



FINAL REPORT

LEGAL SERVICES CORPORATION Office of Compliance and Enforcement

Legal Aid Society of San Diego, Inc.

Compliance Review
December 2-5, 2013

Recipient No. 805250

LSC Compliance Review Team

Julia Kramer, LSC Program Counsel (Team Leader)
Craig Dober, LSC Program Counsel
Lewis Goldstone, LSC Fiscal Compliance Analyst
Joseph H. Green, Jr., LSC Program Counsel
Emiliano Irizarry-Castro, LSC Program Counsel
Helga Merz, LSC Fiscal Compliance Analyst
Lisa Moore Melton, LSC Program Counsel

I. EXECUTIVE SUMMARY

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

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

Finding 3: Review of the recipient's sampled cases evidenced compliance with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guideline.

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

Finding 5: Review of the recipient's policies, procedures, and sampled cases evidenced compliance with the citizenship restrictions contained in 45 CFR Part 1626; however, one (1) citizenship attestation was missing from a case file where the client had already been screened for citizenship.

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

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

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

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

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

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

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

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

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

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

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

Finding 17: Review of the recipient's PAI policies and procedures, sampled cases, and interviews with staff evidenced compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which are designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients.

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

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

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

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

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

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

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

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

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

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

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

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

Finding 30: Review of the recipient's fidelity bonding on staff evidenced compliance with 45 CFR Part 1629 (Bonding of recipients).

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

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

Finding 33: Review of the recipient's TIG procedures and practices and fiscal and other records related to TIG Nos. 09509 and 12099 and interviews with management and fiscal staff evidenced substantial compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

II. BACKGROUND OF REVIEW

On December 2 through 5, 2013, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Compliance Review at Legal Aid Society of San Diego, Inc. ("LASSD"). The purpose of the visit was to assess the recipient's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.) ("LSC Accounting Guide"), and the Property Acquisition and Management Manual. The visit was conducted by a team of four (4) program counsels and two (2) fiscal compliance analysts. All team members were OCE staff.

The on-site review was designed and executed to assess the recipient's compliance with basic client eligibility, intake, case management, and regulatory and statutory requirements and to ensure that LASSD has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed LASSD for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees)¹; 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. The designated period of review was January 1, 2011 through September 30, 2013.

LASSD is an LSC grant recipient that provides a full range of legal services in almost every area of law set out in the LSC problem codes; LASSD indicates that it does not practice employment law and does limited work in education law. *See* LASSD Grant Renewal Application, June 1, 2012. LASSD's main office and midtown office are located in San Diego, CA, and its third office is located in Oceanside. As verified on January 31, 2014, LASSD has a total staff of 104; 30 in its main office, 67 in its midtown office, and seven (7) in its Oceanside office. LASSD staff includes a total of 43 attorneys, 36 advocates, and 25 "other" staff. Additionally, LASSD

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

has four (4) open advocate positions and seven (7) open attorney positions which it hopes to fill in February 2014.

LASSD utilizes a toll-free hotline model centralized intake system (for both PAI and staff cases) that is based in its midtown office. Two (2) additional substantive hotlines are also based in the midtown office:

- Shriver Project: This hotline is supported by California Judicial Counsel, Administrative Office of the Courts, funds for the purpose of operating a “Shriver Project,” which represents unrepresented litigants in unlawful detainer actions filed in Central District Court when the opposing party is represented by counsel.
- Consumer Center for Health Education and Advocacy: This hotline is considered a sub-organization of LASSD and is supported by California Department of Managed Healthcare funds for the purpose of assisting callers with healthcare access, coverage, and compliance issues.

LASSD has a sophisticated telephone queuing and answering system with a computer interface that allows supervisors and staff to see hotline activity in real-time. Additionally, LASSD has implemented share point software, allowing for an office-wide intranet.

LASSD’s Pro Bono Program is also located in the midtown office and utilizes a combination of specialty bar partnerships and collaborations with law schools to engage the private bar in the delivery of legal services to its clients. In 2011, LASSD reported in its LASSD GRA that the recipient’s volunteers provided over 20,000 hours of legal services to LASSD clients and that, since its inception in 2000, it has recruited over 2,300 volunteers. The recipient staffs several pro se litigant clinics (reporting 7,400 residents assisted in its court-based, self-help clinics), mediation programs, economic impact programs, and provides referrals to private attorneys for direct representation (reporting more than 125 successful referrals to pro bono attorneys in 2011).

LASSD’s LSC Basic Field funding for 2011 was \$3,236,873, for 2012 was \$2,762,355, and for 2013 was \$2,666,103. In 2009, LASSD was awarded TIG No. 09509 in the amount of \$17,274 which is now closed. In 2012, LASSD was awarded TIG No. 12099 in the amount of \$56,500 which remains active. In its 2011 CSR submission to LSC LASSD reported 9,741 closed cases and in its 2012 CSR submission reported 10,372 closed cases. LASSD also reported for 2011 and 2012 that 30.8% and 38.6%, respectively, of its closed cases were health cases and 38.4% and 32.2%, respectively, of its closed cases were housing cases. LASSD further reported for 2011 and 2012, that 80.3% and 78.4%, respectively, of its closed cases were limited service cases. Finally, LASSD’s 2011 self-inspection certification revealed a 3.9% error rate in CSR reporting and its 2012 self-inspection certification revealed a 7.3% error rate.

By letter dated September 3, 2013, OCE requested that LASSD provide a list of all cases reported to LSC in its 2011 CSR data submission (closed 2011 cases), a list of all cases reported in its 2012 CSR data submission (closed 2012 cases), a list of all cases closed between January 1, 2013, and September 30, 2013 (closed 2013 cases), and a list of all cases which remained open as of September 30, 2013 (open cases). LASSD was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004).

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LASSD agreement of November 14, 2013, LASSD staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.² LASSD's management and staff cooperated fully in the course of the review process.

The OCE team interviewed members of LASSD's upper and middle management, staff attorneys, and support staff. LASSD's case intake, case acceptance, case management, and case closure practices and policies were assessed. In addition to interviews, sample case files were reviewed. The sample closed case review period was from January 1, 2011 through September 30, 2013. A total of approximately 500 case files were reviewed. The sample was developed proportionately among 2011, 2012, and 2013 closed and open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with certain CSR instructions (*e.g.*, timely closing, proper application of the CSR case closure categories, and duplicate reporting, etc.).

During the on-site review, LASSD exhibited a consistency of process and practices which support compliance-related activities. The review team observed that LASSD contemplated LSC's requirements and implemented procedures to ensure a high degree of compliance with them. LASSD maintains three (3) manuals that serve to guide staff regarding the processes and procedures required while conducting LASSD business³ and that facilitate LASSD operations and support its efficiency, effectiveness, and compliance-related practices. LASSD further demonstrated what could be termed a "zero-tolerance policy" for non-compliance with LSC regulatory requirements. It was evident that LASSD's Executive Director understands the importance of being in full compliance with LSC's regulatory requirements.

As discussed in greater detail below, LASSD was made aware of any identified compliance issues during the on-site review. This was accomplished by informing the case review intermediaries, fiscal staff, and intake staff, as well as the Executive Director, of any compliance concerns uncovered as the review progressed. All exceptions discussed with LASSD staff were noted and scrutinized by LASSD to determine how the error(s) could have occurred. OCE conducted exit meetings on December 5, 2013, during which LASSD was provided again with OCE's preliminary findings. LASSD appeared appreciative of OCE's assistance during the course of the review and was open to the feedback provided by the review team. LASSD committed to making, where possible, necessary adjustments during the course of the review or, at the latest, prior to the issuance of the Draft Report.

LASSD was advised that it would receive a Draft Report which would include all of OCE's findings and that it would have 30 days to submit comments; however, LASSD followed through

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

³ The three (3) manuals utilized by LASSD are the following: (1) LASSD Personnel Policies and Procedures Manual (October 2013); (2) Intake/Community Response Team Intake Procedures; and (3) Consumer Center for Health Education and Advocacy Operation Policy and Procedural Manual (2013).

on its commitment to make all necessary adjustments prior to the issuance of the Draft Report, providing OCE additional materials and information subsequent to the visit and lastly on February 4, 2014. As a result, there were no recommendations or required corrective actions contained in the Draft Report. As was detailed in the text of the report, LASSD took action sufficient to satisfy one (1) required corrective action as well as to incorporate several recommendations communicated to LASSD by OCE during the course of the visit.

By letter dated May 1, 2014, OCE issued the Draft Report detailing its findings regarding the December 2 through 5, 2014, Compliance Review. LASSD was asked to review the Draft Report and provide any written comments within 30 days. By email on June 2, 2014, LASSD indicated that it had shared and discussed the details of the Draft Report with its full Board of Directors at their regularly scheduled Board meeting on May 29, 2014, and that LASSD and its Board agreed to accept the Draft Report in its entirety without comment. As such, no further action is needed and OCE's Compliance Review of LASSD is concluded with the issuance of this Final Report.

III. FINDINGS

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

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

LASSD's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. LASSD uses Kemps Prime 2012 as its ACMS which was reviewed to assess compliance with LSC requirements. As required by Chapter III of the CSR Handbook (2008 Ed., as amended 2011) and as discussed below, LASSD has implemented case management procedures and practices to ensure that LSC compliance related requirements are met and that its LSC Case Service Reports ("CSRs") are accurate.

