September 6, 2014, which will result in all current CILS Accounting Policies and Procedures being Board reviewed and approved.

**Corrective Action #2.** Ensure that its [CILS's] Accounting Manual and/or Board bylaws are updated to reflect the practice of reviewing IRS Form 990 and that the applicable Board minutes reflect such a review.

**Response:** Although CILS has followed the practice of distributing the annual IRS Form 990 to the Board of Trustees prior to its submission to the IRS for the past 5 years (Attachment A, e-mail cover letters) it has not memorialized this practice in its accounting procedures nor reflected the review in Board minutes. To address these two items, CILS staff has updated Accounting Policy and Procedure A103 Tax Filing (Attachment B draft) which will be presented to the Board of Trustees for approval at their next meeting, scheduled for September 6, 2014. Minutes from this meeting will also confirm review of IRS Form 990 for the previous 5 years. Review of future IRS Form 990s will be recorded annually in Board minutes going forward.

Please contact us if the above Responses to the Corrective Actions items are insufficient or we need to take further action. Thank you.

Sincerely yours,



DOROTHY ALTHER

ENCLOSURES

# ATTACHMENT A

## Glen Bryson

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**From:** Glen Bryson  
**Sent:** Monday, November 09, 2009 3:23 PM  
**To:** board@calindian.org  
**Subject:** IRS990 Tax Return  
**Attachments:** CILS 2008-09 Form 990 signed.pdf

Hello All:

Devon has asked me to share a copy of our 2008-09 IRS990 tax return with you in advance of submission. Please find it attached.

The reason we are sending this to you prior to submission relates to a new question asked in the dramatically expanded Form 990 being used for the first time this year.

Part VI Section A Governing Body and Management question 10 asks "Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe in Schedule O the process, if any, the organization uses to review the Form 990."

Although not actually required, the wording of the question leads us to believe that the IRS wishes the answer to be "yes".

Please also know that our review process includes preliminary review by Senior Management (Devon and Patricia) followed by a pro bono review by our audit firm (Harrington). All figures in the tax return are taken directly from the audit.

We are pleased to be able to share this internally generated document for you.

Best wishes as always.

Glen

Robert Glen Bryson  
Controller  
California Indian Legal Services  
609 South Escondido Blvd  
Escondido, CA 92025

(760) 746-8941 ext 113  
(760) 746-1815 fax

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## Glen Bryson

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**From:** Glen Bryson  
**Sent:** Wednesday, October 27, 2010 3:21 PM  
**To:** CILS Board Members  
**Subject:** CILS 2009-10 IRS990 Tax Return  
**Attachments:** CILS 2009-10 IRS990 signed.pdf

Hello All:

We are pleased once again to share a copy of our IRS990 tax return with you in advance of the November 15 deadline for submission. Please find our 2009-10 tax return attached.

You may recall that the reason we are sending this to you prior to submission relates to a question asked in the dramatically expanded Form 990 that was used for the first time last year. No action is required on your part.

Part VI Section A Governing Body and Management question 10 asks "Was a copy of the Form 990 provided to the organization's governing body before it was filed? All organizations must describe in Schedule O the process, if any, the organization uses to review the Form 990."

Although not actually required, the wording of the question leads us to believe that the IRS wishes the answer to be "yes".

Please also know that our review process includes preliminary review by Senior Management followed by a pro bono review by our audit firm (Harrington). All figures in the tax return are taken directly from the audit.

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Glen

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## Glen Bryson

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**From:** Glen Bryson  
**Sent:** Thursday, November 10, 2011 5:16 PM  
**To:** Board@calindlan.org  
**Subject:** 2010-11 Tax Returns FYI  
**Attachments:** 20111103103430121.pdf

Hello All:

Per our Accounting Policy, please find attached copies of our 2010-11 tax returns. They have been reviewed by Senior Management and our Auditors. You may recall that we advise the IRS that we provide a copy of the tax return to you prior to mailing it. There is no need for you to respond and no action is required.

