



FINAL REPORT

LEGAL SERVICES CORPORATION Office of Compliance and Enforcement

Legal Aid Services of Oklahoma, Inc.

Compliance Review

January 13-17, 2014

Recipient No. 737066

LSC Compliance Review Team

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I. EXECUTIVE SUMMARY

Finding 1: LASO's automated case management system ("ACMS") is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded; however, there were several cases identified that contained inconsistent information between the ACMS and the case files. Additionally, a few modifications to the ACMS may be warranted.

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

Finding 3: LASO maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines; however, at the time of the review, LASO's income policy was inconsistent with the requirements of 45 CFR Part 1611.

Finding 4: LASO does not maintain asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Additionally, at the time of the review, LASO's Financial Eligibility Policy was inconsistent with the requirements of 45 CFR Part 1611.

Finding 5: Sampled cases evidenced non-compliance with the documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

Finding 6: Sampled cases evidenced non-compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements) because many retainers contained insufficient detail on the nature of services provided and the legal matter.

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

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

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

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

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

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

Finding 13: Review of LASO's policies in effect at the time of the review evidenced compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, in practice, interviews with full-time attorneys who have engaged in the outside practices of law evidenced non-compliance with the requirements of Part 1604.

Finding 14: A limited review of fiscal documents, sampled cases, and public materials available in LASO's offices, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Sampled cases and interviews with management and staff evidenced compliance with the requirements of former 45 CFR Part 1609 (Fee-generating cases). The findings of the fiscal review of this Part were sent to LASO under separate cover on June 6, 2014.

Finding 16: The findings of the fiscal review of 45 CFR Part 1610 were sent to LASO under separate cover on June 6, 2014.

Finding 17: LASO is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which are designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. The findings of the fiscal review for compliance with this Part were sent to LASO under separate letter on June 6, 2014.

Finding 18: LASO has no subgrants under 45 CFR Part 1627, and the findings of the fiscal review of this Part was sent to LASO under separate cover on June 6, 2014.

Finding 19: The findings of the fiscal review of timekeeping were sent to LASO under separate cover on June 6, 2014.

Finding 20: Sampled cases and interviews with management and staff evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees). The findings of the fiscal review for compliance with this Part were sent to LASO under separate cover on June 6, 2014.

Finding 21: Review of the sampled cases evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). The findings of the fiscal review of 45 CFR Part 1612 were sent to LASO under separate cover on June 6, 2014.

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

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

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

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

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

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

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

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

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

Finding 31: A limited review of LASO's internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide (2010 Ed.).

Finding 32: Interviews with management and staff and a limited review of activities, practices, and documents relating to TIG Grant No. 12081 evidence compliance with 2012 TIG grant assurance Nos. 7, 9, 10, and 17 and applicable LSC regulations, rules, and guidelines.

Finding 33: Interviews and a limited review of procedures, practices, and documents related to TIG No. 06460 evidenced compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines. The findings of the fiscal review of TIG Grant No. 06460 were sent under separate letter on June 6, 2014.

II. BACKGROUND OF REVIEW

On January 13 through 17, 2014, staff of the Office of Compliance and Enforcement (“OCE”) conducted an on-site Compliance Review of Legal Aid Services of Oklahoma, Inc. (“LASO”). The purpose of the visit was to assess the recipient’s compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide (2010 Ed.) (“LSC Accounting Guide”), and the LSC Property Acquisition and Management Manual (“PAMM”).

Background of Recipient

LASO is a non-profit legal services organization providing free legal services to low-income and disadvantaged residents throughout the state of Oklahoma. LASO has a staff of 119, with 56 attorneys, 16 paralegals, and 47 other staff. LASO is headquartered in Oklahoma City and maintains 11 branch offices and eight (8) satellite offices throughout the state of Oklahoma. LASO has centralized intake located in the Tulsa branch office, which is referred to as the AppLine. LASO’s PAI program consists of a Pro Bono component which is overseen separately by each LASO branch office. LASO also provides legal assistance at several clinics in its service area through its PAI program. LASO’s practice areas include housing, family, consumer, public benefits, foreclosure, and domestic violence.

In 2014, LASO is anticipated to receive \$4,187,254 in LSC funds. In 2013, LASO received \$4,116,273 in LSC funds. In 2012, LASO received \$4,279,986 in LSC funding and aggregate funding of \$11,077,249. In 2011, LASO received \$5,015,203 in LSC funding and aggregate funding of \$10,828,909.

During 2012, 76.5% of cases reported to LSC were closed with limited service case closure categories and 23.5% of cases reported were closed with extended service case closure categories. During 2011, 70.4% of cases reported were closed with limited service case closure categories and 29.6% of cases reported were closed with extended service case closure categories.

In 2012, LASO’s adjusted self-inspection rate was 0.9% and in 2011 it was 2.8%.

Overview of Compliance Review

The on-site review was designed and executed to assess LASO’s compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LASO correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed LASO for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practices of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds,

program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the recipient's policies and procedures compared favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System, of the LSC Accounting Guide. The team also conducted a limited evaluation of LASO's management and use of its TIG awards to assess compliance with certain applicable LSC requirements.

In preparation for the visit, on October 24, 2013, OCE requested that LASO provide certain case lists. Case lists requested included all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases reported in its 2012 CSR data submission ("closed 2012 cases"), all cases closed in 2013 ("closed 2013 cases"), and all cases which remained open as of November 15, 2013 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by LASO staff and the other for cases handled through LASO's PAI component. OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. LASO was advised that OCE would seek access to case information consistent with Selection 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 7, 9, 10, and 17, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed LASO to notify OCE promptly, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

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

¹ In addition, when reviewing files with pleadings and court decisions, compliance with other regulatory restrictions was reviewed as more fully reported *infra*.

² 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.

Compliance Review Visit

During the visit, LASO cooperated fully and provided the requested materials. LASO afforded access to information in the case files through staff intermediaries. LASO maintained possession of the files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and LASO agreement of November 14, 2013. LASO displayed client signatures as they appeared on citizenship/alien eligibility documentation, retainer agreements, and 45 CFR Part 1636 statements. OCE reviewed a sample of over 1000 case files during the visit. OCE also interviewed members of LASO's upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed LASO's case intake, case acceptance, case management, and case closure practices and policies in all offices for staff and PAI programs. OCE fiscal staff reviewed LASO's compliance with LSC grants, conducted a limited review of internal controls, prohibited political activities, fee-generating cases, lobbying activity, as well as LASO's use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, timekeeping, attorney fees, cost standards and procedures, and other fiscal activities. A limited sampling of informational pamphlets and brochures were also collected and reviewed.

Overview of Findings

During the course of the visit, OCE notified members of LASO's upper and middle management and fiscal personnel of compliance issues identified during the review. At the conclusion of the visit, OCE also held a brief exit conference during which OCE advised LASO of its preliminary findings. During the exit conference, OCE explained to LASO that the findings were merely preliminary, that OCE may make further and more detailed findings in the Draft Report, and that LASO would have 30 days to submit comments to the Draft Report. LASO was advised that a Final Report would be issued that would include LASO's comments. LASO was further advised that OCE may request additional documentation or a demonstration that the required corrective action items have been implemented.

During the exit conference, OCE advised LASO that OCE detected patterns of non-compliance concerning certain regulatory and reporting requirements pertaining to the failure of screening for and obtaining attestations of citizenship/alien eligibility status, the application of CSR case closure categories, the drafting and implementation of compliant income and asset policies, and the application of 45 CFR Part 1604 outside practice of law procedures. Additionally, the fiscal team identified patterns of non-compliance. Specifically, the fiscal team review determined that LASO had administered approximately \$259,409 in employee bonuses over a three (3) year period without an approved Board policy in place. Additionally, the fiscal team identified approximately \$1,300 in reimbursed travel expenses that were not reviewed and approved by a supervisor.

LASO responded favorably to OCE's assessment and advised it will be identifying and implementing additional oversight methods to further increase compliance with the LSC Act, regulations, and other authorities.

Subsequent the review, LASO submitted to OCE an updated Accounting Manual, Financial Eligibility Policy, Outside Practice of Law Policy, Fee Generating Case Policy, Policy on Representing Eligible Aliens, and PAI Policy.³ Additionally, LASO indicated that the findings addressed during the exit conference of the review were reviewed at LASO's all-staff compliance trainings held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees. LASO also provided OCE with new Case Oversight Procedures which address many of the compliance concerns identified during the review. According to the Executive Director, LASO intended to implement the new procedures in June 2014.

By letter dated May 20, 2014, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. LASO was asked to review the DR and provide written comments within 30 days of its receipt. On June 30, 2014, LASO's comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit. Many of the findings of the fiscal review were sent under separate letter on June 6, 2014. OCE is awaiting LASO's comments. LASO's written response to those fiscal findings will be incorporated under separate cover.

³ These policies were approved by LASO's Board on February 20, 2014.

III. FINDINGS

Finding 1: LASO's automated case management system ("ACMS") is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded; however, there were several cases identified that contained inconsistent information between the ACMS and the case files. Additionally, a few modifications to the ACMS may be warranted.

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

In accordance with CSR Handbook (2008 Ed., as amended 2011), §§ 3.3 and 3.4, LASO has developed procedures for ensuring that timely and accurate data is reported to LSC in the CSRs. LASO utilizes Prime Case Management System as its ACMS, which is a web-based system developed by Kemps Case Works that allows staff access from any location with an internet connection.

Based on interviews and a comparison of the information yielded by the ACMS to information contained in the case files sampled, LASO's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. The on-site review determined that the ACMS is free from defaults in fields critical to the determination of eligibility and that LASO is in compliance with Program Letter 02-06 and the CSR Handbook (2008 Ed., as amended 2011), § 3.6.

In accordance with the CSR Handbook (2008 Ed., as amended 2011), §§ 3.1 and 3.5, the ACMS has the ability to report cases to LSC by funding source, grant type, Private Attorney Involvement ("PAI") component, jurisdiction, and individual office and the ACMS has the ability to exclude non-LSC reportable files from its CSR data submissions.

However, based on a comparison of the information elicited from the ACMS to information contained in the files sampled, LASO's use of its ACMS is insufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded. There were several inconsistencies between the information in the case file to that in the ACMS. *See* Open Case No. 12-21021898 (This case appeared on the open case list, but the file and the ACMS, at the time of the review, reflected that it had been closed on May 26, 2013, and there was no indication in the ACMS or case file that it had been reopened.); Closed 2013 Case Nos. 13-12014148 (This case appeared on the open case list, but the file and the ACMS, at the time of the review, reflected that it had been closed on December 18, 2013, and there was no indication in the ACMS or case file that it had been reopened.); 12-28024111 (This case was closed in the ACMS with CSR case closure category K (Other), but the notes in the case file indicate that it was deselected.); 12-17008710 (The case file indicated that it was opened on May 2, 2012, but the ACMS indicated that it was opened on April 24, 2012.); 13-28001523 (The case file indicated that it was opened on March 22, 2013, but the ACMS indicated that it was opened on

January 18, 2013).); 13-23005422 (The case file indicated that it was closed with CSR case closure category B (Limited Action), but the ACMS indicated that it was closed with L (Extensive Service).); 13-28001455 (The case file indicated that it was closed with CSR case closure category B (Limited Action), but the ACMS indicated that it was closed with L (Extensive Service).); 13-23018345 (The case file indicated that it was closed with CSR case closure category A (Counsel and Advice), but the ACMS indicated that it was closed with L (Extensive Service).); 12-24000761 (The case file indicated that it was closed with CSR case closure category I(b) (Contested Court Decision), but the ACMS indicated that it was closed with I(c) (Appeal).); 13-24011832 (The case file indicated that it was closed with CSR case closure category B (Limited Action), but the ACMS indicated that it was closed with L (Extensive Service).); 13-23012349 (The case file indicated that it was closed with CSR case closure category B (Limited Action), but the ACMS indicated that it was closed with L (Extensive Service).); 13-23012354 (The case file indicated that it was closed with CSR case closure category B (Limited Action), but the ACMS indicated that it was closed with L (Extensive Service).); 13-21021898 (The case file indicated that it was closed on May 26, 2013, and, according to the case handler, he is certain that the case was electronically closed in the ACMS on that same date, but the case appeared on an open case list submitted to OCE prior to the compliance review.); Closed 2012 Case No. 12-28000245 (The case file indicated that it was closed on February 7, 2012, but the ACMS indicated that it was closed on February 29, 2012).); Closed 2011 Case No. 11-24006651 and Closed 2012 Case No. 12-210027121 (These closed case files were identified in the ACMS as PAI cases, but the case files evidenced that the highest level of service was provided by LASO staff attorneys, not the assigned PAI attorneys, and, therefore, should have been closed as staff cases).).