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

To ensure that income and asset information is collected and recorded for every applicant intake, LASSD has programmed its ACMS to alert the user if the income and/or assets fields are left

blank. If no information is entered in either field, a pop-up screen will appear indicating that the information must be entered “even if 0” and the user must click “OK” before proceeding. To ensure timeliness and prevent dormancy, LASSD practice teams generate ACMS timeliness reports periodically throughout the year and the Information Technology Officer generates a program-wide report twice per year. Open and closed case dates are reviewed and, if a file is flagged as potentially untimely, the case notes and timekeeping entries are reviewed to determine the status of the case.

Files containing reporting errors that cannot be corrected (*e.g.*, timeliness/dormancy, duplication, lacking required eligibility information or documentation of legal assistance, etc.) are deselected and excluded from the CSRs. LASSD deselects files in a manner consistent with the CSR Handbook (2008 Ed., as amended 2011), § 3.5. LASSD uses the following deselect codes: “X-Deselect (Not report to any funder)” is used for cases that are excluded after legal assistance has been rendered; “N-Not report to LSC (Use other funds)” is used for cases that cannot be reported to the LSC grant; and “H-Hold” is used for files that are excluded prior to case acceptance.

One exception was, however, noted and immediately corrected during the course of the on-site review, as impermissible defaults were identified in LASSD’s ACMS. The identified defaults were located in the “Household Composition” fields (the “Number of Adults” and “Number of Children” fields displayed zero “0”) and on-site testing determined that, even if the default values remained unchanged, staff would have the ability to move to the next eligibility field. LSC has determined that screening for household composition is critical to the determination of eligibility and that default ACMS values are not permitted. *See* Program Letter 02-6, “Limitation of Defaults in Case Management Software,” (June 6, 2002) and CSR Handbook (2008 Ed., as amended 2011), § 3.6.

Based on a comparison of the information yielded by the ACMS to information contained in the files sampled, as well as testing of its reporting functions, LASSD’s ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. LASSD’s focus on training and its comprehensive file review has been a successful strategy to satisfy LSC’s ACMS and eligibility requirements.

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

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

LASSD’s intake, case management, and oversight procedures were assessed by interviewing and/or observing its receptionists, telephone intake screeners, paralegals, attorneys, managing attorneys, and executive staff members during the course of the on-site review. The review

evidenced that LASSD's intake policies and procedures were adequately carried out by staff and that these practices support its compliance-related requirements.

Financial Eligibility Policy Review

LASSD has adopted a written policy to guide its staff in complying with 45 CFR Part 1611 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC-required policies, in their workspaces for reference as necessary. Intake interviews evidenced that the policy is properly applied during the eligibility screening process.

Intake, Case Management, and Oversight

Intake Eligibility Screening

LASSD intake is primarily conducted by telephone through its program-wide Community Response Team ("CRT") and Consumer Center for Health Education and Advocacy ("CCHEA") toll-free hotlines which are based out of the Midtown office. Also operating out of the Midtown office are the Housing/Shriver Project ("HSP"), Fair Housing Services ("FHS"), and SSI Advocacy Project ("SSI"). Although most applicant calls are received through the CRT and CCHEA hotlines, the HSP also maintains its own toll-free number.

The hotlines operate Monday through Friday from 9:00 am to 5:00 pm. The only applicants who bypass the hotlines are those who appear in person at an LASSD office or those who are referred directly to an advocate or attorney pursuant to a referral agreement (such as Housing Opportunities and Low Income Health Program Medical Services). Additionally, eligibility screenings may be conducted at outreach locations, such as clubhouses and welfare offices.

Calls to the CRT hotline are answered by intake specialists or advocate staff⁴ and calls to the CCHEA hotline are answered by advocate staff only. These intake specialists and advocates function as eligibility screeners ("intake staff") answer incoming calls on a rotational basis.

Intake staff asks appropriate eligibility questions and simultaneously enters the information obtained into the ACMS. Intake staff initially asks for the applicant's full name and the name of the opposing party in order to conduct a conflict and duplicate case check in the ACMS. Simple conflicts are resolved by intake staff (*e.g.*, if the caller is the opposing party in a pending dissolution of marriage case against a current client) and more complex potential conflicts are referred to a managing attorney for resolution. Intake staff next obtains citizenship or eligible alien status information. If an applicant reports an eligible alien status other than Legal Permanent Resident, intake staff is required to refer the application to LASSD's immigration team to determine alien status eligibility. If the intake interview is conducted in person, a written citizenship attestation or documentation of an eligible alien status is obtained at that time.

Financial eligibility screening follows, with household size data recorded and ACMS drop-down menus used as a guide for the screening of income and assets. If an applicant's income is

⁴ Advocates have qualifications similar to paralegals.

between 125-200% of the Federal Poverty Guidelines (“FPG”), LASSD staff uses an ACMS drop-down menu as a guide to inquire into available 45 CFR § 1611.5 authorized exception factors that may allow the applicant to qualify for services. LASSD has adopted the 45 CFR § 1611.4(c) government benefits exception for recipients of San Diego County General Relief Program and the State of California/County of San Diego CalWORKS Program.

Finally, intake staff requests demographic information and asks whether applicants are military veterans or victims of domestic violence. Once all required financial eligibility data is recorded in the ACMS, hotline staff is authorized to make a financial eligibility determination. Applicants who are found to be financially ineligible are informed at that time. Applicants determined to be financially eligible for services continue to be screened for information regarding their legal problem, to determine whether the case falls within LASSD’s 45 CFR Part 1620 priorities, and to determine the type of services available to the applicant under LASSD’s case acceptance guidelines. Intake staff also determines whether the applicant is in need of emergency assistance. If an emergency is identified, a managing attorney is contacted to make arrangements for the applicant. Intake staff interviewed indicated that they had never handled a group representation application and would alert management if a group sought to apply for LASSD’s services.

Case Acceptance, Closure, and Review

After a determination is made that the applicant meets LASSD’s LSC eligibility requirements and that the applicant’s legal issue falls within LASSD’s priorities, advocate intake staff may provide legal information or advice, if authorized, at the time of intake. They may also transfer the applicant to an attorney if one is available. Non-advocate intake staff may transfer the applicant to an advocate or attorney to provide legal information or advice if one is available. Advocates adequately document the assistance provided to clients in the ACMS “E Notes” field and indicate that they also sometimes summarized their advice in an advice letter. After the advocate or attorney provides advice or legal information, the file may be closed. Alternatively, clients with cases requiring additional services may be scheduled to attend a clinic or to meet with an attorney in one of LASSD’s substantive units. If a determination is made that an eligible applicant’s legal issue does not fit LASSD’s priorities, the applicant may be referred to another legal service provider listed in LASSD’s Referral Guide.

Interviews and observations of the CRT and CCHEA hotlines demonstrated that intake staff engaged in detailed questioning concerning eligibility requirements. Intake staff was similarly observed obtaining facts relevant to applicants’ legal needs and providing legal information, referrals, and legal advice, as well as scheduling clinic and attorney appointments, when appropriate. Observations included instances of repeat applicants and, in these instances, intake staff reviewed financial eligibility with the applicant to ensure that there was no change in eligibility, that no conflicts existed, and to ensure that their new application would not be a duplicate file. If it was determined that the repeat applicant was no longer eligible for services, the applicant was so advised.

When an applicant or client appears in-person at an LASSD office for the first time, the individual is required to sign a citizenship attestation or to provide proof of alien eligibility. The

applicant or client's intake information, as well as conflict and duplicate case information, is reviewed by the assigned attorney or advocate to confirm that all necessary information has been obtained and that it is accurate.

LASSD's hotline advocates do not have case acceptance meetings, as the files are typically opened and closed after the client receives limited services. Non-emergency SSI, HSP, and FHP cases that are not closed after the client receives limited services are discussed at a case acceptance meeting where staff determines whether it should provide the client with extended services or if the case should be closed. Emergency cases are immediately brought to the attention of a hotline manager after eligibility screening is conducted. For both emergency and non-emergency cases, attorneys and advocates typically determine the appropriate level of legal services to be provided by consensus or pursuant to LASSD's case acceptance guidelines.

Once a case is ready for closure, the assigned staff attorney or advocate is responsible for selecting the applicable CSR Handbook (2008 Ed., as amended 2011), Chapter VIII, case closure category and closing the file in the ACMS. Cases closed by the CRT are reviewed by the CRT Managing Attorney to ensure compliance. All other files are first reviewed by a team member or another member of management prior to being transferred to the applicable unit's managing attorney for a final review. The reviews are documented with a notation on the paper or electronic file.

Intake Compliance Reviews

Review of Standard Hard-Copy Forms

Samples of LASSD's printed ACMS intake sheet, paper intake form, co-counseling agreement, attorney and advocate retainer agreement, emergency representation form, and client grievance information form were collected and assessed for compliance with LSC requirements. The forms were also reviewed for the purpose of determining whether eligibility was conducted in a sufficiently uniform and consistent manner by all staff conducting intake. All forms reviewed were found to be consistent throughout all offices.

One (1) paper intake form provided to the review team while on-site was later determined to be an outdated form that was no longer in use. The "Applicant Information" intake form was revised by LASSD in October 2013, as indicated by the notation of "revised 10/13" on all other Applicant Information forms collected. This form, with the notation of "revised 9/11," was provided to the review team in error and was less thorough than the revised form as it did not contain a section requesting 45 CFR § 1611.7(a)(1) "income prospects" information. This oversight was brought to the attention of the LASSD Executive Director who indicated that he would ensure that the form was permanently taken out of circulation.

