



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

KENTUCKY LEGAL AID
Compliance Review
Recipient No. 618036

I. EXECUTIVE SUMMARY

Finding 1: KLA's automated case management system ("ACMS") is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded; however, there were a few instances of missing or inconsistent information between the ACMS and the case files and further improvement was required.

Finding 2: KLA's intake procedures and case management systems generally support compliance-related requirements; however, there were a few inconsistencies noted with respect to screening for income prospects, screening for income eligibility, and the format of its citizen attestation forms, therefore, further improvement was required.

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

Finding 4: KLA maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. There were no exceptions noted in the sampled files.

Finding 5: Although interviews indicated that KLA is in compliance with the screening requirements of 45 CFR Part 1626, sampled cases evidenced non-compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.5, as there were two (2) case files that failed to contain a signed citizen attestation form when required and, as noted in Finding 3, the Lawyers Care Participation Agreement contained a non-compliant attestation format.

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

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

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

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

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

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

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

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

Finding 14: A limited fiscal and sampled case file review, as well as interviews conducted with management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

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

Finding 17: KLA is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, a few exceptions were identified with regards to 45 CFR § 1614.3(e) that required improvement.

Finding 18: KLA is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization.

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

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

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

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

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

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

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

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

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

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

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

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

Finding 31: A limited review of KLA's internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). However, a few exceptions were noted and further improvement was required.

Finding 32: Interviews and a limited review of procedures, practices, and documents related to TIG #06365 evidenced partial compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

Finding 33: Interviews and a limited review of procedures, practices, and documents related to TIG #08365 evidenced partial compliance with TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

Finding 34: A limited review of KLA's 2011 audited financial statement revealed that KLA had an unexpended fund balance of \$305 relating to a 2000 TIG award.

II. BACKGROUND OF REVIEW

On February 25 - March 1, 2013, staff of the Office of Compliance and Enforcement (“OCE”) conducted a Compliance Review on-site visit at Kentucky Legal Aid (“KLA”). The purpose of the visit was to assess the program’s compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Ed.), the Property Acquisition and Management Manual.

Background of Program

KLA is a non-profit legal services organization providing free legal services to low-income and disadvantaged residents in the 35 counties encompassing its service area. KLA has a staff of 40, with 18 attorneys, seven (7) paralegals, and 15 other staff. KLA is headquartered in Bowling Green, and maintains offices in Madisonville, Owensboro, and Paducah. Additionally, KLA maintains satellite offices in Hopkinsville and Glasgow. The review team visited all offices, with the exception of the satellite offices because those offices do not maintain full time staff. KLA practice areas include housing, family, consumer, and income maintenance law. KLA involves private attorneys in the delivery of legal services through pro bono and reduced fee contracts.

In 2013, KLA is anticipated to receive \$1,156,226 in LSC funds. In 2012, KLA received \$1,317,760 in LSC funding and aggregate funding of \$3,988,550. In 2011, KLA received \$1,503,949 in LSC funding and aggregate funding of \$4,127,441. During 2010, KLA received \$1,561,011 in LSC funding and aggregate funding of \$4,054,857. Between September 8, 2006 and November 17, 2011, LSC awarded KLA a total of two (2) Technology Initiative Grants (“TIGs”), TIG No. 06365 for \$35,600, and TIG No. 08365 for \$27,000. At the time of the visit both TIGs had been closed.

During 2011, 83.8% of cases reported to LSC were closed with limited service case closure categories and 16.2% of cases reported were closed with extended service case closure categories. During 2010, 83.8% of cases reported were closed with limited service case closure categories and 17.7% of cases reported were closed with extended service case closure categories.

In 2010, KLA’s adjusted self-inspection rate was 0.0%, during 2011 the rate of error was 0.0%, and during 2012 the rate of error was also 0.0%.

Overview of CSR/CMS/TIG Review

The on-site review was designed and executed to assess KLA’s compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that KLA correctly implemented the 2008 CSR Handbook, as amended in 2011. Specifically, the review team assessed KLA for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer

agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees);² 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion); and whether the program's policies and procedures compared favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). Additionally, the review team evaluated KLA's management of its TIG projects and its use of TIG funds as well as assessing compliance with certain Grant Assurances, Grant Award Agreements, and other applicable LSC regulations and requirements.

In preparation for the visit, on December 18, 2012, OCE requested that KLA provide certain case lists. Case lists requested included all cases reported in its 2010 CSR data submission ("closed 2010 cases"), all cases reported in its 2011 CSR data submission ("closed 2011 cases"), all cases reported in its 2012 CSR data submission ("closed 2012 cases"), and all cases which remained open as of December 31, 2012 ("open cases"). OCE requested that two (2) sets of lists be compiled - one (1) for cases handled by KLA staff and the other for cases handled through KLA's PAI component. OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. KLA was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). OCE instructed KLA to notify OCE promptly, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, KLA provided the materials. OCE made an effort to create a representative sample of cases that the team would review during the visit. OCE distributed the sample proportionately

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

² On December 16, 2009, the enforcement of this regulation was suspended and the regulation was later revoked during the LSC Board of Directors meeting on January 30, 2010. During the instant visit, LSC's review and enforcement of this regulation was therefore only for the period prior to December 16, 2009.

among open and closed cases and among KLA's various offices. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, ACMS data integrity, application of the CSR case closure categories, and duplicate reporting.