Additionally, the review evidenced two (2) sampled cases, Closed 2012 Case Nos. 12-24010180 and 12-1005271, that appeared to have been closed and reported to LSC in LASO's 2012 CSRs, but the cases were found to be open and active during the on-site compliance review. These inconsistencies did not indicate a pattern of error, as it was determined that an employee reopened the closed and reported cases because they were unaware that legal assistance provided to a prior client returning with the same legal issue in a subsequent year requires that a new "case" be opened in the ACMS in order for a new case tracking number to be assigned. *See* CSR Handbook (2008, as amended 2011), §§ 6.2 and 6.3. Although this appears to have been an isolated incident, the fact that LASO's ACMS does not have a mechanism in place to identify such errors is a wider concern.

It is recommended that LASO develop a safety mechanism within its ACMS that will either "lock" closed cases that have been reported to LSC or that prevents case numbers from being reported multiple times in its CSRs. It is further recommended that LASO develop a system of review to verify the consistency of the information that is entered into the ACMS to that which is contained in the case files.

There are no required corrective actions.

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

The intake procedures in place for LASO's intake hotline, referred to as the AppLine, as well as the intake procedures of the branch and satellite offices were assessed by interviewing and/or observing receptionists, secretaries, attorneys, managing attorneys, and executive staff members during the on-site review. The interviews and observations revealed that intake procedures performed by staff generally support the recipient's compliance-related requirements as defined by the CSR Handbook (2008 Ed., as amended 2011), § 3.2 (Duplicates and Conflicts), 45 CFR Part 1611 (Income and household eligibility screenings), 45 CFR §§ 1611.3(e) and 1611.4(b) (Asset eligibility screenings), 45 CFR § 1611.4(c) (Government benefits exemption), and 45 CFR Part 1620 (Priorities). Weaknesses, however, were identified in the screening practices related to: 45 CFR §§ 1611.2(d) and 1611.3(d)(2) (Asset eligibility screening), 45 CFR § 1611.7 (a)(1) (Income prospects), and 45 CFR Part 1626 (Citizenship and alien status screenings).

The forms used by LASO to determine eligibility were obtained on-site and evaluated to determine whether they were in compliance with LSC regulations and authorities so as to facilitate the uniform and consistent screening of applicants for services. The forms reviewed included: conflict forms, citizenship and alien status forms, printed ACMS intake sheets, and LASO's "Application for Legal Services" which is completed by in-person applicants. Additionally, opening and closing compliance checklists and sample acceptance and closure letters were obtained and reviewed. With the exception of the outdated citizenship attestation forms found in many of the case files reviewed, each of the documents reviewed were found to be in compliance with LSC requirements.

Legal Assistance Service Delivery Systems

A majority of LASO's intake eligibility screening is conducted by telephone through its program-wide AppLine which is located in the Tulsa branch office. LASO also accepts a small percentage of walk-in applicants at its branch offices and outreach clinics. LASO has developed a detailed Application Manual ("Manual") to guide staff conducting intake, which was most recently revised in September 2013. The Manual details LASO's application process and ACMS data entry protocols in a step-by-step format. LASO's Manual, program policies, and required forms are available to staff electronically on a shared drive.

AppLine telephone screeners receive calls from within LASO's service area. During the initial call, an intake screener will conduct a duplicate and program-wide conflict check and collect data related to the applicant's demographic, available income and assets, citizenship status, and information regarding the applicant's legal problem. The nature of the applicant's legal problem is compared to LASO's priorities and written case acceptance guidelines. AppLine intake screeners are trained to identify potential conflicts, but not to resolve them. If a potential conflict is identified, the application is transferred to the Managing Attorney for review.

After intake screeners have completed intake screening on the AppLine, the next step is for the application to be electronically transferred to the appropriate branch office. Once received at the branch office, a staff member confirms with the applicant that all of the information provided is accurate, complete, and correct. LASO staff will then request additional facts relevant to the

applicant's legal problem in order to thoroughly analyze the identified legal issue(s) and determine the appropriate level of assistance. The branch and satellite office staff are responsible for collecting required compliance related documents (e.g., citizen attestations, retainers, and statements of fact).

As stated previously, LASO accepts walk-in applicants at all of its branch and satellite offices. Each office has developed its own unique practices and procedures for in-person eligibility screening, case acceptance, and case closure. Some offices use manual intake forms and subsequently enter the information into the ACMS, whereas other offices enter applicants' eligibility information directly into the ACMS. Advocates in all LASO offices are responsible for closing their own cases. Advocates assign an appropriate CSR case closure category to their cases and close them electronically and, if a paper file exists, will utilize one of LASO's compliance and case closure checklists to close the paper file.

As stated above, LASO intended to implement new Case Oversight Procedures in June 2014 to overcome the compliance issues evidenced during the review. In its comments to the DR, LASO was requested to provide an update on its efforts to implement its new procedures and any related documentation demonstrating these efforts.

In response to the DR, LASO indicated that the new Case Oversight Procedures were updated and that its managers were briefed on the new procedures in the last week of May 2014. A copy of the new case oversight procedures was provided to OCE in LASO's response and determined to sufficiently address the compliance concerns. According to LASO, this process will be shared with all LASO managers and staff. The new oversight procedures require each litigation office to designate at least one (1) staff person as a Compliance Oversight Monitor. According to LASO, it intends to conduct its first conference call with the Compliance Oversight Monitors from each office in July. This call will brief the Monitors in detail on the new procedures.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the date(s) and method(s) used to share the new Compliance Oversight Procedures with office managers and staff, including any documentation evidencing the implementation of the procedures (e.g., emails to staff, meeting agendas, training agendas, etc.). Additionally, OCE requests that LASO submit the date(s) the conference call(s) with the Compliance Oversight Monitors occur(s), a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call(s).

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

Compliance Concerns

Asset Screening

A review of LASO's income and asset eligibility policies evidence non-compliance with the requirements of 45 CFR Part 1611. A full discussion of LASO's income and asset policy can be

found in Findings 3 and 4. Although LASO's income and asset policies are non-compliant, interviews reveal that, in practice, the AppLine staff's income/asset inquiry and recordation is conducted in a compliant manner. AppLine staff demonstrated a strong understanding of the LSC's financial eligibility requirements and the LSC funding guidelines. However, interviews with the branch and satellite offices evidenced some confusion regarding LASO's asset screening requirements.

LASO's asset policy at the time of the review set a ceiling of \$3,000 per person and \$8,000 per household; however, if an applicant has \$2,000 or more in liquid assets, a managing attorney must approve the asset amount in order for the application to be determined eligible.⁴ Interviews evidenced that this policy causes confusion, as some branch and satellite office staff indicated that they either understood the asset ceiling to be \$2,000 or they correctly understood the asset ceiling, but did not differentiate between liquid and non-liquid assets. Additionally, some intake staff had no knowledge of the policy requiring managing attorney approval of applications indicating liquid assets \$2,000 or greater.

Subsequent the review, LASO's Board of Directors ("BOD") approved an updated Financial Eligibility Policy on February 20, 2014. A copy of the policy was provided to OCE for review and was determined to meet the requirements of 45 CFR Part 1611. LASO's updated Financial Eligibility Policy was an agenda item at LASO's all-staff compliance trainings held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

Since LASO has taken action to address any compliance concerns relating to asset screening noted during the course of the review, there are no additional recommendations or required corrective actions.

Income Prospects

Recipients are required to "make reasonable inquiry" into every applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a). Interviews evidenced that the AppLine intake screeners are making this inquiry; however, interviews with intake staff at the branch and satellite offices indicated that the inquiry is not being consistently applied for walk-in applicants. LASO is reminded that staff must make such inquiry when screening every applicant, whether by telephone or in-person, during the intake process.

Income prospects was an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

Since LASO has taken action to address any compliance concerns relating to screening for income prospects noted during the course of the review, there are no additional recommendations or required corrective actions.

⁴ LASO's updated Financial Eligibility Policy eliminates the need to obtain a waiver if an applicant has \$2,000 or more of liquid assets.

Citizenship and Alien Status Screening

During the on-site review, interviews and observations were conducted of the AppLine intake screeners in the branch and satellite offices to assess whether LASO satisfied the requirements of 45 CFR Part 1626, the CSR Handbook (2008 Ed., as amended 2011), § 5.5, Program Letter 99-3 (July 14, 1999), and Program Letter 06-2 (February 21, 2006) (Violence Against Women Act 2006 Amendments (“VAWA”)). The on-site observations evidenced that LASO inconsistently complies with LSC regulations and instructions relating to the screening of applicants for citizenship and alienage status.

Interviews with a majority of AppLine branch and satellite office intake screeners demonstrated a sufficient understanding of the citizenship and alien eligibility documentation requirements of 45 CFR Part 1626, including those for VAWA, T-Visa, and U-Visa cases. However, several interviews conducted at branch and satellite offices evidenced that staff may not be making appropriate inquiries or collecting the required documentation necessary for proper citizenship screening. Such practices are inconsistent with the process of screening for citizenship that LSC regards as essential to the realization of the intent of Congress in enacting the restrictions on federally funded legal assistance to ineligible aliens. *See* 45 CFR Part 1626.

Additionally, there were a significant number of sampled cases reviewed that were open prior to April 2013 and contained citizenship attestations with language that does not meet the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.5. Three (3) non-compliant documents were identified:

- An undated staff retainer agreement form with options for the applicant to select citizen or eligible alien and a line for non-citizens to insert their status. This document has no separate signature line for the statement. This form was to satisfy the citizenship attestation and retainer agreement requirements in a single document for extended representation cases.
- An undated Attestation of Citizenship or Eligible Alien Status form which includes three (3) check-box options for citizenship status.
- A Pro Bono Referral Agreement, revised September 28, 2005, with check-boxes to designate whether an applicant is a U.S. citizen, but none as is required by CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Interviews evidenced that, in early 2013, LASO created and implemented two (2) documents, separating its retainer agreement and the citizenship attestation. These forms were reviewed and found to be in compliance with LSC requirements.

The cover letter to the CSR Handbook (2008 Ed.) required recipients, as of January 1, 2009, to comply fully with the Handbook requirements for all cases reported to LSC regardless of when they were opened. Since LASO’s citizenship attestation was not revised until 2013, LASO reported numerous cases with non-compliant citizenship attestations to LSC between 2009 and 2013. The DR required that LASO take corrective action to ensure that all closed 2014 and open cases contain CSR compliant citizenship attestations prior to reporting those cases to LSC and

remove all citizenship attestations that do not comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011) from circulation.

Citizenship screening was an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

In response to the DR, LASO indicated that it would ensure that all closed 2014 and open cases contain a compliant citizenship attestation prior to reporting the cases to LSC. LASO indicated that it would remove all citizenship attestations that did not comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011) from circulation. According to LASO, it will periodically, provide reminders to staff that all citizenship attestations must comply with the CSR Handbook (2008 Ed., as amended 2011) and will direct staff to use LASO's current citizenship attestation form. According to LASO, these messages will be reinforced in the monthly conference calls with the Compliance Oversight Monitors.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the dates and methods used to provide reminders to staff of this requirement, and the dates the conference calls with the Compliance Oversight Monitors occur, a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call.