Income Prospects Screening

Intake screening observations evidenced that a small number of intake staff were not consistently inquiring into applicants' 45 CFR § 1611.7(a)(1) income prospects when conducting screenings over the telephone. It was determined that the intake staff may be "skipping" over the question in the ACMS because of its screen placement, as the question appeared before (*i.e.*, above)

questions related to income. During the on-site visit, the review team suggested that LASSD modify the ACMS to relocate the income prospects question in order for it to fit more sequentially with income screening. Subsequent to the on-site review, on December 10, 2013, LASSD emailed OCE a screen shot of its revised ACMS screen showing that the recommended change was made.

Exempt Assets Screening

LASSD's assets policy provides that it will exclude an applicant's assets if they are exempt under state or federal law; however, interviews indicated that some intake staff had difficulty articulating asset exemptions that were not frequently used. It was determined that the list of assets exempt under state and federal law was lengthy and that it may be difficult for staff to remember less routine exempt assets without reference materials. During the on-site visit, the review team suggested that LASSD incorporate a list of commonly applied exempt assets into its financial eligibility policy and/or attach the comprehensive list as an appendix. Subsequent to the on-site review, LASSD indicated that it had, expanded its financial eligibility policy to include commonly applied exempt assets and attached as an appendix to its Personnel Policies and Procedures Manual a comprehensive list of the assets exempt under state and federal law. On February 5, 2014, LASSD further supplied OCE via email with a copy of the amended policy and appendix, which contained the noted changes and indicate a revision date of December 2013.

Citizenship and Alien Status Screening

Two (2) intake staff members interviewed failed to articulate LASSD's policy, contained in its Personnel Policies and Procedures Manual, which indicates that any applicant presenting an immigration status other than Lawful Permanent Resident ("LPR") must have their application reviewed by LASSD's immigration team. The intake staff members indicated that any such application would either be "referred out" or they would ask their manager for guidance. The failure of intake staff to articulate the established policy was brought to the attention of LASSD management while the review team was on-site. The senior attorney of the immigration team was also consulted and indicated that she routinely received calls from intake staff requesting application reviews. LASSD management indicated that the failure of intake staff to articulate the application review policy was likely due to the particular intake staff members' inexperience with the compliance review process.

Subsequent to the on-site review, LASSD indicated that it had conducted policy reviews with intake staff to ensure that its policy regarding immigration team application reviews is adhered to. On February 5, 2014, LASSD restated via email that it had conducted "individual reminders and re-trainings on this topic" with the intake staff and that it believed the failure to indicate the policy was a failure to articulate an established policy and "not evidence of any structural defect."

Definition of Household

Intake staff interviewed as part of the intake review articulated their understanding of LASSD's definition of household with slight variances. For example, household was defined very simply

as including all adults and children who “live in the home” (not entirely reflecting LASSD’s definition) or, with more complexity, by indicating a determination of whether individuals in the home shared expenses (more closely reflecting LASSD’s policy). LSC Regulations, at 45 CFR § 1611.2(i), contemplate that recipients will define the term “household” and LASSD does have such a definition available to staff in its Personnel Policies and Procedures Manual. While a majority of intake staff interviewed articulated a definition of household that was sufficient to ensure consistent eligibility screening, OCE recommended to LASSD management during the on-site review that it review its definition of household with applicable intake staff to ensure a common understanding. LASSD management immediately indicated that it would review the definition with applicable staff.

Subsequent to the on-site review, LASSD indicated that variances in the articulation of LASSD’s household definition had been addressed by conducting policy reviews with intake staff to ensure a common understanding. On February 5, 2014, LASSD restated via email that, subsequent to the on-site review, this concern was addressed by its senior staff attorney who conducted “re-trainings of appropriate staff” and that it believed that the failure to articulate a common household definition was a failure to articulate an established policy and “not evidence of any structural defect.” LASSD further indicated that its household definition is clearly defined in its financial eligibility policy, available to staff in its Personnel Policy and Procedures Manual, which also refers users to Appendix T of the manual for an even more detailed explanation.

Clinics

LASSD receives an \$115,442 grant from the San Diego Superior Court to assist individuals with responding to Unlawful Detainers (“UD”) and filing Temporary Restraining Orders (“TRO”). These “self-help centers” were developed by the State of California to facilitate timely and cost-effective processing of cases involving self-represented litigants and to improve the delivery of justice to the public. The Judicial Council of California adopted a rule of court indicating that court-based self-help centers are a “core court function” of California courts. *See* California Rules of Court, Rule 10.960(b) (adopted January 1, 2008; reaffirmed February 28, 2011; amended effective February 20, 2014). In 2008, the Administrative Office of the Courts in collaboration with judges, executive officers, attorneys, and other parties with a demonstrated interest in services to self-represented litigants, developed a manual titled Guidelines for the Operation of Self-Help Centers in California Trial Courts. These guidelines require that self-help centers provide notice to participants that the services provided do not create an attorney-client relationship. The purpose of these centers, rather, is to assist individuals with document preparation (*i.e.*, completing required court forms), but service providers may also help interpret regulations and assist individuals with determining what facts are relevant and should be included in their court documents.

LASSD’s UD/TRO Self-Help Center utilizes an intake form that requires individuals to sign a statement of understanding indicating that the center will be providing legal information only; that the center will not be providing legal advice; that the center is available for both parties in the case; that the center is not providing legal representation; and that their meeting with center staff will not be private. The services offered include assistance with document preparation (*i.e.*, pleadings, stipulations, post-hearing court orders, TROs, etc.), court document review and

explanation, guidance regarding different methods and requirements of service, and preparation for pro-se court hearings. The OCE review team visited LASSD's Self-Help Center during the course of the on-site review, which was staffed by one (1) LASSD staff attorney and several pro bono attorneys.

Observations and interviews at the Self-Help Center indicated that most of the centers' staff were successfully providing legal information *only* and providing document preparation assistance to individuals appearing pro-se. Attorneys were observed asking carefully crafted questions to facilitate participants' own identification of usable defenses in order to avoid giving legal advice. However, the review team did observe one (1) PAI attorney volunteering at the self-help center for the first time, providing what could be construed as legal advice to an unscreened clinic participant.

While on-site, the review team's observations were discussed with LASSD management and it was determined that the identified PAI attorney was a new volunteer and this incident was not indicative of a pattern of error. LASSD indicated that it provides training to all potential volunteers, which details the rules governing California self-help centers, including the definition of legal information versus legal advice and ethical guidelines. As indicated above, the Judicial Counsel of California promulgated in its California Rules of Court, Rule 10.960 governing Court self-help centers (adopted January 1, 2008; reaffirmed February 28, 2011; amended effective February 20, 2014) and all volunteers are trained on these rules. LASSD management further indicated that it would speak with the identified PAI attorney to offer her additional guidance. The review team also discussed with LASSD management some additional ways in which the accidental provision of legal advice could be further avoided, particularly with regard to the "other" check-box option for defenses on the court provided UD Answer form. One (1) idea discussed was having available a list of common "other" affirmative defenses not already identified on the UD Answer form.

On February 5, 2014, LASSD restated via email that its Pro Bono Program staff provided comprehensive training to all potential volunteers on the differences between legal information and legal advice. To support this statement, LASSD submitted to OCE the Power Point presentation used by its Pro Bono Program staff to train volunteers. The opening slide of the Power Point displays the title "Legal Information and Legal Advice," with the statement "Strategies and ethics for providing information and education in a self-help workshop setting." The Power Point slides indicate that the training covers topics such as the rules governing California's self-help centers, the ethical obligations of volunteers, the definition of legal information versus legal advice, and questions volunteers can answer and what questions they cannot. Additionally, LASSD explained that it had decided to "provide to each of the individuals seeking our assistance a copy of the judicial [UD Answer] form attachment that sets forth all available affirmative defenses" and submitted to OCE a copy of the three (3) page form which contains numerous defenses for participants to consider. Finally, LASSD reiterated that "...the observed incident involved a brand new volunteer at the UD Clinic..." and that it "...was simply an error by one new individual volunteer and not evidence of any structural defect."

Intake Review Conclusion

Based on the materials reviewed, observations of intake staff, interviews with management and staff, and supplemental information provided, LASSD's intake procedures and case management system support the recipient's compliance related requirements.

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

Finding 3: Review of the recipient's sampled cases evidenced compliance with the income eligibility documentation requirements of 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guideline.

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

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines ("FPG") and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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

Review of the recipient's sampled cases evidenced compliance with 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 FPG, with one (1) exception. One (1) file reviewed indicated an inconsistent CSR Handbook (2008 Ed., as amended 2011), Chapter IX, problem code and 45 CFR § 1611.5(a)(1) income exception. *See*

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

Closed 2013 Case No. 12E-15164262 (where the client's income was between 125% and 200% of the FPG and the LSC authorized income exception of 45 CFR § 1611.5(a)(1) regarding the maintenance of governmental benefits was indicated; however, the legal subject matter of the case pertained to a private landlord-tenant issue – CSR problem code No. 63). As there were no other instances of this error identified during case review, there was no pattern of error noted.

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

There are no recommendations or required corrective actions.

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

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.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 regulation. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The older version of the regulation allowed such a waiver only at the discretion of the Executive Director. The revised version allows the Executive Director or his/her designee to waive the ceilings in such circumstances. *See* 45 CFR § 1611.6(e) in prior version of the regulation and 45 CFR § 1611.3(d)(2) in the revised version. Both versions require that such exceptions be documented and included in the client's files.

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

There are no recommendations or required corrective actions.

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.

Finding 5: Review of the recipient’s policies, procedures, and sampled cases evidenced compliance with the citizenship restrictions contained in 45 CFR Part 1626; however, one (1) citizenship attestation was missing from a case file where the client had already been screened for citizenship.