Thanks as always

Glen

Robert Glen Bryson  
Controller  
California Indian Legal Services  
609 South Escondido Blvd  
Escondido, CA 92025

(760) 746-8941 ext 113  
(760) 746-1815 fax

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**From:** Glen Bryson  
**Sent:** Monday, November 07, 2011 10:48 AM  
**To:** 'Job Quesada'  
**Subject:** FW: draft tax returns attached Any Progress?

Hi Job..any chance I can get feedback today on my draft tax returns?

**From:** Glen Bryson  
**Sent:** Thursday, November 03, 2011 10:45 AM  
**To:** 'Job Quesada'  
**Subject:** draft tax returns attached

Hi Job:

I've attached the Form 990, CA Form 199 and CA RRF#1 for review by Harrington.

Thanks as always for your help.

## Glen Bryson

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**From:** Glen Bryson  
**Sent:** Wednesday, November 07, 2012 1:14 PM  
**To:** board@calindian.org  
**Subject:** 2011-12 IRS Form 990 completed  
**Attachments:** CILS 2011-12 signed final IRS990.pdf

Hello All:

Per our Accounting Policy, please find attached a copy of our 2011-12 IRS Form 990 tax return. It has been reviewed by Senior Management and our Auditors. It must be postmarked by November 15 but we will be mailing it tomorrow (November 8). Our State returns (CA199 and RRF-1) will also be mailed tomorrow.

You may recall that we advise the IRS that we provide a copy of the tax return to you prior to mailing it. There is no need for you to respond and no action is required.

Thanks as always

Glen

**Glen Bryson**

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**From:** Glen Bryson  
**Sent:** Tuesday, November 12, 2013 3:44 PM  
**To:** board@calindian.org  
**Subject:** IRS Form 990 tax return FYI  
**Attachments:** CILS 2012-13 Draft 990.pdf

Hello All:

Per our Accounting Policy, please find attached a copy of our 2012-13 IRS Form 990 tax return which has been reviewed our Auditors. It must be postmarked by November 15 and we will be signing and mailing it on Thursday (November 14). Our State returns (CA199 and RRF-1) will also be mailed in the next week or so.

You may recall that we advise the IRS that we provide a copy of the tax return to you prior to mailing it. There is no need for you to respond and no action is required.

Thanks as always

Glen

Robert Glen Bryson  
Controller  
California Indian Legal Services  
760 746 8941 ext 113

The Mission of CILS is to protect and advance Indian rights, foster Indian self-determination, and facilitate tribal nation-building.

ATTACHMENT B

<b>POLICY:</b> <u>TAX FILING</u>	<b>POLICY NO.</b> <u>A-003</u>
_____	<b>DATE:</b> <u>07/14</u>
<b>APPROVED:</b> _____	<b>REVISION NO.</b> <u>001</u>
Executive Director	

1. **PURPOSE:** To ensure that CILS complies with all Federal, State and local governmental regulations to protect the rights and benefits of the organization and its employees.
  2. **SCOPE:** This policy applies to all CILS operations.
  3. **POLICY:** All required tax forms, schedules, and payments will be made in a timely, accurate, and complete manner without exception.
  4. **APPROVAL:** The Executive Director approves all Federal and State tax returns. The Controller and Director of Administration approve all employment related (EDD, etc.) tax forms. IRS Form 990 is to be distributed to the Board of Trustees prior to submission and this action reflected in the minutes of the subsequent Board meeting.
1. **PROCEDURE:** The Controller serves as the point of contact in providing all required information necessary for the annual State and Federal tax returns. The primary source of information is the annual audit. Tax returns may be completed by the Controller, the outside auditors or another qualified service provider. Once prepared IRS Form 990 is distributed to Board of Trustees. Tax forms are then signed by the Executive Director, copies placed in the Corporate master files, and mailed return receipt. Review of IRS Form 990 is recorded in the minutes of the next meeting of the Board of Trustees.

EDD and related tax documents are prepared by the payroll processing contractor and reviewed by the Controller and Director of Administration. Copies are retained in the master payroll binder kept in a locked file cabinet in the Controller's office.

All other required tax forms are prepared by the Controller for the approval and signature of the Executive Director.