Conclusion

The on-site review evidenced that many of LASO's intake procedures support compliance related requirements; however, the on-site observation of LASO's branch and satellite offices evidenced weaknesses in the screening of citizenship, assets, and income prospects. Therefore, LASO's intake procedures did not support its compliance related requirements and further improvement to its practices was necessary:

As stated above, LASO indicated that these issues were addressed and reviewed at LASO's all-staff compliance trainings held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees. LASO also provided OCE with new Case Oversight Procedures which address many of the compliance concerns identified during the review. According to the ED, LASO intended to implement the new procedures in June 2014. In its comments to the DR, LASO was requested to provide an update on its efforts to implement its new Case Oversight Procedures.

As stated above, in response to the DR, LASO indicated that the new Case Oversight Procedures were updated and that its managers were briefed on the new procedures in the last week of May 2014. According to LASO, this process will be shared with all LASO managers and LASO staff. The oversight procedures require each litigation office to designate at least one (1) staff person as a Compliance Oversight Monitor. According to LASO, it intends to conduct its first conference call with the Compliance Oversight Monitors from each office in July. This call will brief the Monitors in detail on the new procedures.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO must submit, within 90 days of the issuance of this Final Report, the date(s) and method(s) used to share the new Compliance Oversight Procedures with office managers and staff. Additionally, OCE requests that LASO submit the date (s) the conference call(s) with the Compliance Oversight Monitors occur(s), a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call.

Finding 3: LASO maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines; however, at the time of the review, LASO’s Financial Eligibility Policy was inconsistent with the requirements of 45 CFR Part 1611.

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.⁵ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

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

The LSC regulations, at 45 CFR § 1611.3(a), require the BOD to adopt financial eligibility policies for individuals and groups and to review these policies every three (3) years. Moreover, the regulations allow the Board to establish authorized exceptions to its annual income ceilings consistent with 45 CFR § 1611.5. *See* 45 CFR § 1611.3(c)(2). Interviews as well as a review of

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

LASO's Financial Eligibility Policy at the time of the review evidenced that its BOD had not updated the policy since 2005 or earlier. LASO's Application Manual, however, although not Board adopted, appears to set forth an income eligibility policy that was consistent with the current requirements of 45 CFR §§ 1611.3(c)(2) and 1611.5. LASO's Deputy Director indicated, with regard to the non-compliant Financial Eligibility Policy in effect at the time of the review, that LASO's BOD approved the new FPG each year and included it as an addendum to the policy; however, the language of the policy had not been updated since before 45 CFR Part 1611 was revised on August 8, 2005.

Subsequent the review, LASO's BOD approved an updated Financial Eligibility Policy on February 20, 2014. A copy of the policy was provided to OCE for review and was determined to meet the requirements of 45 CFR Part 1611. Additionally, LASO's updated Financial Eligibility Policy was an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

There were five (5) sampled cases reviewed that failed to contain the required income eligibility documentation pursuant to 45 CFR §§ 1611.2(i) and 1611.4, the CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG. *See* Closed 2013 Case Nos. 13-24002702, 13-28001455, and 13-1009627; Closed 2012 Case No. 12-5001550; and Closed 2011 Case Nos. 11-24000831 and 11-11006055.

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

Finding 4: LASO does not maintain asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Additionally, at the time of the review, LASO's Financial Eligibility Policy was inconsistent with the requirements of 45 CFR Part 1611.

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.⁶ *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

⁶ 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.

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 clients' files. LASO's asset policy at the time of the review set a ceiling of \$3,000 per person and \$8,000 per household; however, if an applicant had \$2,000 or more in liquid assets, approval by a managing attorney was required in order to accept the applicant's case.

Similar to LASO's income policy, the asset policy was inconsistent with the current version of 45 CFR Part 1611 and had not been updated since prior to the revised version of the regulation being published on August 8, 2005. Specifically, the list of asset exceptions in LASO's policy is inconsistent with the allowable exceptions listed in 45 CFR § 1611.3(d)(1). As stated above, LASO's BOD approved an updated Financial Eligibility Policy on February 20, 2014. A copy of the policy was provided to OCE for review and was determined to meet the requirements of 45 CFR Part 1611.

LASO represents low-income tenants at the Tulsa County evictions docket through the Courthouse Assistance Project ("CAP"). LASO utilizes a "Client Information Form" for applicants to complete prior to representation at the clinic. At the time of the review, the form did not have questions that captured the applicant's asset information or income prospects and it did not contain questions related to 45 CFR § 1611.5 authorized exceptions applicable where an applicant's income is over 125% but below 200% of the FPG. The review of CAP cases substantiated the fact that clients accepted through CAP were not being screened for assets. *See* Closed 2011 Case Nos. 11-15015394 and 11-15016719; Closed 2012 Case Nos. 12-15004579, 12-15004668, 12-15001346, and 12-15007722; and Closed 2013 Case Nos. 13-24013152, 13-15008016, 13-15002055, 13-15004311, and 13-15004299. Additionally, there were two (2) non-CAP cases that were found to lack the asset eligibility documentation required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. *See* Closed 2011 Case No. 10-19018377 and Closed 2013 Case No. 09-23011918.

Subsequent to the compliance review, LASO submitted a revised "Client Information Form" to OCE for review. The revised form screens for income prospects as required by 45 CFR § 1611.7 (a)(1) and for assets as required by CSR Handbook (2008 Ed., as amended 2011), § 5.4; however, the revised CAP form continues to fail to inquire about authorized exceptions if an applicant's income is over 125% but below 200% of the FPG. The Client Information Form will be discussed in more detail in Finding 17 below.

Subsequent the on-site review, LASO agreed to review all 2013 closed CAP cases prior to their inclusion in LASO's CSRs to ensure that only cases where the client was properly screened for assets are reported to LSC. The DR required that LASO take corrective action to ensure that the 2014 cases handled by CAP prior to the Client Information Form being revised contain the required asset information in accordance with 45 CFR § 1611.7 (a)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. Additionally, the DR required that LASO take corrective action to

ensure that the updated Client Information Form was consistent with LASO's recently approved Financial Eligibility Policy.

In response to the DR, LASO indicated that it would ensure that the closed 2014 CAP cases contained the required income and asset information in accordance with 45 CFR §§ 1611.7 and 1611.5(a)(4) and CSR Handbook (2008 Ed., as amended 2011), §§ 5.3 and 5.4.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO must submit, within 90 days of the issuance of this Final Report, evidence that the updated Client Information Form used for CAP is consistent with LASO's Financial Eligibility Policy, and that use of the form has been implemented.

With the exception of the CAP PAI cases, sampled cases evidenced that LASO otherwise maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

Finding 5: Sampled cases evidenced non-compliance with the documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

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

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ 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, VAWA (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

⁷ *See* Kennedy Amendment at 45 CFR § 1626.4.

Sampled cases evidenced non-compliance with 45 CFR § 1626.6 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, as there were 18 cases reviewed that failed to contain a citizenship attestation when required. *See* Open Case Nos. 13-1007535, 13-24001752, 09-15011436, 13-24005436, 04-15000942, 13-24016034, and 13-24011363; Closed 2013 Case Nos. 13-24013506, 13-24010287, 13-28001455, 09-23011918, 13-24011832, 13-23012349, 13-23012354, and 13-6016741; Closed 2012 Case No. 11-19016159; and Closed 2011 Case No. 11-12003880.

Additionally, there were nine (9) cases where the citizenship attestation was not dated. *See* Open Case Nos. 13-24019361 and 13-24019908; Closed 2012 Case Nos. 12-28002416, 12-1017934, 11-1014554, and 11-15007129; and Closed 2011 Case Nos. 09-24009911, 10-22004918, and 11-22012463. Furthermore, there were two (2) sampled cases where the citizenship attestation was obtained subsequent to LASO providing extended representation to the client. *See* Closed 2012 Case Nos. 09-24018589 and 11-24013986.

As stated previously in Finding 2 above, there were a significant amount of cases reviewed where the citizenship attestations were not in the format required by CSR Handbook (2008 Ed., as amended 2011), § 5.5, as the signature line was not tied only to the attestation. The DR required that LASO take corrective action by ensuring that all closed 2014 and open cases contain CSR compliant citizenship attestations prior to reporting the cases to LSC. The DR also required that LASO take corrective action to remove all citizenship attestations that did not comply with the requirements of the CSR Handbook from circulation and ensure that staff understands and complies with these requirements. Finally, the DR required that LASO must take corrective action to ensure that all case files contained a CSR compliance citizenship attestation when required.

In response to the DR, LASO indicated that it would ensure that all case files contain a signed and dated citizenship attestation pursuant to 45 CFR Part 1626 and that the attestations would comply with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5. According to LASO, compliance will be ensured through on-site office assessments and by case file reviews by the office manager. Additionally, LASO indicated that compliance will be emphasized during the Compliance Oversight team conference calls.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, dates the on-site office assessments and case file reviews have occurred or will occur, and dates the conference calls with the Case Oversight team occurred.

Finding 6: Sampled cases evidenced non-compliance with the retainer requirements of 45 CFR § 1611.9 (Retainer agreements) because many retainers contained insufficient detail on the nature of services provided and the legal matter.

Pursuant to 45 CFR § 1611.9, recipients are required to execute a retainer agreement with each client who receives extended legal services from the recipient. The retainer agreement must be in a form consistent with the applicable rules of professional responsibility and prevailing practices

in the recipient's service area and shall include, at a minimum, a statement identifying the legal problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

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

There were six (6) cases that lacked a retainer when required. *See* Open Case Nos. 09-24008606, 10-24009536, and 09-15011436; Closed 2012 Case Nos. 12-5016176 and 12-21003507; and Closed 2011 Case No. 11-12003880. Additionally, there were three (3) cases reviewed where the retainers were not obtained in a timely manner. *See* Open Case No. 09-22009348; 2012 Case No. 09-24018589; and Closed 2011 Case No. 09-21020315. There were also two (2) cases where the retainer had a completed scope and subject matter, but was not signed. *See* Open Case Nos. 13-24003753 and 04-15000942.

Furthermore, the case sampling identified over 32 retainer agreements that contained insufficient detail relating to the nature of services provided or legal subject matter, or both. *See* for example, Open Case Nos. 13-24015997, 13-24011245, and 13-24002327; Closed 2013 Case No. 13-24001697; Closed 2012 Case Nos. 09-24018589, 12-24019463, 12-24018055, and 12-1902207; and Closed 2011 Case No. 07-1015677.

Retainer agreements were an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

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

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

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

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

⁸ 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.

With one (1) exception, the sampled case files reviewed indicated substantial compliance with the requirements of 45 CFR Part 1636. *See* Staff Closed 2011 Case No. 09-21020315.

There are no recommendations or required corrective actions.

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

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

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

A review of LASO’s policies and sampled cases, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR §§ 1620.3(a) and 1620.6(c).

There are no recommendations or required corrective actions.

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

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

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

Recipients are instructed to record client *and* case information either through notations on an intake sheet or other hard-copy document in a case file, through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC, such information

shall, at a minimum, describe, *inter alia*, the level of service provided. See CSR Handbook (2008 Ed., as amended 2011), § 5.6.

Sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6, as there were nine (9) case files reviewed that failed to contain documented legal advice. See Closed 2013 Case No. 13-24011668; Closed 2012 Case Nos. 11-24004018, 12-28006356, and 12-19008575; Closed 2011 Case Nos. 11-24003584, 11-8009841, 12-240024420, 11-24007928, and 11-16008209.

There are no recommendations or required corrective actions.