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

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

LASSD has adopted a written policy and procedure to guide its staff in complying with 45 CFR Part 1626 that is consistent with the Regulation. Staff maintains a copy of LASSD’s Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

Sampled cases evidenced compliance with the citizenship restrictions of 45 CFR Part 1626, as all files reviewed contained evidence of citizenship screening; however, one (1) client’s electronic file contained evidence of citizenship screening, but a written attestation could not be located in the case file. *See* Closed 2012 Case No. 12E-15160969. LSC Regulations, at 45 CFR § 1626.6(a), require that all applicants seen in person attest to their citizenship in writing. As no cases were found to have been reported to LSC in LASSD’s CSRs without evidence of citizenship screening, no pattern or substantial risk of error was identified.

On February 5, 2014, LASSD indicated via email that in furtherance of its zero-tolerance policy for regulatory non-compliance and because of the one (1) missing paper attestation, it is now

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

requiring that every signed client attestation be scanned and uploaded to the ACMS for ease of review and that management will be including this topic for discussion and review in an upcoming corrective action training.

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

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

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

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

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

A review of LASSD's standardized retainer evidenced that it was consistent with the requirements of 45 CFR § 1611.9. Sampled cases evidenced properly signed retainer agreements where required; however, two (2) retainer agreements were not dated making it more difficult than necessary to assess timeliness. *See* Closed 2012 Case Nos. 12E-11157178 and 11E-8150293.

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

There are no recommendations or required corrective actions.

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

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it files, or in a separate notice provided to the defendant, and identify each plaintiff it

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.

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

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

LASSD has adopted a written policy and procedure to guide its staff in complying with 45 CFR Part 1636 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary. Sampled cases evidenced compliance with the identification and documentation requirements of 45 CFR Part 1636.

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

There are no recommendations or required corrective actions.

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

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

LASSD has adopted a written policy and procedure to guide its staff in complying with 45 CFR Part 1620 that is reviewed and approved annually by its Board of Directors and is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary, with the annually approved priorities attached in an appendix.

The review evidenced that a Statement of Priorities ("priorities agreement") is signed during new staff orientation in compliance with 45 CFR § 1620.6. While on-site, 10 randomly selected priorities agreements were provided to the review team further evidencing compliance. Interviews with management and staff evidenced appropriate knowledge regarding the requirements of 45 CFR §§ 1620.3(a) and 1620.6. Finally, all sampled cases were within LASSD's approved priorities.

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

There are no recommendations or required corrective actions.

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

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

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

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

Sampled cases evidenced substantial compliance with the legal assistance documentation requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6; however, four (4) recently closed files were deselected by LASSD during the course of the review as they were found to contain insufficient evidence of the legal assistance provided. *See* Closed 2013 Case Nos. 13E-15172713, 13E-15175823, 13E-6175070, and 11E-1152783. Conversely, case review did not evidence any files reported to LSC in LASSD’s CSRs (from the 2011 and 2012 samples) that were lacking evidence of the legal assistance provided.

As case sampling identified four (4) recently closed files containing insufficient evidence of the legal assistance provided and zero (0) files lacking such evidence from the CSR reported sampled cases, LASSD’s standard closed case review process appears to substantially support LASSD’s legal assistance documentation requirements. It follows that several of LASSD’s closed 2013 files noted above would have likely been identified and deselected as a result of the closed case review process. Therefore, as no cases were found to have been reported to LSC in LASSD’s CSRs in error, no pattern or substantial risk of error was identified.

Although there was no pattern or substantial risk of error identified, the necessity of case files being closed with sufficient documentation of the legal services provided to the client was discussed with LASSD management while the review team was on-site. LASSD management indicated that it would take steps to ensure that all staff attorneys and advocates sufficiently document the legal assistance provided to their clients.

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

There are no recommendations or required corrective actions.

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

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

Sampled cases evidenced that LASSD's application of the CSR case closure categories is substantially consistent with Chapters VIII and IX of the CSR Handbook (2008 Ed., as amended 2011) with few errors noted. Sampled cases evidenced three (3) files that were closed with case closure category "A" (Counsel and Advice) when category "B" (Limited Action) would have been more appropriate. *See* Closed 2013 Case No. 13E-15174030 (case handler had third-party communication – the closing category was corrected during the course of the review) and Closed 2011 Case Nos. 10E-15132326 (case handler had third-party communication) and 11E-24148580 (case handler assisted with court document preparation). Two (2) additional files reviewed that were closed with case closure category "B" (Limited Action) were found to contain evidence of extensive legal work and, therefore, category "L" (Extensive Service) would have been more appropriate. *See* Closed 2013 Case No. 12E-15161197 and Closed 2012 Case No. 10E-16129955. None of the errors identified were found to be part of a pattern, as the cases varied in case type, office, and year closed.

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

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

There are no recommendations or required corrective actions.

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

To the extent practicable, recipients shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).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 in the 2008 Edition, as amended 2011, of the CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible, or inadvisable and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally, LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

Sampled cases evidenced substantial compliance with the timely case closing requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3; however, three (3) files were found to have been untimely closed and reported to LSC in LASSD's CSRs. *See* Closed 2011 Case Nos. 10E-15130498 (case was opened in January 2010 and the last limited service was provided on that date, but the case was untimely closed in December 2011) and 09E-11128593 (case was opened in November 2009 and the last limited service was provided in 2010, but the case was untimely closed in January of 2011); and Closed 2012 Case No. 11E-15150758 (case was opened in July 2011 and the last limited service was provided in August 2011, but the case was untimely closed on January 2012).

An additional seven (7) files were deselected during the course of the on-site review as they were found to have been untimely closed in 2013 and not yet reported to LSC. *See* Closed 2013 Case Nos. 12E-15162013 (case was opened in May 2012 and the last limited service was provided on the same date, but the case was untimely closed in October 2013), 12E-15164543 (case was opened in July 2012 and the last limited service was provided on the same date, but the case was untimely closed in January 2013), 12E-15164262 (case was opened in July 2012 and the last limited service was provided in October 2012, but the case was untimely closed in January 2013), 12E-1164818 (The case was opened July 2012 and the last limited service was provided in 2012, but the case was untimely closed in March 2013), 11E-11146581 (case was opened in March 2011 and the last limited service was provided in 2012, but the case was untimely closed in September 2013), 12E-15166638 (case was opened in September 2012 and the last limited service was provided in 2012, but the case was untimely closed in January 2013), and 11E-15154837 (case was opened in November 2011 and limited service was provided in 2011, but the

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

case sat dormant in 2012 with no notation of legal service being provided until 2013 when the client was, again, provided limited service and then the case was closed in March 2013; the case was untimely closed as it should have been closed in 2012 and the legal assistance provided in 2013 should have been reflected in a new case file).

As discussed above in Finding 1, LASSD has procedures in place to ensure timeliness and prevent dormancy. LASSD practice teams generate ACMS timeliness reports periodically throughout the year and the Information Technology Officer generates a program-wide report twice per year. Open and closed case dates are reviewed and any files flagged as potentially untimely are pulled and reviewed. It follows that several of the untimely closed 2013 files identified above would have likely been identified and deselected as a result of LASSD's closed case review process. As case sampling identified just three (3) untimely closed files (two (2) in 2011 and one (1) in 2012) that had been reported to LSC in error, LASSD's standard closed case review process appears to substantially support LASSD's timeliness requirements.

Although there was no pattern or substantial risk of error identified, the necessity of advocates closing cases in a timely manner was discussed with LASSD management while the review team was on-site. LASSD management indicated that it would take steps to ensure that the staff attorneys and advocates identified as having closed cases in an untimely manner had a thorough understanding of the CSR timeliness requirements.

On February 5, 2014, LASSD further indicated via email that its executive staff had been instructed to provide the Executive Director with the names of the advocates who had closed their cases in an untimely manner, as the Executive Director would be having an individual conference with each advocate to stress the importance of timely case closure. In addition, each of the identified advocates would be required to attend a corrective action training specifically developed to cover the topic of timely case closure.

Based on case sampling, assessment of procedures, and information provided to OCE subsequent to the review, LASSD evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3.

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

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

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.2. When a recipient provides more than one (1) type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.2.

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

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1604 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

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

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1608 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

LASSD's Executive Director indicated that staff members had not participated in prohibited political activities and interviews with staff supported this assertion as no prohibited political activities were identified. Additionally, a review of hard-copy informational materials and publications which LASSD makes available to applicants and clients that are published by LASSD and other federal, state, and private organizations, as well as a review of LASSD's website, evidenced no content prohibited by 45 CFR §§ 1608.4, 1608.5, and 1608.6.

This finding was further supported by a limited review of accounting records reflected in LASSD's chart of accounts, general ledger expense accounts for the period of January 1 through September 30, 2013, a comprehensive list of all vendors, documents related to three (3) vendors selected at random, and interviews with management. The review of account records indicated that no grant funds, personnel, or equipment were used for activities prohibited by 45 CFR § 1608.3(b).

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

There are no recommendations or required corrective actions.

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

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

Recipients may provide legal assistance in such a case if it has been rejected by the local lawyer referral service or two (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and (b).

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

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1609 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

A limited review of LASSD's audited financial statements at June 30th for the years 2011, 2012, and 2013 was conducted. LASSD reported on the schedule of LSC funds attorneys' fees collected during each of the three (3) years as follows: \$110,480 in 2011, \$55,243 in 2012, and \$52,685 in 2013. Three (3) sampled cases, one (1) for each year of the review period, were reviewed and it was confirmed that the attorneys' fees were partially allocated to LASSD's LSC fund using the same ratio by which LSC funds were used to support the legal work.