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

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

The review evidenced a significant number of cases that were closed with the CSR case closure category K (Other). All cases closed with closure category K were determined to be inaccurately closed. The patterns of error fit within two (2) broad categories. First, there were cases closed with closure category K that would have been more appropriately closed by another CSR case closure category. Examples include the following: Closed 2012 Case Nos. 12-21005271 (This was a case that should have been closed with category B (Limited Action).) and 12-21003507 (This was a case that should have been closed with category L (Extensive Service).); and Closed 2013 Case No. 13-24020348 (The case should have been closed with an A (Counsel and Advice).) Second, there were cases closed with closure category K that were intended for deselection and LASO staff incorrectly used the K category as a method of deselection. Examples include the following: Closed 2013 Case No. 13-22800933 and Closed 2012 Case Nos. 12-21010204 and 12-21001632.

LASO must take corrective action to ensure that CSR case closure category K is properly used only for CSR eligible and reportable cases where it is the closure category that best describes the level of service provided to the client.

As part of its corrective action, LASO management should periodically print lists of reportable cases closed with the K category to review and determine if its use is correct.

There were 19 additional cases identified in the sample that had been closed with the incorrect CSR case closure category, with the pattern of error being identified as the miscoding of cases where a LASO attorney withdrew from the case. Closed 2013 Case Nos. 12-5018558 (This is a case that was closed with the closing code L (Extensive Service) when B (Limited Action) was

the applicable closing code.); 12-7016909 (This is a case that was closed with an A (Counsel and Advice) when B (Limited Action) was the applicable closing code.); 10-24009536 (This case was closed with the closing code I(b) (Contested Court Decision); however, the applicable closing code in this case is G (Negotiated Settlement with Litigation). The information indicates that a negotiated settlement was reached in a formal administrative hearing.); 11-24010795 (This case was closed with the closing code I(b) (Contested Court Decision); however, the applicable code in the case is L (Extensive Action). The case was in litigation when the LASO's attorney filed a motion to withdraw.); 12-24017320 (This is a case that was closed with the closing code B (Limited Action); however, the applicable closing code is L (Extensive Action). This case was in litigation when the LASO's attorney filed a motion to withdraw.); 13-28001854 (This is a case that was closed with the closing code B (Limited Action); however, the applicable closing code is L (Extensive Action). According to the notes in the case file extensive work was done on the client's behalf.); 13-28001523 (This is a case that was closed with the closing code A (Counsel and Advice); however, the applicable closing code is B (Limited Action). LASO's attorney sent a letter on behalf of the client to the opposing party in the case.); 09-23011918 (This is a case that was closed with the closing code I(a) (Uncontested Court Decision); however, the applicable closing code is L (Extensive Action). This case was in litigation when LASO's attorney filed a motion to withdraw.); 12-24000761 (This is a case that was closed with the closing code I(b) (Contested Court Decision); however, the applicable closing code is G (Negotiated Settlement with Litigation). This case was in litigation when the parties reached a settlement agreement.); Closed 2012 Case Nos. 12-6015106 (This is a case that was closed with an L (Extensive Service) closing code when B (Limited Action) was the applicable closing code.); 12-5016176 (This is a case that was closed with a G (Negotiated Settlement with Litigation) when the applicable closing code was L (Extensive Service).); 11-25006542 (This was a case that was closed with an A (Counsel and Advice) closing code when the applicable closing code was an L (Extensive Service).); 11-24012946 (This is a case that was closed with the closing code I(a) (Uncontested Court Decision); however, the applicable closing is L (Extensive Action). This is a case that was in litigation when LASO's attorney filed a motion to withdraw.); 12-24001107 (This is a case that was closed with the closing code G (Negotiated Settlement with Litigation); however, the applicable closing is I(b) (Contested Court Decision). According to the notes in the case file the opposing party contested the case and no settlement agreement was reached.); 12-24013358 (This is a case that was closed with the closing code B (Limited Action); however, the applicable closing code is L (Extensive Action). This case was in litigation when the LASO's attorney filed a motion to withdraw.); 09-24016838 (This case was closed with the closing code I(a) (Uncontested Court Decision) when the applicable closing code was L (Extensive Service). The only court decision in the file was the program's motion to withdraw.); 11-18006283 (This is a case that was closed with the closing code I(c) (Court Decision Appeals), however, this was a case involving the administrative appeal of a Social Security (SSI) case. Therefore, H (Administrative Decision) was the applicable closing code.); Closed 2011 Case Nos. 11-12003880 (This is a case that was closed an L (Extensive Service) closing code when I(b) (Contested Court Decision) was the applicable closing code.); and 11-6003777 (This case was closed with the closing code I(a) (Uncontested Court Decision) when the applicable closing code was L (Extensive Service). The only court decision in the file was the program's motion to withdraw.).

Closing codes were an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees. Additionally, LASO indicated it intends to implement new Case Oversight Procedures in June 2014 to overcome the compliance issues evidenced during the review.

The DR required that LASO take corrective action to ensure that CSR case closure category K is properly used only for CSR eligible and reportable cases where it is the closure category that best describes the level of service provided to the client. To achieve this, OCE recommended in the DR that LASO management periodically print lists of reportable cases closed with the K category to review and determine if its use is correct.

In response to the DR, LASO indicated that it will no longer use case closure category K. According to LASO, it will periodically print lists of reportable cases closed to ensure that the K closure category is not being used. The Director of Advocacy has drafted a CSR code quick reference sheet that will be disseminated staff in July 2014 to assist in these efforts.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, a copy of the CSR code quick reference sheet and the date(s) and method(s) used to disseminate it to staff.

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

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice 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).⁹ There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally, LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

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

There were 13 cases reviewed in the case sample that were untimely closed or dormant. *See* Open Case No. 12-1005840 (The case was opened on May 16, 2012, and the last documented activity occurred in November 2012, but the case remained open at the time of the review. This case is a non-LSC funded case and is not CSR reportable.); Open Case No.04-15000942 (This is a case where the last documented work in the case file was 2008. This case should have been closed and reported in 2008.); and Open Case Nos.10-24009786 and 10-24009797 (These cases involved the same client. The last documented work in the case files was in 2011. These cases should have been closed and reported in 2011.); Closed 2014 Case Nos. 09-24008606 (This is a case that was closed on January 10, 2014 but the last documented work in the case file was in August of 2012. This case should have been closed and reported in 2012.); 09-15011436 (This is a case that was closed on January 10, 2014 but the last documented work in the case file was in August of 2012. This case should have been closed and reported in 2012.); 13-24006724 (This is a case that was closed on January 13, 2014 with a B (Limited Service) closing code, but the last documented work in the case file was in April 2013. This case should have been closed and reported in 2013.); Closed 2012 Case Nos. 10-15010790 and 10-11010916 (These were PAI case was opened on September 1, 2010, and closed on January 19, 2012, with case closure category I (a) (Uncontested Court Decision), but the last documented activity occurred on November 19, 2010, and, therefore, it should have been closed and reported to LSC no later than 2011.); Closed 2011 Case No. 08-11020329 (This PAI case was opened on December 10, 2008, and closed on December 15, 2011, with case closure category A (Counsel and Advice), but the last documented activity occurred in December 2008 and, therefore, it should have been closed and reported to LSC no later than 2009.).

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

There are no recommendations or required corrective actions.

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

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

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

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

Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

LASO is in non-compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2, regarding duplicate cases, as there was seven (7) sets of duplicate case files noted in the review sample. *See* Closed 2012 Case Nos. 11-1001749 and 11-1001627; Closed 2011 Case Nos. 10-1020974 and 10-1019296; Closed 2011 Case Nos. 10-1012638 and 10-1012397; 10-24021692 and 10-24021687; and 10-11010916 and 10-15010790.

There were a couple of sets of duplicates that evidenced a misunderstanding of duplicate reporting rules by staff that should be corrected. Specifically, these cases were opened in different years and some staff thought that the year in which a case was opened is part of the consideration as to whether it may be a duplicate case. LASO should note that it is not the year the case was opened, but, rather, the year in which the case is closed that is determinative. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.3. *See* Closed 2012 Case Nos. 12-11022097 and 12-11022090; 11-24016918 and 12-11004919.

Furthermore, there were several additional duplicate cases identified during the review that were deselected by LASO prior to the on-site compliance review.

Duplicate reporting of cases was an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

Since LASO has taken action to address any compliance concerns noted under this finding during the course of the review, there are no additional recommendations or required corrective actions.

Finding 13: Review of LASO's policies in effect at the time of the review evidenced compliance with the requirements of 45 CFR Part 1604 (Outside practice of law); however, in practice, interviews with full-time attorneys who have engaged in the outside practices of law evidenced non-compliance with the requirements of Part 1604.

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

Prior to the compliance review, LASO provided OCE with a copy of its policy governing the outside practice of law by full-time attorneys and a list of attorneys participating in the outside practice of law. LASO's policy, which is located in its Employee Personnel Manual, was reviewed and found to be compliant with 45 CFR Part 1604; however, interviews evidenced that LASO fails, in practice, to follow the requirements set forth in its own policy, as well as LSC regulations.

The list of attorneys participating in Part 1604 activities provided by LASO to OCE prior to the review was found to be incomplete, as the list only provided a portion of those attorneys' written requests and approvals. OCE determined that the cause of the incomplete Part 1604 activities list was due to the fact that LASO's request and approval procedures were inconsistently applied; For example, interviews with staff identified by LASO as participating in Part 1604 activities revealed that, in some instances, requests and approvals were done verbally. There was one (1) attorney who indicated that he handled more outside practice cases than LASO's list indicated. Furthermore, there does not appear to be significant oversight of these activities so as to ensure that LASO staff attorneys are appropriately using leave time, as needed.

Subsequent to the compliance review, LASO provided OCE with an updated and more comprehensive 45 CFR Part 1604 (Outside Practice of Law) policy. The updated policy corrects many of the deficiencies that were evident during the review. Furthermore, LASO's revised Outside Practice of Law Policy was an agenda item at LASO's all-staff compliance training held on March 16 and 24, 2014. A copy of the agenda was provided to OCE with a list of attendees.

Since LASO has taken action to address any compliance concerns noted under this finding during the course of the review, there are no additional recommendations or required corrective actions.

Finding 14: A limited review of fiscal documents, sampled cases, and public materials available in LASO's offices, as well as interviews with management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

A comprehensive review of LASO's pamphlets, brochures, flyers, etc. and an inspection of waiting areas and other public spaces in LASO's offices were conducted to assess compliance with 45 CFR Part 1608. The majority of the materials displayed at each office visited were informational flyers produced by the recipient providing landlord-tenant or debt collection information. In addition, the offices displayed pamphlets from public service and other entities regarding subject matter such as marriage and family counseling, consumer credit counseling, and domestic violence assistance. Bulletin boards and other depictions in the offices' public space were reviewed. With one (1) exception, the materials were found to be free of any prohibited political message, expression, symbol, image, or allusion and were determined to be in compliance with 45 CFR Part 1608.

A publication subscribed to by LASO, *The Oklahoma Observer*, was located at a branch office on the main table in the public entrance and waiting area of the office. A fiscal review of the payments associated with the publication revealed that approximately \$945 of LSC funds were used to pay for the subscription over the past three (3) years. The publication contained clearly

partisan news articles and political cartoons, several that were specifically targeting Republican elected representatives and officials.¹⁰ In addition, the publication contained a solicitation for donations for its *The Oklahoma Observer Democracy Foundation* to support the publication. As part of the solicitation, the publication describes itself as "progressive journalism," stating that it is "...an antidote to the state's corporatist, rightwing, mainstream media..." According to the office manager, LASO had a subscription to the publication since prior to her employment and that it had always been available in the same location near the public entrance. The office manager further stated that she never questioned placing the publication in a public location, as it was the existing practice.

During the compliance review, the Executive Director was informed of the publication. He immediately sent an email instructing staff to remove the publication from public and common areas in any LASO office and further instructed that the publication and any other similar materials must be kept in a location that cannot be seen by the public or its clients. Additionally, the Executive Director indicated that LASO would no longer be utilizing LSC funds to pay for the subscription.

A review of sampled cases, disclosed no evidence that staff, while engaged in legal assistance activities supported under the Act, engaged in any political activity, provided voters with transportation to the polls, or provided similar assistance in connection with an election or voter registration activity. Finally, interviews with management disclosed no evidence that LASO employees have intentionally supported or identified LASO with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office. As such, LASO is in compliance with the requirements of 45 CFR Part 1608.

The DR required LASO as a corrective action to reallocate the \$945 in LSC funds spent on *The Oklahoma Observer* to its LSC fund to offset the cost of the publication and provide evidence showing this has been done. The DR required that LASO provide a description of any procedures or policies it has put in place to ensure that LSC funds are not used for similar purchases in the future.

In response to the DR, LASO submitted a copy of its general ledger evidencing that the \$945 expense to *The Oklahoma Observer* was reallocated to a non-LSC revenue source. Additionally, LASO indicated that it will, in the future, restrict periodical publication purchases with LSC funds to publications that strictly relate to the practice of law for the benefit of LASO advocates and clients. In order to close this Required Corrective Action, LASO is requested to provide, within 90 days of the receipt of this Final Report, a copy of any revised policies, instructions to employees, etc., evidencing guidance provided to staff regarding this matter.

¹⁰ For example, a cartoon on page four (4) shows a baby being taken into the emergency room with the caption "He's freezing, his family became homeless after Republications cut their jobless benefits." Similarly, a cartoon on page nine (9) shows a number of clowns in a car with the bumper sticker "Red State Legislature's Clown Car," with the car turning "Hard Right" and a sign stating "Let thousands get sick and go broke and be a burden on already strained social services because you hate Obama." The left turn alternative, with no criticism, read "Medicaid Expansion."

Finding 15: Sampled cases and interviews with management and staff evidenced compliance with the requirements of former 45 CFR Part 1609 (Fee-generating cases). The findings of the fiscal review of this Part were sent to LASO under separate cover on June 6, 2014.

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 practices, reasonably might be expected to result in a fee for legal services from an award to the client, from public funds, or from the opposing party. *See* 45 CFR §§ 1609.2(a) and 1609.3.

Recipients may provide legal assistance in such cases if the case has been rejected by the local lawyer referral service, or two (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking Social Security or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the case is a type of case 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 the recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

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

None of the sampled files reviewed evidenced legal assistance with respect to fee-generating cases.

The findings of the fiscal review of 45 CFR Part 1609 was sent under separate letter on June 6, 2014.

Finding 16: The findings of the fiscal review of 45 CFR Part 1610 were sent to LASO under separate cover on June 6, 2014.

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

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting, or retaining attorneys' fees. Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

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

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

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

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

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

The findings of the fiscal review of 45 CFR Part 1610 was sent under separate letter on June 6, 2014.

Finding 17: LASO is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which are designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. The findings of the fiscal review for compliance with this Part were sent to LASO under separate cover on June 6, 2014.

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 the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

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

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

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

Expenditures and Allocations

The findings of the fiscal review if this Part were sent under separate letter on June 6, 2014.

Overview of the PAI Program

LASO's PAI program is comprised of several components throughout the state, with the primary component being its pro bono clinics in the Tulsa and Oklahoma City branch offices.

In advance of the review, LASO provided OCE with a copy of its PAI Plan, which sets forth the legal needs of eligible clients in the service area and the delivery mechanisms potentially available to provide opportunities for private attorney involvement. The PAI Plan reflected that LASO consulted with the legal community. LASO's PAI components were assessed and the on-site review found LASO's PAI practices consistent with its PAI Plan.

LASO's PAI component is overseen by two (2) regional pro bono coordinators located in Tulsa and Oklahoma City and the managing attorneys who directly oversee the PAI efforts in their respective branch offices. The pro bono coordinators and PAI staff were interviewed in the Oklahoma City, Tulsa, Muskogee, Jay, Stillwater, and Bartlesville offices in order to assess oversight of PAI referrals and cases. Intake screenings for PAI cases are conducted either through the AppLine, discussed in detail in Finding 2, or at outreach clinics.

PAI Cases Through AppLine

The policies and procedures in place for PAI cases transferred through the AppLine were found to be consistently applied between the branch offices, with minor procedural differences.

Once a case is transferred from the AppLine, the attorneys and paralegals in the receiving branch office conduct a case acceptance meeting to determine whether it will be accepted for in-house legal representation or referred to a pro bono attorney. Cases determined to be appropriate for PAI referral are reviewed by the branch office's pro bono coordinator or managing attorney prior to the referral.

Upon referral, the client is sent an initial engagement packet consisting of a citizenship attestation and referral agreement. Once the documents have been completed and returned, the pro bono coordinator or managing attorney will attempt to place the case with a pro bono attorney. When a PAI attorney agrees to accept the case, an engagement packet is sent to the PAI attorney consisting of the case file and a case closing form that is to be returned to the referring office when the case is completed. Finally, a letter is sent to the client advising them that their case has been accepted for representation by a PAI attorney. The letter provides the client with the PAI attorney's name and contact information and instructs the client to contact the attorney for an appointment as soon as possible.

Interviews evidenced that case status information is obtained quarterly through a “Pro Bono Case Status Report.” Status information is also obtained by email or telephone. Upon case closure, the PAI attorney returns the case closing form and the pro bono coordinator or managing attorney completes a case summary report, verifying that all necessary information is in the file. Finally, the pro bono coordinator or managing attorney will assign an applicable CSR case closure category and close the case in the ACMS.

Overall, the policies and procedures articulated by pro bono coordinators and managing attorneys for AppLine cases satisfy the CSR Handbook (2008 Ed., as amended 2011), § 10.4, requirements of timely referral, follow-up, and disposition of PAI cases. However, interviews evidenced that the Stillwater branch office refers and places cases with PAI attorneys prior to obtaining a signed attestation, which could increase the likelihood of untimely attestations. Therefore, it is recommended that LASO obtain executed citizenship attestations prior to placing cases with pro bono attorneys.

PAI Outreach

LASO conducts various outreach clinics in Oklahoma City, Tulsa, and Muskogee pertaining to domestic violence, divorce, evictions, and various other legal issues. Staff observations, review of relevant documents, and interviews with pro bono coordinators, managing attorneys, and staff were conducted and, with exception of the clinics discussed below, it was determined that the intake procedures in place support the compliance related requirements of 45 CFR § 1614.3(d)(3).

Court Assistance Project (“CAP”)

The Courthouse Assistance Project (“CAP”) assists low-income clients with eviction actions at the Tulsa County Courthouse.

The clinic provides a PAI attorney to be present in court during eviction hearings in order to assist pro se defendants who request legal assistance prior to the hearing. Individuals requesting assistance are required to complete a Client Information Form, a citizenship attestation, and a “Pro Bono Referral Agreement.” Once the forms are completed, the participating PAI attorney will enter his/her appearance in court on behalf of the client. According to the pro bono coordinator, PAI attorneys are instructed that all prospective clients must complete the forms prior to any legal assistance being provided. Subsequent to the representation, the pro bono coordinator receives and reviews the completed forms to determine whether the resulting case is LSC eligible. However, a determination of eligibility is not made until *after* legal assistance is provided by a PAI attorney and, therefore, LASO is not in compliance with 45 CFR § 1611.4(a), as LSC recipients are required to make a determinations of eligibility prior to providing legal assistance to a client.

As referenced in Finding 4, above, a review of the Client information Form CAP and sampled cases was conducted and evidenced that an inquiry into applicants’ income prospects was not conducted as required by 45 CFR § 1611.7(a)(1), asset screening was not sufficiently

documented as required by CSR Handbook (2008 Ed., as amended 2011), § 5.4, and that questions pertaining to 45 CFR § 1611.5 authorized exceptions was not included on the form.

Subsequent to the review, LASO submitted a revised Client Information Form to OCE. The updated form now properly screens for income prospects, as required by 45 CFR § 1611.7(a)(1), and for assets, as required by CSR Handbook (2008 Ed., as amended 2011), § 5.4. However, the revised CAP form does not include questions pertaining to 45 CFR § 1611.5 authorized exceptions. LASO was asked to take corrective action to update the CAP form to ensure that PAI attorneys are inquiring into applicants' prospective income and 45 CFR § 1611.5 authorized exceptions in order to be compliant with 45 CFR § 1611.7 (a)(1) and 45 CFR § 1611.5(a)(4).

In response to the DR, LASO indicated that it would ensure that the closed 2014 CAP cases contained the required income and asset information in accordance with 45 CFR §§ 1611.7 and 1611.5(a)(4) and CSR handbook (2008 Ed., as amended 2011), §§ 5.3 and 5.4.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO must submit, within 90 days of the issuance of this Final Report, evidence that the updated Client Information Form used for CAP is consistent with LASO's Financial Eligibility Policy, and that use of the form has been implemented.

Broken Arrow and Neighbors for Neighbor Agency

The pro bono coordinator indicated that the Tulsa office has two (2) PAI clinics, Broken Arrow and Neighbors for Neighbor Agency. The clinics are not LSC funded and the resulting cases are not reported to LSC in LASO's CSRs. Interviews with the pro bono coordinator indicated that clinic participants are not screened for eligibility. Depending on the nature of the services provided at the clinics, LASO may be required to document citizenship or alien eligibility. 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. In addition, eligible aliens seeking representation are required to submit documentation verifying their legal status. *See* 45 CFR § 1626.7.

The pro bono coordinator interviewed indicated that her sole responsibility is ensuring that a PAI attorney is scheduled to attend the clinic. The pro bono coordinator indicated that she conducts little to no oversight of the clinics and, therefore, the level of legal service provided at the clinic, whether legal information or advice, could not be determined during the course of the review. The DR required that LASO evaluate the assistance provided at the clinics and determine what level of service was being provided. If it was determined that legal advice was being provided, LASO must take corrective action and cease providing legal assistance to unscreened participants, which includes individuals who have not demonstrated compliance with 45 CFR Part 1626. The DR required that LASO notify OCE of the action it intends to take, or has taken, as a result of its review of this clinic.

In response to the DR, LASO indicated that it has terminated its association with the Broken Arrow and Neighbors for Neighbors clinics. According to LASO, if LASO attorneys continue to provide advice at the clinics, they will do so as volunteers for those agencies and not in conjunction with LASO. The attorneys will be encouraged to refer potential clients to LASO for additional services, if appropriate.

If LASO plans to work with this, or similar clinics in the future, OCE requests that LASO ensure that all participants are screened in accordance with LSC requirements.

Finding 18: LASO has no subgrants under 45 CFR Part 1627 and the findings of the fiscal review of this Part was sent to LASO under separate cover on June 6, 2014.

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 and which are related to the recipient's programmatic activities. The definition does not include transfers related to contracts for services rendered directly to recipients; *e.g.*, accounting services, general counsel services, management consultants, computer services providers, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also* 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

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

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

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Also, recipients may not make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Finally, recipients must have written policies and procedures to guide staff in complying with the regulations and shall maintain records sufficient to document recipients' compliance. *See* 45 CFR § 1627.8.

LASO did not have any subgrants during the review period. The fiscal review of LASO's accounting records for selected general ledger expenses that track and account for litigation expenses, which included fees and dues, was sent to LASO under separate cover on June 6, 2014.

Finding 19: The findings of the fiscal review of timekeeping under 45 CFR Part 1635 were sent to LASO under separate cover on June 6, 2014.

The timekeeping requirement, at 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.

LSC regulations, at 45 CFR § 1635.3(a), require that all expenditures of funds for recipient actions be, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must also 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, comprising 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; and for matters or supporting activities, an identification of the category of action for 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 they have not engaged in restricted activity at any time during which they were being compensated by the recipient and that they have not used recipient resources for restricted activities.

The findings of the fiscal review of LASO's timekeeping were sent under separate cover to LASO on June 6, 2014.

Finding 20: Sampled cases and interviews with management and staff evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees). The findings of the fiscal review for compliance with this Part were sent to LASO under separate cover on June 6, 2014.