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

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

There are no recommendations or required corrective actions.

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

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

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

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

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

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

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

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

engages in restricted activities. *See* OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

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

Restricted Activities

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

Funding Source Notification

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

Generally, notification should be provided before the recipient accepts the funds. Thus, notice should be given during the course of soliciting funds or applying for a grant or contract. However, for unsolicited donations where advance notice is not feasible, notice should be given in the recipient's letter acknowledging the contribution. For contracts and grants awarded prior to the enactment of the restriction, notice should be given prior to acceptance by the recipient of any additional payments. The notice requirement applies to funds received by recipients as grants, contracts or charitable donations from funders other than the Corporation, which are intended to fund the nonprofit work of the recipient. It does not include funds received from sources such as court payment to attorneys for their work under court appointments; nor does it include payments to the recipient for rent, bank interest, or sale of goods, such as manuals.

While on-site, a list of all sources of funds of \$250 or more was requested from LASSD fiscal staff for the years 2011, 2012, and 2013. Seven (7) funding source notification letters were sampled and found to be in compliance with 45 CFR § 1610.5(a), as written notification outlining the prohibitions and conditions which apply to the funds were appropriately provided. Specifically, the written notifications indicated that the funds could not be used in any manner inconsistent with the Legal Services Corporation Act or § 504 of Public Law 104-134.

Interviews with the Executive Director and Bookkeeper further confirmed that LASSD's notification procedures are in contemplation of 45 CFR § 1610.5(a) and are in compliance with the Regulation.

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

There are no recommendations or required corrective actions.

Finding 17: Review of the recipient's PAI policies and procedures, sampled cases, and interviews with staff evidenced 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.

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

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

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

associations. The recipient must document that its proposed annual Plan has been presented to all local bar associations and the Plan shall summarize their response. *See* 45 CFR §§ 1614.4(a) and (b).

Additionally, 45 CFR Part 1614 requires that recipients utilize a financial management system and procedures that document its PAI cost allocations, identify and account for separately direct and indirect costs related to its PAI effort, and report separately the entire allocation of revenue and expenses relating to the PAI effort in its year-end audit.

PAI Expenditures and Allocations

As required by 45 CFR § 1614.3(e)(2), LASSD's audited financial statements ("AFS") for the year ending June 30, 2011, reported expenditures dedicated to its PAI efforts separately. The separate Schedule of Private Attorney Involvement Expenses reported PAI funds totaling \$585,353 for fiscal year ending June 30, 2011, representing 17.6% of the basic field grant (\$3,335,526) received for that fiscal year. PAI funds totaling \$538,780 were reported for fiscal year ending June 30, 2012, representing 18.14% of the basic field grant (\$2,970,749) received for that fiscal year. PAI funds totaling \$479,413 were reported for fiscal year ending June 30, 2013, representing 17.43% of the basic field grant (\$2,750,867) received for that fiscal year.

LASSD involves private attorneys through its Private Attorney Involvement Program, where participating attorneys sign an Independent Contractor Agreement with LASSD. The hourly rate of compensation was indicated as \$25 for each year in the review period. LSC Regulations, at 45 CFR § 1614.3(e)(3), require that attorneys' fees not exceed 50% of the local prevailing market rate for the same type of service. LASSD's Chief Fiscal Officer ("CFO") was interviewed and indicated that the hourly market rate for local attorneys begins at \$150-\$200, if not higher.

During the review period, LASSD contracted with several private attorneys. W-9 tax forms for the identified contract attorneys were reviewed for the years 2011, 2012, and 2013 and the compensation was consistently found to be less than \$25,000. Based on the W-9 forms reviewed, LASSD is in compliance with 45 CFR § 1627.2(b)(1).

Documentation provided as well as discussions with the accountant and the CFO all indicated that LASSD's methodology for the PAI calculation contains reasonable and logical elements. The review of a spreadsheet computing all PAI activities for the month of July 2013 and a review of a sample of indirect PAI cost allocations of administrative time evidenced that an appropriate ratio of 4.31% was used for the computation of indirect PAI costs. This ratio is reasonable and is based on PAI salaries divided by total salaries. *See* 45 CFR § 1630.3(f). LASSD's method of allocating common PAI costs is clearly documented in Chapter 11 of its Accounting Policies and Procedures Manual (updated August 2012) and was provided to OCE prior to the on-site visit.

PAI Component Delivery Method

LASSD's PAI component's delivery system was assessed as part of the on-site review and was found to be in compliance with 45 CFR Part 1614. LASSD's Pro Bono Program, supervised by a Pro Bono Program Manager ("PAI Coordinator"), manages referrals to its panel of volunteer attorneys and also supervises volunteer attorneys participating in various self-help centers and matters clinics, as discussed in greater detail in Finding 2.

PAI Intake and Referral Process

After an applicant is processed through the regular intake eligibility screening process, as discussed in detail in Finding 2, eligible applicants with cases identified as appropriate for PAI placement are typically transferred to the PAI Bono Coordinator. The PAI Coordinator may also be referred overflow cases from LASSD's substantive legal units for potential placement, as well as individuals identified as suitable for placement after their participation in one of LASSD's matters clinics. LASSD maintains a volunteer panel of private attorneys who have indicated a willingness to accept LASSD referrals. Depending on the legal issue presented, the PAI Coordinator will identify an appropriate potential PAI attorney from its panel and either call or email them with some general case details. If the case is particularly complicated, the PAI Coordinator may include additional documents and/or pleadings when attempting to refer the case.

Once an affirmative response is received from a PAI attorney, they are provided with the information necessary to run a conflicts check. If no conflict is identified, a letter is sent to the accepting PAI attorney that includes contact information for the client. The PAI Coordinator also sends a letter to the client letting them know that their case has been successfully referred which includes the contact information for the PAI attorney and instructions to make an appointment. Enclosed with the letter is an Agreement to Place Case for Pro Bono Services form ("agreement form") for completion, which details intake and referral protocols, costs and fees responsibilities, the duties of the client, the requirement of continued eligibility, the necessity of administrative oversight, the process for ending the agreement, file retention rules, and client grievance information. The referral process is not considered complete until the agreement form is signed and returned to LASSD. Additionally, if the referred client's intake eligibility screening was conducted over the telephone, a citizenship attestation is included in the mailing.

While there is no set time frame within which a referral must be completed, the PAI Coordinator indicated that, generally, cases are placed within 30 days. An ACMS tickler system is in place that continuously alerts the PAI Coordinator to cases remaining on hold pending a PAI referral acceptance.

Case Oversight and Closure

Oversight and follow-up of PAI cases is also the responsibility of the PAI Coordinator. Another ACMS tickler system is employed for this task which sends alerts at least every three (3) months reminding the PAI Coordinator to check the status of cases that have been referred.

Additionally, the PAI Coordinator utilizes a dashboard program on her computer which displays all open cases. Upon placement, the initial method of oversight entails sending a Pro Bono Progress Request form to PAI attorneys explaining that federal regulations require LASSD to make periodic reports on open cases and requesting that the attorney complete a short check-box and fill-in questionnaire. If the PAI attorney fails to return the form, an email or telephone call from the PAI Coordinator will follow-up. The PAI Coordinator may also call the client and/or check court records to determine the status of a case. If contact cannot be made with either party after an extended period of time, the case is closed and deselected from CSR reporting.

The PAI Coordinator has the additional responsibility of case closure. As part of the closure process, the PAI Coordinator will review a file to verify that it contains all required documents, selects the applicable CSR case closure category, and closes the case in the ACMS.

PAI Review Conclusion

Interviews with management and staff evidenced that LASSD's Pro Bono Program operates its compliance-related functions in an efficient manner. The Pro Bono Program maintains organizational consistency because placement and oversight of cases is primarily handled by the PAI Coordinator who has adequate systems in place to periodically track PAI attorneys' progress on cases. The PAI Coordinator has the flexibility to provide additional targeted follow-up and oversight of cases as needed.

Based on case sampling, the materials reviewed, and interviews with management and staff, LASSD evidenced compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d).

There are no recommendations or required corrective actions.

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

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities.¹⁰ Except that the definition does not include transfers related to

¹⁰ Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or

contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Fed. Reg. 28485 (June 2, 1983) and 48 Fed. Reg. 54207 (November 30, 1983).

Additionally, 45 CFR § 1627.4 states that:

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

LASSD has a written policy to guide its staff in complying with 45 CFR § 1627.4(a) that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

LASSD's Accountant and CFO were interviewed and indicated that non-mandatory membership fees and dues are being paid with non-LSC funds. This verbal assurance was corroborated by a review of LASSD's sub-ledger titled Dues/Memberships and a sampling fees and dues payments. The review evidenced compliance with 45 CFR § 1627.4(a), as all non-mandatory membership fees and dues were paid with non-LSC funds. Additionally, LASSD management indicated prior to the on-site visit that it had not made any transfer of LSC funds to a third party, or sub-recipient, under the definitions set forth in 45 CFR § 1627.2. The on-site review supported this statement, as the material reviewed and interviews conducted did not identify any subgrants that were made during the period of review.

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

There are no recommendations or required corrective actions.

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

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant

attorney representing a recipient's clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000.00 is included.

to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent.

The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

A review of fifteen advocates' timekeeping records selected from all LASSD offices for the two (2) pay periods in November 2013 evidenced that the time records were electronically kept and that the time spent on each case, matter, or supporting activity was regularly recorded in compliance with 45 CFR §§ 1635.3(b) and (c). Additionally, interviews with the Executive Director and CFO indicated that LASSD did not employ any attorneys or paralegals who also worked for an organization engaging in restricted activity during the period of review.