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 § 1642.3.¹¹ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting, or retaining attorneys' fees. Accordingly, effective March 15, 2010, recipients may claim, collect, and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, collected, or retained attorneys' fees during the period December 16, 2009, and March 15, 2010. Claims for the collection of, or retention of, attorneys' fees prior to December 16, 2009, may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).¹²

The sampled files reviewed did not contain a prayer for attorneys' fees and, therefore, evidenced compliance with the requirements of former 45 CFR Part 1642. Interviews with management and staff also evidenced compliance with this Part.

The finding of the fiscal review was sent under separate letter on June 6, 2014.

Finding 21: Review of the sampled cases evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). The findings of the fiscal review of 45 CFR Part 1612 were sent to LASO under separate cover on June 6, 2014.

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

None of the sampled files or interviews evidenced that LASO staff participated in any lobbying or other prohibited activities while engaged in legal assistance activities.

The finding of the fiscal review with this Part was sent under separate letter on June 6, 2014.

There are no recommendations or required corrective actions.

¹¹ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* former 45 CFR § 1642.2(a).

¹² Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

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

Recipients are prohibited from using LSC funds to provide legal assistance with respect to a criminal proceeding. *See* 45 CFR § 1613.3. Also, recipients may not 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.

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

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

There are no recommendations or required corrective actions.

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

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, a class action pursuant 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).

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

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

There are no recommendations or required corrective actions.

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

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

LASO has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures. Review of the policy and corresponding procedures found evidenced that they are in compliance with Part 1632.

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

There are no recommendations or required corrective actions.

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

Recipients are prohibited from defending any person in a proceeding to evict that person from a public housing project if they have been charged with, or convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance and the eviction is brought by the 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.

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

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

There are no recommendations or required corrective actions.

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

Recipients may not participate in any civil litigation on behalf of a person incarcerated in a federal, state, or local prison, whether as plaintiff or defendant, nor may a recipient participate on

behalf of such incarcerated person in any administrative proceeding challenging the condition of the incarceration. *See* 45 CFR § 1637.3.

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

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

There are no recommendations or required corrective actions.

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

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.¹³ This restriction has been contained in all subsequent appropriations acts.¹⁴ This restriction is a strict prohibition from being involved in a case where the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1, “[T]his part is designed to ensure that recipients and their employees do not solicit clients.”

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

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

There are no recommendations or required corrective actions.

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

No LSC funds may be used to compel any person, institution, or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. Also, LSC funds may not be used to bring suit to assert or

¹³ *See* Section 504(a) (18).

¹⁴ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

advocate a legal right to suicide, euthanasia, or mercy killing or to advocate or provide any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

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

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

There are no recommendations or required corrective actions.

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

Section 1007(b)(8) of the LSC Act prohibits the use of LSC funds to provide legal assistance in any proceeding or litigation that seeks to procure a non-therapeutic abortion or to compel any individual or institution to provide facilities for, assist in, or perform 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.

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

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

There are no recommendations or required corrective actions.

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

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

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

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

There are no recommendations or required corrective actions.

Finding 31: A limited review of LASO's internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide (2010 Ed.).

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended ("Act"), any applicable appropriations acts, and any other applicable law, rules, regulations, policies, guidelines, instructions, or other directives of the LSC including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the LSC Accounting Guide, the CSR Handbook (2008 Ed., as amended 2011), the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

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

and (3) Compliance with applicable laws and regulations. See LSC Accounting Guide, Chapter 3.

The LSC Accounting Guide provides guidance on all aspects of fiscal operations and the 2010 edition has a significantly revised Accounting Procedures and Internal Controls Checklist that provides guidance to programs on how accounting procedures and internal controls 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.

LASO Fiscal Structure and Operating Systems

Fiscal Structure

LASO's fiscal department consists of a Fiscal Coordinator¹⁵ with three (3) support staff, who report to the Executive Director and the Director of Operations.

LASO has developed a comprehensive Accounting and LSC Compliance Manual which sets forth the internal control procedures, the accounting policies and procedures, and the fiscal duties and responsibilities of LASO's Board of Directors ("BOD") and staff. As stated above, subsequent to the review, LASO's BOD approved an updated Accounting Manual on February 20, 2014. A copy of the manual was provided to OCE for review and was determined to meet the requirements of LSC Accounting Guide.¹⁶

Internal Controls and Documentation

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

Segregation of Duties

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

¹⁵ LASO had a temporary Fiscal Coordinator and was in the process of hiring permanent Fiscal Coordinator during the Compliance Review.

¹⁶ The Accounting Manual at the time of the review was previously updated in 2004.

Bank Reconciliations

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

LASO maintains numerous bank accounts which are used for various purposes. The on-site review determined that the bank statement reconciliation process is performed monthly and is consistent with the recommendations contained in the LSC Accounting Guide. However, a review of the December 2011 bank reconciliation evidenced three (3) stale checks which were written in 2006, 2007, and 2009. LASO should have resolved these outstanding checks within six (6) months of disbursement in accordance with LSC Accounting Guide, Appendix VII, § I (7). A review evidenced that the outstanding checks were voided by the January 2012 reconciliation. A review of the August 2013 bank reconciliation evidenced that LASO had one (1) outstanding check that was written in November 2012.

OCE recommends that LASO investigate and resolve any checks that have been outstanding for more than six (6) months since disbursement.

Cash Receipts

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

The LASO Legal Secretary indicated that she is responsible for receiving and opening all mail sent to the LASO's administrative office. She indicated that all checks received are copied and a deposit form is completed. The deposit form is then given to the Director of Operations or Deputy Director of Operations. LASO's Legal Secretary will also enter the receipt onto a cash receipt log.

A limited review of LASO's cash receipts logs, monthly deposits, cash receipts journal, bank statements, and general ledger, as well as interviews with staff, determined that LASO properly records its cash receipts to the cash receipts log, including regular deposits, donor contributions, and client trust deposits.

LASO is in compliance with the LSC Accounting Guide with regard to cash receipts.

Personnel and Payroll

LASO's Director of Operations ensures the segregation of duties within the Personnel/Payroll functions. All payroll changes are submitted to the Director of Operations on a Personnel Action Form ("PAF"). PAFs are approved and signed by the employee's supervisor and the Director of Operations.

LASO employee timesheets are approved by their immediate supervisor and then submitted to the Director of Operations for review and processing.

A review of personnel files for six (6) employees that were hired or terminated between 2011 and 2013 found that three (3) PAFs were not signed by the employees' supervisors and their personnel files did not contain an email approving the personnel action. The DR required that LASO ensure that employee's PAFs are being signed by their supervisors in accordance with LSC Accounting Guide, § 3.5.5.

In response to the DR, LASO indicated that, based on the number of staff employed at LASO, it is not feasible to secure supervisors' signatures on each PAF. LASO stated that Operations currently provides a recommendation to the Executive Director, and that manager's consent is provide by email. According to LASO, this consent email will accompany the PAF and be placed in the employee's personnel file.

Although this procedure may be sufficient to meet the requirements of LSC Accounting Guide, § 3.5.5, OCE will need more clear information to make this determination. LASO is asked to submit, within 90 days of the issuance of this Final Report, a more clear description of this procedure, as well as example documentation showing LASO's process. OCE can then determine whether it can close this Required Corrective Action.

LASO has a Vacation for Accounting Personnel Policy which requires that fiscal employees take an extended annual leave of no shorter than one (1) week. According to the Director of Operations, LASO does not adhere to this policy.

OCE recommends that LASO adhere to its vacation policy for accounting personnel which requires the employees to take an extended annual leave of no shorter than one (1) week.

Incentive Compensation

Office of Management and Budget "OMB" Circular, No. A-122, § 8(j), states the following:

Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the organization and the employees before the services were rendered, or pursuant to an established plan followed by the organization so consistently as to imply, in effect, an agreement to make such payment.

The limited review of the payroll records evidenced that LASO paid bonuses to employees in December 2011, 2012, and 2013. Accounting records provided by LASO indicate that LSC funds were used to pay bonuses of \$79,360.16 in 2013 and \$92,566.58 in 2012. LASO also paid \$87,482.50 in employee bonuses in 2011; however, the review could not determine the percentage of the amount that was paid with LSC funds. According to the ED, LASO's salaries are relatively low and, with the inability to provide salary increases, the BOD agreed to give a bonus to all staff as a show of appreciation. At the time of the review, LASO did not have a policy or procedure regarding employee bonuses. Furthermore, the President of LASO's Board of Directors indicated that LASO should not have a bonus policy under which LASO would be

required to pay employee bonuses. As stated above, subsequent to the review, LASO's BOD approved an updated Accounting Manual on February 20, 2014. The updated manual contains an established plan for providing incentive compensation. A copy of the manual was provided to OCE for review and the new policy was determined to meet the requirements of the LSC Accounting Guide (2010 Ed.).

OCE will follow-up under separate cover to request additional information regarding the \$259,409.24 of incentive compensation LASO paid employees in 2011, 2012, and 2013.

Property Control and Purchases

A limited review of LASO's Property Control and Purchases Policy, as well as interviews with staff, determined that LASO is in substantial compliance with the requirements of the LSC Accounting Guide, § 2-2.4.

LASO's Fixed Assets Policy indicates that assets with a value between \$300 and \$5,000 should be tagged and inventoried and it requires that a property inventory be conducted every two (2) years.

According to the ED and Data Manager, LASO uses several property management systems. The Director of Operations utilizes a computerized internet-based system to inventory property. The database only tracks inventory of computer-related hardware, not office equipment or furniture. The Data Manager uses a Microsoft Office Access system to inventory office equipment and furniture.

A limited review of the database information evidenced two (2) computers that were tagged but not included on the inventory list provided to LSC by the LASO Director of Operations. The DR required that LASO take corrective action and reconcile any differences between the quantities of property determined by the physical inspection to those in the accounting records as required by LSC Accounting Guide, § 2-2.4.

In response to the DR, LASO indicated that it is in the process of reconciling the differences between the quantities of property determined by the physical inspection to those in the accounting records as required by LSC Accounting Guide, § 2-2.4.

Based on the comments provided, OCE finds that LASO is in the process of satisfying this Required Corrective Action; however, in order to close this item completely, LASO must submit, within 90 days of the issuance of this Final Report, evidence showing that the reconciliation has been completed, the results, and evidence that any discrepancies have been resolved.

Travel Reimbursement

LASO utilizes a travel form which records the date and purpose of staff travel, mileage incurred, and other incidental expenses. The policy does not include specific procedures for travel reimbursements of the Executives Director.

OCE recommends that LASO create a policy and procedure that specifically addresses travel reimbursement for the Executive Director in accordance with the LSC Accounting Guide, App. VII. § F (Travel).

With the exception of travel reimbursement for the ED, LASO's travel reimbursement policy is consistent with the LSC Accounting Guide, however, in practice, LASO does not consistently adhere to its policy. A review of the check disbursements for November 17, 2013, disclosed that a reimbursement was made to an employee in the amount of \$769.32 without the signed approval of the employee's supervisor. Additionally, two (2) travel reimbursements were made to the Executive Director on October 17, 2013, and December 19, 2013, in the amounts of \$250.86 and \$171.42, without the signed approval of the Board chair. Furthermore, the review evidenced a travel reimbursement for the Executive Director's wife, an employee of LASO, which was paid directly to the Executive Director on November 7, 2013, in the amount of \$319.68.

The DR required that LASO take corrective action and adhere to its travel reimbursement policy referenced in its Accounting Manual and/or to adhere to the related requirements provided in the LSC Accounting Guide.

In response to the DR, LASO indicated it will adhere to the travel policy contained in its accounting manual.

Based on the comments provided, OCE is unable to close this item. LASO is asked to submit, within 90 days of the issuance of this Final Report, an explanation of how it plans to ensure adherence to the policy and prevent a repeat of the non-compliance referenced in this Finding, and evidence of the actions taken to implement this plan.

Records Retention

A limited review of LASO's Record Retention Policy, as well as interviews with staff, determined that LASO is in non-compliance with the guidelines of the LSC Accounting Guide, App. II. According to LSC Accounting Guide, App. II, the minimum retention period for records, such as bank statements and checks, billings for services, employee travel and expense reports, and petty cash records, is seven (7) years, unless state law requires retention for a longer period. The review evidenced that LASO's retention policy for these records is only four (4) years.

LASO should update its current policy to follow the recommended guidelines set forth in the LSC Accounting Guide, App. II.

Board Oversight

Interviews with the LASO's Board President and the Chair of the Financial Oversight/Audit Committee were conducted. According to the Chair of the Financial Oversight/Audit Committee, the committee's responsibilities include the selection of an independent public auditor and reviews of LASO's budgets, monthly financial statements, IRS Form 990s, and its audited financial statements. According to the Board President and the Chair of the Financial Oversight/Audit Committee, the Board does not have a member who is a financial expert.

According to the LSC Accounting Guide, § 1-7, it is critical, and considered a best practice, that the financial oversight committee have at least one (1) member who is a financial expert or for the board to have access to a financial expert.

It is recommended that LASO's Financial Oversight/Audit Committee have at least one (1) member who is a financial expert or, in the alternative, establish a method of direct access to a financial expert.

Client Trust Accounts

A limited review of LASO's client trust accounts, as well as interviews with staff, determined that LASO is in compliance with the requirements of the LSC Accounting Guide (2010 Ed.), § 2-2.3.

Reviews of the client trust accounts evidenced that they are reconciled monthly and that once per year the accounts are reviewed for inactivity. Accounts that are found to be inactive for a period of seven (7) years are escheated to the State of Oklahoma as required under the Unclaimed Property Law of the State of Oklahoma.

Petty Cash

A limited review of LASO's petty cash policy, as well as interviews with staff, determined that LASO is in compliance with the requirements of the LSC Accounting Guide.

LASO's Deputy Director of Operations indicated that the petty cash limit for the branch office is \$100. Furthermore, he indicated that petty cash accounts are reconciled monthly using receipts and are then sent to the Oklahoma City administrative office.

Finding 32: Interviews with management and staff and a limited review of activities, practices, and documents relating to TIG Grant No. 12081 evidence compliance with 2012 TIG grant assurance Nos. 7, 9, 10, and 17 and applicable LSC regulations, rules, and guidelines.

TIG projects and funds are subject to TIG contract terms and provisions of the LSC Act, regulations, and other applicable laws, including appropriations provisions which apply to LSC funds. During on-site reviews of TIGs, OCE staff examine a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the LSC Accounting Guide (2010 Edition), certain LSC TIG Assurances, the Property Acquisition and Management Manual, and any amendments of the foregoing adopted before or during the period of the TIG grant.

LASO's grant award for TIG Grant No. 12081 was approved on September 21, 2012, in the amount of \$58,350, with a start date of October 1, 2012, and a term of 30 months. The review

evidenced that LASO was issued the initial payment of \$24,240 in November 2012. According to LASO's Grant Administrator, there have been delays in the implementation of many of the milestones which has delayed any additional grant payments.

A limited on-site review of relevant materials and interviews concerning LASO's TIG Grant No. 12081 was conducted. According to the Evaluation Report of TIG Grant No. 12081, the goal of the project is to have LASO, in partnership with the Oklahoma, Rogers, and Tulsa County District Courts and the Tulsa County Clerk, use HotDocs/A2JA guided interviews and instructions to improve the ability of low-income Oklahomans to easily, effectively, and efficiently produce and file court forms without the assistance of a lawyer.

A limited review of LASO's accounting records and interviews with its Grant Administrator revealed that the project is still ongoing. OCE performed a limited evaluation of LASO's management of TIG No. 12081 and its use of TIG funds to assess compliance with the applicable TIG Grant Assurances Nos. 7, 9, 10, and 17. The review evidenced that LASO has adequate policies and procedures in place which include proper internal controls surrounding the administration of the TIG.

Based on the materials reviewed there are no recommendations or required corrective actions.

Finding 33: Interviews and a limited review of procedures, practices, and documents related to TIG No. 06460 evidenced compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines. The findings of the fiscal review of TIG Grant No. 06460 were sent to LASO under separate cover on June 6, 2014.

IV. RECOMMENDATIONS¹⁷

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

1. Review on a regular basis the information that is entered into the ACMS from case files to ensure their consistency;
2. Have a system in place that will “lock” CSR reported closed cases and/or CSR reported closed case numbers in a manner that will prevent staff from subsequently reopening these cases and potentially miscoding them causing the files to be reported again in a subsequent CSR;
3. Obtain an executed citizen attestation prior to placing a case with a pro bono attorney;
4. Create a policy and procedure that specifically addresses travel reimbursement for the Executive Director in accordance with the LSC Accounting Guide, App. VII. § F (Travel);
5. Update its current Records Retention Policy to follow the recommended guidelines set forth in the LSC Accounting Guide, App. II;
6. Ensure that its Financial Oversight/Audit Committee consist of at least one (1) member who is a financial expert or that the committee has access to a financial expert;
7. Investigate and resolve any checks that have been outstanding for more than six (6) months since disbursement; and
8. Adhere to its vacation policy for accounting personnel that requires the employees to take an extended annual leave of no shorter than one (1) week.

LASO provided no comments regarding the above-listed recommendations in response to the DR.

¹⁷ 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.

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3. Obtain an executed citizen attestation prior to placing a case with a pro bono attorney;
4. Create a policy and procedure that specifically addresses travel reimbursement for the Executive Director in accordance with the LSC Accounting Guide, App. VII. § F (Travel);
5. Update its current Records Retention Policy to follow the recommended guidelines set forth in the LSC Accounting Guide, App. II;
6. Ensure that its Financial Oversight/Audit Committee consist of at least one (1) member who is a financial expert or that the committee has access to a financial expert;
7. Investigate and resolve any checks that have been outstanding for more than six (6) months since disbursement; and
8. Adhere to its vacation policy for accounting personnel that requires the employees to take an extended annual leave of no shorter than one (1) week.

LASO provided no comments regarding the above-listed recommendations in response to the DR.

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V. REQUIRED CORRECTIVE ACTIONS

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

1. LASO was requested in the DR to provide an update on its efforts to implement its new Case Oversight Procedures and any related documentation demonstrating these efforts (Finding 2);

In response to the DR, LASO indicated that the new Case Oversight Procedures were updated and that its managers were briefed on the new procedures in the last week of May 2014. A copy of the new case oversight procedures was provided to OCE in LASO's response and determined to sufficiently address the compliance concerns. According to LASO, this process will be shared with all LASO managers and staff. The new oversight procedures require each litigation office to designate at least one (1) staff person as a Compliance Oversight Monitor. According to LASO, it intends to conduct its first conference call with the Compliance Oversight Monitors from each office in July. This call will brief the Monitors in detail on the new procedures.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the date(s) and method(s) used to share the new Compliance Oversight Procedures with office managers and staff, including any documentation evidencing the implementation of the procedures (*e.g.*, emails to staff, meeting agendas, training agendas, etc.). Additionally, OCE requests that LASO submit the date(s) the conference call(s) with the Compliance Oversight Monitors occur(s), a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call(s).

2. Ensure that all case files contain signed and dated citizenship attestations pursuant to 45 CFR Part 1626 and that the attestations comply with the requirements of CSR Handbook (2008 Ed., as amended in 2011), § 5.5 (Finding 2);

In response to the DR, LASO indicated that it would ensure that all closed 2014 and open cases contain a compliant citizenship attestation prior to reporting the cases to LSC. LASO indicated that it would remove all citizenship attestations that did not comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011) from circulation. According to LASO, it will periodically, provide reminders to staff that all citizenship attestations must comply with the CSR Handbook (2008 Ed., as amended 2011) and will direct staff to use LASO's current citizenship attestation form. According to LASO, these messages will be reinforced in the monthly conference calls with the Compliance Oversight Monitors.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the dates and methods used to provide reminders to staff of this requirement, and the date(s) the

conference call(s) with the Compliance Oversight Monitors occurred, a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call.

3. Reallocate the \$945 in LSC funds spent on *The Oklahoma Observer* over the past three (3) years to its LSC fund to offset the cost of the publication and provide evidence showing this has been done. LASO must also provide a description of any procedures or policies it has put in place to ensure that LSC funds are not used for similar purchases in the future (Finding 14);

In response to the DR, LASO submitted a copy of its general ledger evidencing that the \$945 expense to *The Oklahoma Observer* was reallocated to a non-LSC revenue source. Additionally, LASO indicated that it will, in the future, restrict periodical publication purchases with LSC funds to publications that strictly relate to the practice of law for the benefit of LASO advocates and clients. In order to close this Required Corrective Action, LASO is requested to provide, within 90 days of the receipt of this Final Report, a copy of any revised policies, instructions to employees, etc., evidencing guidance provided to staff regarding this matter.

4. Ensure intake screeners screen applicants in accordance with its board-approved asset policy and that instructions provided to staff regarding the screening of assets are consistent with LASO's policy (Finding 17);

In response to the DR, LASO indicated that it will ensure that intake screeners screen applicants in accordance with the LASO board-approved asset policy and that instructions provided to staff regarding the screening of assets are consistent with LASO's policy. According to LASO, compliance will be ensured through the on-site office assessments, random compliance checks by the telephone intake manager as well as random intake reviews by office managers. Detailed interpretive guidance to LASO's Financial Eligibility Policy, with illustrative examples, has been drafted and, according to LASO, was to be disseminated to all screeners on July 1, 2014, along with a follow-up training in Fall 2014 by webinar conducted by the Director of Advocacy.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the dates of any onsite office assessments, random compliance checks, or random intake reviews that occur. Additionally, LASO is requested to submit evidence showing that the interpretive guidance to LASO's Financial Eligibility Policy was disseminated to all screeners as indicated in its response.

5. Ensure that intake screeners inquire about income prospects during the intake process in accordance with 45 CFR § 1611.7 (Finding 17);

In response to the DR, LASO indicated that it will ensure that intake screeners inquire about income prospects during the intake process in accordance with 45 CFR § 1611.7.

According to LASO, compliance will be ensured through on-site office assessments, random compliance checks by the telephone intake manager as well as random intake reviews by office managers. LASO stated that income prospects was a topic at the March 2014 compliance training and is also addressed in an interpretive guidance document LASO provided to all staff. According to LASO, income prospects will be covered in the first statewide conference call in July of the Compliance Oversight Monitors from each office.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, the dates of any on-site office assessments, random compliance checks, or random intake reviews that occur(s). Additionally, LASO is requested to submit the date(s) the conference call(s) with the Compliance Oversight Monitors occurs, a list of the monitors in attendance, and any agenda, material, or communication showing the material discussed during the call.

6. Ensure that all closed 2014 and open cases contain compliant citizenship attestations prior to reporting the cases to LSC and remove all citizenship attestations that do not comply with the requirements of the CSR Handbook (2008 Ed., as amended 2011) from circulation. Additionally, LASO must remind staff that all citizenship attestations must comply with CSR Handbook (2008 Ed., as amended 2011), § 5.5, and it must direct staff to use LASO's current citizenship attestation form (Finding 2 and 5);

In response to the DR, LASO indicated that it would ensure that all case files contain a signed and dated citizenship attestation pursuant to 45 CFR Part 1626 and that the attestations would comply with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5. According to LASO, compliance will be ensured through on-site office assessments and by case file reviews by the office manager. Additionally, LASO indicated that compliance will be emphasized during the Compliance Oversight team conference calls.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, dates the on-site office assessments and case file reviews have occurred or will occur, and dates the conference calls with the Case Oversight team occurred.