Based on the materials reviewed, LASSD evidenced compliance with 45 CFR Part 1635.

There are no recommendations or required corrective actions.

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

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain, attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.¹¹ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining

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

attorneys' fees was lifted. Therefore, at its January 30, 2010, meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010, recipients may claim, collect, and retain attorneys' fees for work performed, regardless of when such work was performed.

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

As a result of the repeal of 45 CFR Part 1642, LASSD has adopted a written policy to guide its staff with regard to pursuing attorneys' fees in a manner that is consistent with the fee-generating case restrictions of 45 CFR Part 1609. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

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

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy and procedure to guide its staff in complying with 45 CFR Part 1612 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and

Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

LASSD's Executive Director indicated that staff members had not participated in any prohibited public rulemaking or lobbying activities. This assertion was supported by a limited review of LASSD's fiscal records, which provided no indication of lobbying or other restricted activities during the review period. Additionally, as discussed *supra* in Finding 14 with regard to Part 1608, a review of hard-copy informational materials and publications that LASSD makes available to applicants and clients, which are published by LASSD and other federal, state, and private organizations, as well as a review of LASSD's website, did not evidence any content prohibited by 45 CFR §§ 1612.4, 1612.8, and 1612.9. Furthermore, sampled cases did not raise any issues regarding the requirements of 45 CFR Part 1612.

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

There are no recommendations or required corrective actions.

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

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

No sampled cases involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction, as prohibited by 45 CFR Part 1615. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Parts 1613 and 1615.¹²

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

There are no recommendations or required corrective actions.

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

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

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed, or otherwise declared by a court of competent jurisdiction, as a class action pursuant to Federal Rules of Civil Procedure, Rule 23, or a comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹³

LASSD has a written policy and procedure to guide its staff in complying with 45 CFR Part 1617 that is consistent with the Regulation. Staff maintains a copy of LASSD’s Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases involved the initiation or participation in a class action. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1617.

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1632 that is consistent with the Regulation. Staff maintains a copy of LASSD’s Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases involved participation in litigation related to redistricting. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1632.

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

¹³ It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).

There are no recommendations or required corrective actions.

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

Recipients are prohibited from defending any person in a proceeding to evict that person from a public housing project if the person has been charged with, or has been convicted of, the illegal sale, distribution, manufacture, or possession with intent to distribute a controlled substance, and the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety of other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1633 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases involved the defense of eviction proceedings prohibited by 45 CFR Part 1633. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1633.

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy and procedure to guide its staff in complying with 45 CFR Part 1637 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases involved participation in civil litigation, or administrative proceedings challenging the conditions of incarceration, on behalf of an incarcerated person as is prohibited

by 45 CFR Part 1637. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1637.

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

There are no recommendations or required corrective actions.

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

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1638 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases or documentation, such as community education materials and recipient literature, indicated recipient involvement in activity prohibited by 45 CFR Part 1638. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1638.

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

There are no recommendations or required corrective actions.

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

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. Nor may LSC funds be used to bring suit to assert or

¹⁴ See Section 504(a)(18).

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

LASSD has a written policy to guide its staff in complying with 45 CFR Part 1643 that is consistent with the Regulation. Staff maintains a copy of LASSD's Personnel Policies and Procedures Manual (October 2013), which contains all LSC required policies, in their workspaces for reference as necessary.

No sampled cases indicated involvement in activity prohibited by 45 CFR Part 1643. Furthermore, the Executive Director stated that LASSD has not engaged in any activity prohibited by Part 1643.

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

There are no recommendations or required corrective actions.

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

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

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

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

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

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

There are no recommendations or required corrective actions.

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

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

LASSD maintains a Fidelity Bond in the amount of \$350,000 per occurrence which indemnifies LASSD against "...losses resulting from fraud or lack of integrity, honesty or fidelity..." *See* 45 CFR § 1629.1(b). The policy has a one (1) year term, beginning on July 1, 2013, and includes Commercial Property Coverage and a Commercial General Liability Policy.

Based on its current level of insurance coverage, LASSD evidenced compliance with 45 CFR Part 1629 and the LSC Accounting Guide, Appendix VII, § A(6).

There are no recommendations or required corrective actions.

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

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

A limited review was conducted of the bank records pertaining to one (1) of LASSD's accounts for the purpose of determining whether documented costs were reasonable pursuant to 45 CFR § 1630.3(b). The review evidenced that bank charges had not been incurred in the specified bank account during the period of review and, thus, no unreasonable costs were noted. Interviews with the CFO further indicated that LASSD's practices were consistent with 45 CFR Part 1630.

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

There are no recommendations or required corrective actions.

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

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

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

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

Fundamental Criteria and Internal Controls

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

LASSD has developed an Accounting Procedures Manual (“LASSD Accounting Manual”) which is program-wide and incorporates the fiscal duties and responsibilities of its Board members as well as its staff. The LASSD Accounting Manual is updated periodically with the

most recent update having occurred in August of 2012. By updating the LASSD Accounting Manual on an ongoing basis, LASSD has demonstrated its commitment to comply with the criteria outlined in the LSC Accounting Guide and to strengthen its internal control structure. A review of the LASSD Accounting Manual evidenced that it is comprehensive, with a focus on the establishment of policies and procedures which promote sound internal controls.

Segregation of Financial Duties

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

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

A review of LASSD's responses to the Segregation of Financial Duties Worksheet evidenced that there are appropriate internal controls in place to ensure that a single employee does not control all facets of a process or transaction (from start to finish) involving recipient assets.

Board of Directors Fiscal Oversight

The LSC Accounting Guide, § 1-7 – Responsibilities of the Financial Oversight Committee or Committees, states that “[e]ach recipient’s governing body has a fiduciary responsibility to the program and must establish a financial oversight committee or committees.” Section 1-7 defines a recipient's governing body’s fiduciary responsibility to the grantee to include the establishment of a Finance Committee which should, at a minimum: review and revise budgets and make recommendations to the full board of directors; review monthly financial management reports with the chief financial officer, controller, and/or CPA; review accounting and control policies; review the audited financial statements, management letter, and senior staff’s response with staff and the auditor; regularly review and make recommendations about investment policies; coordinate board training on financial matters; and act as liaison between the full board and staff on fiscal matters.

The LSC Accounting Guide also recommends that recipients have an Audit Committee whose role (subject to any requirements of state law) includes: hiring the auditor; setting the compensation of the auditor; overseeing the auditor’s activities; setting rules and processes for complaints concerning accounting practices and internal control practices; reviewing the annual IRS Form 990 for completeness, accuracy, and on-time filing and providing assurances of compliance to the full board; and ensuring that a recipient’s operations are conducted and managed in a manner that emphasizes ethical and honest behavior, compliance with applicable laws, regulations, and policies, effective management of the recipient’s resources and risks, and accountability of persons within the organization.

Section 1-7 of the LSC Accounting Guide further states that while it is recognized that some boards, due to their small size and other considerations, will decide not to have a separate audit committee, the critical point is that all of the finance and audit committee duties listed immediately above must be performed by a financial oversight committee(s). It is also critical, and considered a best practice, that the financial oversight committee(s) have at least one (1) member who is a financial expert or that the board have access to a financial expert. A financial expert has (1) an understanding of Generally Accepted Accounting Principles (“GAAP”) and financial statements, (2) the capacity to apply GAAP in connection with preparing and auditing financial statements, (3) familiarity with developing and implementing internal financial controls and procedures, and (4) the capacity to understand the implications of different interpretations of accounting rules.

LASSD maintains fiscal oversight through its Audit and Finance Committee. Based on a limited review of LASSD’s policies and procedures and through on-site interviews with LASSD’s CFO, Board Treasurer/Chairman of the Audit and Finance Committee, and Board President it was determined that the Audit and Finance Committee performs the responsibilities of a financial oversight committee, as described in the Accounting Guide for LSC Recipients. The Audit and Finance Committee meets annually regarding LASSD’s audit and meets at other times as needed. The Board Treasurer advised that in addition to meeting in person, some meetings of LASSD’s Audit and Finance Committee may occur over the telephone or electronically.

LASSD’s Board President advised that there are Board members with financial expertise, as he has an accounting background and there is an additional Board member who is a CPA. The Board Treasurer stated that prior to Board meetings the CFO is responsible for distribution of financial reports to members of the Board and its oversight committees, which include an overview of LASSD’s monthly and year-to-date financials (including cash and investments) and an updated budget (planned versus actual income and expenses). The Board Treasurer stated that the Board takes an active role in asking questions of management regarding the grantee’s financial performance. The Board Treasurer also stated that he personally reviews LASSD’s IRS Form 990; however, he acknowledged that the IRS Form 990 is not reviewed and approved by LASSD’s Board oversight committee.

While the review team was on-site, a recommendation was made to LASSD management that, in addition to its current activities, the Audit and Finance Committee review the annual IRS Form 990 for completeness, accuracy, and on-time filing and provide assurances of compliance to the full board as described in the LSC Accounting Guide, § 1-7. LASSD immediately indicated that it would do so moving forward. In support of this statement, on February 5, 2014, LASSD communicated via email that it had informed its IPA that the “...Audit and Finance Committee must review the annual IRS Form 990 with the full board at [our] March board meeting every year.”

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

Bank Statement Reconciliations

The LSC Accounting Guide states that bank statement reconciliations to the general ledger should be conducted on a monthly basis and should be reviewed and approved by a responsible individual. The review must be appropriately documented and signed and dated. *See* LSC Accounting Guide, § 3-5. Additionally, outstanding checks should be investigated and resolved in accordance with the procedures detailed in Appendix VII, § I-7 – Bank Reconciliation Procedures, of the LSC Accounting Guide.

LASSD currently maintains several bank accounts which are used for various purposes including its general operating account, payroll account, money market accounts, and a separate client trust account for each of its three (3) offices. LASSD has established bank reconciliations policies and procedures which are maintained in the LASSD Accounting Manual. The document indicates that the preparation of bank statement reconciliations is performed monthly by LASSD's Accountant and that bank reconciliations and proposed adjustments must be reviewed and approved by the CFO.

A review was conducted of LASSD's bank statement reconciliations for December 2011, January 2012, December 2012, and January 2013. The review evidenced that LASSD followed its established procedures, that its bank statements were reconciled timely, and that the review by its CFO was appropriately documented. It was also determined that LASSD had cleared all stale items timely from its bank accounts.

Cash Receipts

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

LASSD has established cash receipts policies and procedures which are maintained in the LASSD Accounting Manual. From a limited review of LASSD's procedures, financial records, and interviews with the CFO it was determined that LASSD properly records its cash receipts to the Check Receipt Log, including regular deposits, donor contributions, and client trust deposits. Cash receipts deposits were also found to be made regularly. Finally, OCE's on-site sampling evidenced an adequate segregation of financial duties.

Petty Cash

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

LASSD has established petty cash policies and procedures which are maintained in the LASSD Accounting Manual. A review of the Segregation of Financial Duties Worksheet indicated that

LASSD has established adequate internal controls related to its petty cash. OCE's on-site review evidenced that the Senior Legal Secretary maintains the petty cash at LASSD's main office, the petty cash is kept in a locked box which is kept in a locked file cabinet, and surprise petty cash audits are performed by the Accountant and reviewed by the CFO.

Electronic Data Processing ("EDP")

LASSD has established EDP policies and procedures, titled "Controls in an EDP Environment, Application Controls," which are maintained in the LASSD Accounting Manual and include guidance on the following topics:

- Completeness of Input;
- Accuracy of Input;
- Authorization of Transactions;
- Handling of Rejected Transactions;
- Completeness and Accuracy of Computer-Generated Data Transactions; and
- Completeness and Accuracy of Updating.

LASSD has also established an "Internet, Computer, Telephone and E-mail Policy," which was approved by its Board of Directors on December 1, 2011. The document sets forth LASSD's policy on the use of LASSD's e-mail, internet, reproduction, and telephonic communications equipment, including usage restrictions and security/passwords. Each LASSD employee or volunteer that is issued a laptop for remote access to its ACMS and usage signs a Wireless Laptop Agreement, which defines the permissible usage terms of the laptop for the employee or volunteer. The policies and procedures were reviewed and found to be adequate.

In addition, a review was conducted of the physical location of the server at the Euclid (main) office during the on-site review which evidenced that the server is located in a designated office, the door to the space is locked, and the space is temperature controlled and appears to be well ventilated.

Cash Disbursements

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

A limited on-site review of LASSD's invoices evidenced that they are properly recorded in a document titled "Invoices – Detail Report," the invoices are date stamped "paid," and subsequently reviewed and signed by both the CFO and the Executive Director to document their review.

Credit Cards

LASSD has established credit card payment policies and procedures which are maintained in the LASSD Accounting Manual. LASSD maintains a corporate American Express card of which the CFO is the sole authorized user. LASSD's credit card policy states, in part, that credit card payments should be made promptly to avoid any late fees or interest charges.

An on-site review was conducted of credit card transactions occurring during the review period, including both targeted credit card statement reviews and random transaction reviews. The testing of the credit card statements and transactions evidenced that LASSD maintains receipts associated with all charges and that the supporting documentation adequately identifies the purpose of the expenditures. The credit card statements and supporting documentation reviewed were found to be date stamped "paid," signed by the preparer, and subsequently reviewed and signed by both the CFO and the Executive Director to document their review. Additionally, LASSD's accounting staff had notated the applicable department, location, and funding code for each charge. Finally, a review of the statements evidenced that LASSD had paid its balances in full in a timely manner and that no associated finance charges were incurred.

Travel Expenses

LASSD has established travel expense policies and procedures which are maintained in the LASSD Accounting Manual. An additional travel policy is maintained in LASSD's Personnel Policies and Procedures Manual, which was most recently revised in October 2013.

A sample review was conducted of travel reimbursements processed during the review period for the Executive Director and six (6) staff attorneys. All transactions reviewed evidenced that LASSD maintains sufficient documentation to support the reimbursements and to comply with LASSD's own policies and procedures.

Electronic Banking

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

LASSD's CFO advised that it does not engage in electronic banking activities, with the exception of direct deposits of funds received from LSC and other funding sources. The CFO further advised that, while LASSD does not have an electronic banking policy, LASSD has incorporated procedures for these types of transactions in its bank reconciliations policies and procedures which are maintained in LASSD's Accounting Manual. The policies and procedures were reviewed and found to be adequate.

Real Property

The LSC Property Acquisition and Management Manual (“PAMM”), issued in 2001, governs the use of LSC funds by recipients to acquire, use, and dispose of real and nonexpendable personal property. The PAMM is intended to provide recipients with a single complete and consolidated set of policies and procedures related to property acquisition, use, and disposal.

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

LASSD has established policies and procedures for property, plant, and equipment which are maintained in the LASSD Accounting Manual. LASSD’s policies and procedures were reviewed and found to be consistent with the above described requirements. A limited review of LASSD’s financial records did not evidence any instances of noncompliance with the PAMM. Additionally, the on-site review team conducted a limited random sampling of personal property items at the Euclid (main) office and determined that all items were properly tagged and documented in LASSD’s financial records and that a physical inventory is regularly conducted, as recommended in the LSC Accounting Guide. *See* LSC Accounting Guide, Appendix VII – Accounting Procedures and Internal Control Checklist, ¶ C – Property Control.

Personnel and Payroll

LASSD maintains a Personnel Policies and Procedures Manual (“LASSD Personnel Manual”), which was most recently revised in October 2013. A limited review of the LASSD Personnel Manual evidenced that it is a comprehensive guide for staff that focuses on the establishment of policies and procedures which promote sound internal controls. For example, the LASSD Personnel Manual states that it is contrary to LASSD policy to employ immediate family members or persons in a spousal relationship where one would be the direct supervisor of the other, or where their relationship could create a conflict of interest between their positions.

To test the policies and procedures, a limited on-site review was conducted by reviewing the records of six (6) employees, including two (2) in each fiscal year from 2011 through 2013, from start to finish (*i.e.*, hiring, payroll, and termination). The testing evidenced strong internal controls.

Records Retention

LASSD has established document retention and destruction policies and procedures which are maintained in the LASSD Accounting Manual and were most recently revised in December 2013. A comparison was conducted of LASSD’s records retention requirements to the LSC guidelines contained in the LSC Accounting Guide, Appendix II – Description of Accounting

Records: Retention Times for Nonprofit Records. The review evidenced that LASSD's records retention policies conform to LSC guidelines.

Internal Controls Review Conclusion

Based on the fiscal and related materials reviewed and interviews with management and staff, LASSD evidenced that its accounting and reporting capabilities and its system of internal controls compare favorably to the elements outlined in Chapter 3 of the LSC Accounting Guide.

There are no recommendations or required corrective actions.

Finding 33: Review of the recipient's TIG procedures and practices and fiscal and other records related to TIG Nos. 09509 and 12099 and interviews with management and fiscal staff evidenced substantial compliance with the TIG grant assurances and other applicable LSC regulations, rules, and guidelines under the scope of this review.

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

TIG Grant No. 09509

LASSD's grant award for TIG No. 09509 was approved on September 21, 2009. The project goal was to develop and implement a litigation technology tool that would increase the capacity of legal aid attorneys to collaborate effectively in complex foreclosure and housing litigation. According to the Evaluation Report for TIG No. 09509, it had several objectives:

1. The evaluation of aspects of potential litigation tools, including functionality, navigation, ease of use, and cost to make a decision based on the evaluation regarding which tool should be used for the project;
2. Development of the litigation tool;
3. Testing of the litigation tool and, based on the test results, modification as necessary;
4. Development of training and guidance materials necessary to acquaint 30 attorneys with the functions of the litigation tool;
5. Provision of technical assistance and support to the litigation teams using the litigation tool; and
6. Provision of training to participants on using LegalMeetings, an online conferencing (GoToMeeting) software, as an adjunct to the litigation tool as online conferencing would offer the means by which attorneys could meet and review documents and strategize about the legal cases.

The award was in the amount of \$71,500, with a two (2) year grant term. On October 27, 2011, LASSD requested that the TIG award amount be reduced from \$71,500 to \$17,273.75 and indicated an intention to abort the TIG project and return all unexpended funds to LSC. On November 4, 2011, LASSD returned \$18,976.25 in unexpended funds, effectively closing out the grant. LASSD reported that the TIG failed due to a lack of interest by anticipated parties.

A limited review of relevant materials and interviews with staff regarding LASSD's TIG Grant No. 09509 was conducted. Interviews with the Managing Attorney and a review of TIG-related documents evidenced sufficient oversight of the TIG. No deficiencies were noted.

There are no recommendations or corrective actions required with regard to TIG No. 09509.