7. Ensure that CSR case closure category "K" (Other) is used only for LSC eligible and reportable cases when the category best describes the level of service provided to the client. To achieve this, OCE recommends LASO management periodically print lists of reportable cases closed with the K category to review and determine if its use is correct. (Finding 10);

In response to the DR, LASO indicated that it will no longer use case closure category K. According to LASO, it will periodically print lists of reportable cases closed to ensure that the K closure category is not being used. The Director of Advocacy has drafted a

CSR code quick reference sheet that will be disseminated staff in July 2014 to assist in these efforts.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO is requested to submit, within 90 days of the issuance of this Final Report, a copy of the CSR code quick reference sheet and the date(s) and method(s) used to disseminate it to staff.

8. Ensure that the closed 2014 CAP cases contain the required income and asset information in accordance with 45 CFR §§ 1611.7 (a)(1) and 1611.5(a)(4) and CSR Handbook (2008 Ed., as amended 2011), §§ 5.3 and 5.4. Furthermore, LASO must update the CAP form and ensure that its pro bono attorneys are inquiring into applicants' prospective income and 45 CFR § 1611.5 authorized exceptions. Additionally, LASO must ensure that the updated Client Information Form is consistent with LASO's recently approved Financial Eligibility Policy (Finding 4 and 17);

In response to the DR, LASO indicated that it would ensure that the closed 2014 CAP cases contained the required income and asset information in accordance with 45 CFR §§ 1611.7 and 1611.5(a)(4) and CSR Handbook (2008 Ed., as amended 2011), §§ 5.3 and 5.4.

Based on the comments provided, OCE finds that LASO has started to take action to satisfy this Required Corrective Action; however, in order to close this item, LASO must submit, within 90 days of the issuance of this Final Report, evidence that the updated Client Information Form used for CAP is consistent with LASO's Financial Eligibility Policy, and that use of the form has been implemented.

9. Review the assistance provided at the Broken Arrow and Neighbors for Neighbors Agency to determine the level of service being provided to attendees. If it is determined that legal advice is being provided, LASO must cease providing such assistance or ensure that attendees are appropriately screened in accordance with LSC's regulatory requirements. Legal assistance may not be provided to clinic attendees if specific eligibility requirements have not been met; in particular, if compliance with 45 CFR Part 1626 has not been established. In its comments to this draft report, LASO must notify OCE of the action it intends to take, or has taken, as a result of its review of this clinic (Finding 17);

In response to the DR, LASO indicated that it has terminated its association with the Broken Arrow and Neighbors for Neighbors clinics. According to LASO, if LASO attorneys continue to provide advice at the clinics, they will do so as volunteers for those agencies and not in conjunction with LASO. The attorneys will be encouraged to refer potential clients to LASO for additional services, if appropriate.

If LASO plans to work with this, or similar clinics in the future, OCE requests that LASO ensure that all participants are screened in accordance with LSC requirements.

10. Reconcile any differences between the quantities of property determined by the physical inspection to those in the accounting records as required by LSC Accounting Guide, § 2-2.4 (Finding 31);

In response to the DR, LASO indicated that it is in the process of reconciling the differences between the quantities of property determined by the physical inspection to those in the accounting records as required by LSC Accounting Guide, § 2-2.4.

Based on the comments provided, OCE finds that LASO is in the process of satisfying this Required Corrective Action; however, in order to close this item completely, LASO must submit, within 90 days of the issuance of this Final Report, evidence showing that the reconciliation has been completed, the results, and evidence that any discrepancies have been resolved.

11. Ensure that employee's PAFs are being signed by their supervisors in accordance with LSC Accounting Guide, § 3.5.5 (Finding 31); and

In response to the DR, LASO indicated that, based on the number of staff employed at LASO, it is not feasible to secure supervisors' signatures on each PAF. LASO stated that Operations currently provides a recommendation to the Executive Director, and that the manager's consent is provided by email. According to LASO, this consent email will accompany the PAF and be placed in the employee's personnel file.

Although this procedure may be sufficient to meet the requirements of LSC Accounting Guide, § 3.5.5, OCE will need more clear information to make this determination. LASO is asked to submit, within 90 days of the issuance of this Final Report, a more clear description of this procedure, as well as example documentation showing LASO's process. OCE can then determine whether it can close this Required Corrective Action.

12. Adhere to the travel reimbursement policy contained in its Accounting Manual and/or to adhere to the related requirements provided in the LSC Accounting Guide (Finding 31).

In response to the DR, LASO indicated it will adhere to the travel policy contained in its accounting manual.

Based on the comments provided, OCE is unable to close this item. LASO is asked to submit, within 90 days of the issuance of this Final Report, an explanation of how it plans to ensure adherence to the policy and prevent a repeat of the non-compliance referenced in this Finding, and evidence of the actions taken to implement this plan.

Response to OCE Corrective Actions

1. LASO has adopted a new Case Oversight Procedures process. A copy is attached. This process will be share with all LASO managers and in turn with all LASO staff. Compliance will be ensured through the on-site office assessments and by review of closed cases by the office manager. The managers were briefed on these new procedures in the last week of May 2014. The first conference call of Compliance Oversight Monitors from each office will be held in July. This call will brief the Monitors in detail on the new procedures.
2. LASO ensures that all case files will contain a signed and dated citizenship attestation pursuant to 45 CFR 1626 and that the attestations will comply with the requirements of CSR Handbook section 5.5. Compliance will be ensured through the on-site office assessments and by case file reviews by the office manager. Compliance will be emphasized in all Compliance Oversight team conference calls.
3. The \$945 expense to The Oklahoma Observer has been reallocated to a non-LSC revenue sources. Evidence of the re-allocation recently submitted. In the future, LASO will restrict periodical publication purchases with LSC funds to publications that strictly relate to the practice of Law for the benefit of LASO advocates and clients.
4. LASO ensures that intake screeners screen applicants in accordance with the LASO board approved asset policy and that instructions provided to staff regarding the screening of assets are consistent with LASO's policy. Compliance will be ensured through the onsite office assessments, random compliance checks by the Phone intake Manager as well as random intake reviews by office managers. Detailed interpretive guidance to LASO's Financial Eligibility Policy, with illustrative examples, has been drafted and will be disseminated to all screeners on July 1st, along with a follow-up training in fall 2014 by webinar conducted by the Director of Advocacy.
5. LASO ensures that intake screeners inquire about income prospects during the intake process in accordance with 45 CFR 1611.7. Compliance will be ensured through the on-site office assessments, random compliance checks by the Phone intake manager as well as random intake reviews by office managers. Income prospects was covered in detail at the March 2014 compliance trainings and also is addressed in detail in the interpretive guidance document provided to all staff. Income prospects will be covered in the first statewide conference call in July of the Compliance Oversight Monitors from each office.
6. LASO ensures that all closed 2014 cases and open cases will contain compliant citizenship attestations prior to reporting the cases to LSC. LASO will remove all citizenship cases that do not comply with the requirements of the CSR handbook from circulation. Periodically, LASO will provide reminders to staff that all citizenship

attestations must comply with the CSR handbook. LASO will direct staff to use LASO's current citizenship attestation form. These messages will be reinforced in the monthly conference calls of Compliance Oversight Monitors.

7. LASO will not use case closure "K.". LASO will periodically print lists of reportable cases closed to ensure that the "K code is not being used. The Director of Advocacy has drafted a CSR Code quick reference sheet that will be disseminated in July 2014. It clearly states that "K" is not to be used.
8. LASO ensures that the closed 2014 CAP cases contain the required income and asset information in accordance with 45 CFR 1611.7 and 1611.5 (a) (4) and CSR handbook sections 5.3 and 5.4.
9. LASO has terminated its association with the clinics in Broken Arrow Neighbors and Neighbors Along the Line. If attorneys continue to provide advice at the clinics, they will do so as volunteers for those agencies and not in conjunction with Legal Aid. The attorneys will be encouraged to refer potential clients to Legal Aid for additional services, if appropriate.
10. LASO is in the process of reconciling the differences between the quantities of property determined by the physical inspection to those in the accounting records as required by LSC Accounting Guide 2-2.4.
11. Because LASO is a statewide law firm with 144+ employees, it is not feasible to secure supervisor's signatures on the PAFs. The form now has the recommendation for the action by Operations with approval of the action by the Executive Director. Email will serve as the tool/method to secure the supervisor/manager's consent. This consent email will accompany the PAF and placed in the personnel file.
12. LASO ensures that it will adhere to the travel policy contained in its accounting manual.

Case Oversight Procedures for Litigation Offices

A. BACKGROUND AND PURPOSE

In 2014, after its visit to LASO, the LSC Office of Compliance and Enforcement recommended that LASO establish compliance oversight procedures for the litigation offices to ensure consistent and correct implementation of LSC requirements.

The goal of these procedures is to ensure uniform application by the litigation offices of LSC regulations, rules, and the CSR Handbook.

The benchmark for success is that LSC could show up in any LASO office and get the same answer in regards to, for example, how LASO determines financial eligibility, or what closing code should be used for a given set of facts.

These Procedures are not punitive in any way and are solely designed to help improve compliance. Procedures undertaken in accordance with this document are not intended for disciplinary use.

B. PROCEDURES

- 1. Regular LSC compliance training for all litigation offices**, at least once per year in person in Tulsa for the eastern side of the state and in Oklahoma City for the western side of the state, in addition to webinars and conference calls for staff as needed. The Director of Advocacy is responsible for ensuring the trainings take place.
- 2. Each Litigation office shall designate at least one staff person as the Compliance Oversight Monitor (COM).** Every staff member is responsible for knowing the basics. However, the COMs will develop a more in-depth knowledge and serve as a resource to others in that litigation office. This could be the same person as the Managing Attorney, but not necessarily. It may be desirable to designate two COM's per office.

The COMs should be especially well-versed in the following documents:

- (i) 2008 CSR Handbook and the 2011 CSR Frequently Asked Questions (and subsequent updated versions as they are released)
- (ii) LASO Financial Eligibility Policy and accompanying Guidance
- (iii) LASO Alien Eligibility Policy and Appendix to Part 1626
- (iv) Other documents (such as LSC Program Letters) as determined by senior Administration

3. **The COMs will undergo more frequent training throughout the year.**
These will be monthly conference calls of short duration focusing on a single issue of interest or on a new guidance document from LSC.
4. **Each litigation office should implement a tickle system or some other safety valve procedure to ensure that required documents are in the case file by no later than 14 days of the Case Accepted date.**
 - (i) Where required, the Citizenship Attestation and/or the Retainer Agreement must be in the client file by no later than 14 days of the Case Accepted date. The 14 days is the outer limit and offices should strive to obtain these documents earlier. *Remember that the Citizenship Attestation MUST be obtained during the first in-person contact, including an eligibility screening or outreach contact.*
 - (ii) Except in emergency circumstances, legal assistance in extended services cases should not be delivered before these documents are secured.
 - (iii) These documents must be signed and dated (staff, don't forget to sign your name!).
 - (iv) Per the LASO Alien Eligibility Policy (which follows Part 1626), there may be additional documentation required for certain categories of eligible aliens.
 - (v) A Statement of Facts must be executed by the client upon the preparation of the litigation pleadings (which may occur later than 14 days after the Case Accepted date).
5. **The COM will conduct a random sampling of 20 cases from his or her office** (the list will be provided by Admin) **every four months to double-check the following compliance items.** Where there is only one staff member in an office, the Director of Advocacy or the Deputy Director will conduct the review.
 - A. Proper closing code and documentation related to that closing code in the electronic and paper file
 - B. (Where required) timely dated and signed Citizenship Attestation (with alien eligibility supplemental documentation when required), Retainer Agreement and Statement of Facts
 - C. Sufficient scope of representation description on the Retainer Agreement
 - D. Timely closing
 - E. For cases that came through the litigation office or embed project, and not through the App Line, check for proper application of the LASO Financial Eligibility Policy.

F. For multiple cases on the same client in the same calendar year, were the multiple case openings appropriate?

6. The COM will share the results of the random sampling each period with the Director of Advocacy and Deputy Director via a one-page form.

7. The Director of Advocacy or Deputy Director may also conduct paper file checks and/or electronic file checks. Should problems be found, these are not "Gotcha" but are used as a learning opportunity. (They also assist Admin in identifying training needs.)