TIG Grant No. 12099

LASSD received a grant award from LSC for TIG No. 12099 in the amount of \$56,500, with a sixteen (16) month term date from October 1, 2012 through January 31, 2014. LASSD initially applied for the TIG in 2010 as TIG No. 10087 in the amount of \$55,000. The TIG awarded in 2012 (No. 12099) included an additional \$1,500 for the mandatory LSC TIG conference fee. A limited review of relevant materials and interviews with staff regarding TIG No. 12099 was conducted.

According to the original application:

The Legal Aid Society of San Diego will partner with the Legal Aid Association of California, LSNTAP, and Pro Bono Net¹⁵ to implement a legal services pleading bank, accessible through the statewide advocates' website, in several substantive areas to expand the capacity of legal services programs to pursue litigation when needed. The primary goal of the Pleadings Bank Project is to increase the overall capacity of all LSC-funded and IOLTA-funded programs to provide quality legal services through litigation to low-income clients. TIG funding will be used to determine the priority legal areas in which to first develop a pleadings bank, create the infrastructure needed to oversee and ensure the quality of the pleadings included in the bank, and administer the technological modifications needed to ensure a highly searchable pleadings bank, with all resources mapped to the national subject matter index nomenclature. The pleadings bank will then be made available to all legal aid programs throughout the state, including all eleven LSC-funded organizations.

According to the documents reviewed, TIG funding is being used to:

1. Prioritize in which legal areas to begin the development a pleadings bank;
2. Create the infrastructure needed to oversee and ensure the quality of the pleadings included in the bank;

¹⁵ During the course of the TIG project, two (2) of the original partners were replaced. The CFO advised that LSNTAP and Pro Bono Net were LASSD's choices for partners in the original 2010 application, but, when TIG No. 12099 was funded in 2012, LASSD determined that Scott Friday Designs was a more suitable partner.

3. Administer the technological modifications needed to ensure a highly searchable pleadings bank, with all resources mapped to the national subject matter index nomenclature; and
4. Make the pleadings bank available to all legal aid programs throughout the state, including eleven LSC recipients.

The Managing Attorney of LASSD's Oceanside office is responsible for the supervision of the TIG grant. The Managing Attorney was found to be actively involved in the operation and development of the pleadings bank website.

Grant Assurances

During the on-site visit, OCE fiscal staff reviewed compliance with 2012 TIG Grant Assurances 7, 8, 9, and 17 which were in effect at the time TIG No. 12099 was awarded. The review evidenced compliance with these TIG Grant Assurances.

Review of the final budget for TIG No. 12099 and expenses incurred to date demonstrated compliance with TIG Grant Assurance No. 7, as funds totaling \$23,500, which were disbursed by LSC pursuant to this grant, were used solely for the TIG project for which the grant was awarded. No funding obligations to date were found that would have exceeded the grant award amount, in accordance with TIG Grant Assurance No. 8. Compliance with TIG Grant Assurance No. 9 was also noted with respect to LSC regulations regarding fund transfers and subgrants, 45 CFR Parts 1610 and 1627. Finally, compliance with TIG Grant Assurance No. 17 was noted upon review of LASSD's vendor contract, as the contract requires the compliance of both parties with 2012 TIG Grant Assurances, and the Disclosure of Interests for Determination of Conflicts Acknowledgement and Disclosure Forms signed in 2012 and 2013 by LASSD's TIG Administrator and Chief Fiscal Officer.

Subgrant Agreements/Vendor Contracts (45 CFR Part 1627)

As previously stated, LASSD entered into two (2) contracts with third parties related to TIG No. 12099 as follows: (1) a contract for \$23,500 was entered into with Scott Friday Designs¹⁶ to provide technology consultation and web support services and (2) a contract for \$25,500 was entered into with the Legal Aid Association of California for website development and maintenance. LASSD's CFO advised that three (3) competitive bids were reviewed prior to awarding the contract to Scott Friday Designs. The contract with Legal Aid Association of California was a sole source contract; no competitive bid process was procured because Legal Aid Association of California is the sole organization which maintains the California website www.CALegalAdvocates.org for LSC and IOLTA-funded legal services nonprofits.

A limited review of the contracts associated with TIG No. 12099 evidenced that LASSD has complied with the terms of the contracts. Further, it was found that neither of the contracts qualified as a subgrant pursuant to 45 CFR § 1627.3.

¹⁶ As discussed in Footnote 14, prior to the initiation of the TIG No. 12099, LSNTAP and Pro Bono Net were replaced as the project vendors by LASSD, who determined that Scott Friday Designs would be better suited to carry out the needed work.

As detailed in the LSC Accounting Guide, Chapter 3-5.16 – Contracting: Documenting, “...the statement of work should be sufficiently detailed so that contract deliverables can be identified and monitored to ensure that the deliverables are completed.” LSC Regulations, at 45 CFR § 1630.3(a)(9), state, in part, that “[e]xpenditures by a recipient are allowable under the recipient’s grant or contract only if the recipient can demonstrate that the cost was... [a]dequately and contemporaneously documented in business records.” As of October 2013, LASSD had paid Scott Friday Designs \$9,400 and Legal Aid Association of California \$6,973 related to their work on TIG No. 12099. Review of the payments made under these contracts evidenced adequate documentation with no exceptions noted.

Timekeeping

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

- (a) Assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended;
- (b) Enhancing the ability of the recipient to determine the cost of specific functions; and
- (c) Increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations.

Additionally, the Office of Management and Budget (“OMB”) Circular A-122 – Cost Principles for Non-Profit Organizations, requires a non-profit to maintain records of employee time, to account for a full day of work, and to be able to identify time devoted to grant projects. Interviews with the Oceanside office Managing Attorney and the CFO evidenced that LASSD requires all staff to document time in LASSD’s timekeeping system to ensure compliance with the timekeeping requirements of 45 CFR § 1635.1 and 45 CFR Part 1630. LASSD’s CFO provided adequate timekeeping documentation to support the allocation of salaries in the amount of \$3,046 for TIG No. 12099 which were expensed between November 2012 and October 2013.

Property Asset Management Manual (“PAMM”)

A review of assets purchased as part of TIG No. 12099 evidenced compliance with the PAMM and 45 CFR § 1630.5(b), as no assets were found to exceed \$10,000.

Functionality of the TIG Project

A limited review of LASSD’s website for the pleadings bank revealed that the site was partially operational, as some of the links were working and two (2) pleadings had been uploaded.

TIG Reporting in LASSD's Audited Financial Statements

The on-site review of LASSD's 2012 audited financial statements evidenced that TIG No. 12099 was not separately reported in LASSD's audited statements, as is required by § 2-2.1 – Recognition of LSC Grant and Contract Support, of the LSC Accounting Guide and 45 CFR § 1628.3(g). Moving forward, LASSD must take corrective action to report separately all TIG expenses and revenues in its audited financial statements. As discussed in § 2-2.1 of the LSC Accounting Guide, separate reporting may be achieved by "...providing a supplemental schedule of related revenue and expense or a separate column within the financial statement reporting on grant activities."

This requirement was communicated to LASSD management while the review team was on-site and LASSD indicated that it would report its TIG funds separately on all future audited financial statements. By letter dated January 31, 2014, LASSD provided LSC with a supporting schedule that separately reported revenue and expenses (by natural line item) related to TIG No. 12099 during the year that ended June 30, 2013. Additionally, on February 5, 2014, LASSD communicated via email that its IPA had been informed that LASSD must "...report various LSC grants, including TIG awards, separately in [our] financial statements."

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

IV. RECOMMENDATIONS¹⁷

Over the course of the review, OCE Provided LASSD with recommendations related to Finding Nos. 1, 2, 5, 9, 10, 11, and 32. As discussed in detail under those Findings, LASSD accepted and took on action on all of OCE's recommendations. As such, there are no pending recommendations.

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.

V. REQUIRED CORRECTIVE ACTIONS

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

1. LASSD must take corrective action to report separately all TIG expenses and revenues in its audited financial statements. As discussed in § 2-2.1 of the LSC Accounting Guide, separate reporting may be achieved by "...providing a supplemental schedule of related revenue and expense or a separate column within the financial statement reporting on grant activities."

This requirement was communicated to LASSD management while the review team was on-site and LASSD indicated that it would report its TIG funds separately on all future audited financial statements. By letter dated January 31, 2014, LASSD provided LSC with a supporting schedule that separately reported revenue and expenses (by natural line item) related to TIG No. 12099 during the year that ended June 30, 2013. Additionally, on February 5, 2014, LASSD communicated via email that its IPA had been informed that LASSD must "...report various LSC grants, including TIG awards, separately in [our] financial statements."

Since LASSD has taken sufficient corrective action to address this issue, no further action is needed.

From: Greg Knoll [mailto:gek@cchea.org]
Sent: Monday, June 02, 2014 2:44 PM
To: Lora Rath
Cc: Julia Kramer; Executive Management
Subject: Compliance Review Visit Report, Recipient No. 805250

Dear Director Rath,

I am sorry to have waited to nearly the last minute to provide comment on the above noted report . However, I wanted to share and discuss the details of the report and my proposed response with our full Board of Directors. That discussion did not occur until our regularly scheduled Board meeting last Thursday, May 29th , 2014.

Please be advised that we have decided to accept the report in its entirety without comment . We would also like to thank you and the entire OCE review team, led so capably by Julia Kramer for your professional thoroughness and courtesy throughout pre and post visit issues as well as during the visit itself. The quality of the team and its leadership made what could otherwise be a traumatic time , more than bearable for our entire staff.

Thank you.

Gregory E. Knoll, Esq.
Executive Director/Chief Counsel
Legal Aid Society of San Diego, Inc.
110 S. Euclid Avenue
San Diego, CA 92114
(619) 471-2620 Direct
(619) 263-5697 Fax

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