CSR/CMS Visit

During the visit, KLA cooperated fully and provided the requested materials. KLA afforded access to information in the case files through staff intermediaries. KLA maintained possession of the files and disclosed financial eligibility information, problem code information, and information concerning the general nature of the legal assistance provided to the client pursuant to the OCE and KLA agreement of January 3, 2013. KLA displayed client signatures as they appeared on citizenship/alien eligibility documentation, retainer agreements, and 45 CFR Part 1636 statements. OCE reviewed a sample of 515 case files during the visit. OCE also interviewed members of KLA's upper and middle management, fiscal personnel, staff attorneys, and support staff. OCE assessed KLA's case intake, case acceptance, case management, and case closure practices and policies in all offices for staff and PAI programs. OCE fiscal staff reviewed KLA's compliance with LSC grants, conducted a limited review of internal controls, prohibited political activities, fee-generating cases, lobbying activity, as well as KLA's use of non-LSC funds, its PAI component allocations, its use of LSC funds to pay membership dues and fees, timekeeping, attorney fees, cost standards and procedures, and other fiscal activities. A limited sampling of informational pamphlets and brochures were also collected and reviewed.

Overview of Findings

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

During the exit conference, OCE advised KLA that its staff were familiar with the LSC regulations, the CSR Handbook, and the Frequently Asked Questions disseminated by LSC. OCE further advised KLA that although OCE detected limited patterns of non-compliance, there were instances of non-compliance concerning certain regulatory and reporting requirements pertaining to the failure of obtaining attestations of citizenship/alien eligibility status. Additionally, the sampled cases reflected a few instances of untimely closed or dormant files, some ACMS inconsistencies, missing retainer agreements, and limited patterns of case closure category errors. Interviews determined that a few inconsistencies existed with respect to screening for income prospects and income eligibility. A limited fiscal review identified some weaknesses in internal controls and the sending of donor notification letters.

With the noted exceptions, KLA has in place policies, procedures, and practices designed to facilitate compliance-related activities. Additionally, KLA exhibits a consistency of process and maintains a cultural connection between its intake units and its extended service units enhancing both units ability to perform compliance functions. KLA staff and management exhibited a strong commitment to performing compliance-related activities and exhibited many compliance-related best practices. These factors resulted in the OCE team finding few compliance defects in sampled files. Similarly, while the fiscal team identified a few areas of fiscal oversight that could be strengthened by the implementation of additional oversight practices, the limited review demonstrated that fiscal compliance was strong. KLA responded favorably to OCE's assessment and advised they will be identifying and implementing additional oversight methods to further increase compliance with the LSC Act, regulations, and other authorities. As many of the compliance deficiencies were the result of a misunderstanding of LSC requirements, and not the failure to engage in compliance-related activities, it is anticipated that with improved understanding KLA will fully implement and correct the few compliance errors identified during the on-site review.

By letter dated August 1, 2013, OCE issued a Draft Report (“DR”) detailing its findings, recommendations, and required corrective actions regarding the February 25 - March 1, 2013 Compliance Review. KLA was asked to review the DR and provide written comments within 30 days of receiving the DR. On August 27, 2013, KLA requested and was granted a 30 day extension to provide a response to the DR. By letter dated September 26, 2013, KLA’s comments were received. The comments have been incorporated into this Final Report, and are affixed as an exhibit.

III. FINDINGS

Finding 1: KLA’s automated case management system (“ACMS”) is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded; however, there were a few instances of missing or inconsistent information between the ACMS and the case files, and further improvement is required.

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.

LSC has determined that certain ACMS fields that are critical to eligibility (number in household, income, assets, citizenship/alien eligibility status, and LSC eligibility) may not have defaults because they tend to reduce the accuracy of the data submitted. Accuracy is reduced as there is no way to determine whether staff entering data into ACMS fields made an inquiry and decision regarding what should be entered in the field or simply skipped over the field, allowing the default value to be recorded

KLA utilizes Prime from Kemp's Case Works. Since implementing this ACMS, the Associate Director and the Network Administrator have made over 200 modifications to the software. The on-site review found that staff is well-trained on data entry and data management of its ACMS.

As required by the CSR Handbook (2008 Ed., as amended 2011), §§ 3.2, 3.3, and 3.4, KLA has implemented automated computer generated procedures to ensure that LSC compliance-related requirements are met and that CSRs are accurate. Every Friday, the Associate Director conducts a series of 128 error checks on the ACMS. The reports generated from these error checks target missing data and ACMS inconsistencies in fields related to: funding code, income, citizenship, and potential duplicates, as well as other compliance-related fields. If errors are identified, they are either corrected by the Associate Director or referred back to a supervisor or advocate for review.

The ACMS was assessed for defaults in the essential eligibility fields that are critical to the determination of eligibility. The ACMS is free of defaults in these fields as required by Program Letter 02-06.

Based on a comparison of the information elicited from the ACMS to information contained in the files sampled, KLA's ACMS is generally sufficient to ensure that information necessary for the effective management of cases is timely and accurately recorded. The only pattern of inconsistency identified was several sampled State Health Insurance Program ("SHIP") cases that were designated in the ACMS as not LSC-eligible; however, the information documented in the case files reflected that these cases were LSC-eligible. *See* Closed 2012 Case Nos. 12E-211962, 12E-21010910, 12E-21010905, 12E-21010907, 12E-21010996, 12E-21002660, and 12E-2101681.

In the DR, it was recommended that KLA report all cases where there has been an eligibility determination showing that the client meets LSC eligibility requirements and the requirements of CSR Handbook (2008 Ed., as amended 2011), § 2.2, regardless of the source of funding supporting the in accordance with CSR Handbook (2008 Ed., as amended 2011), § 4.3.

In its comments to the DR, KLA indicated it has been cautious about reporting any cases which may not meet all of LSC's eligibility criteria. KLA indicated it is conducting a program-wide meeting on November 1, 2013, and will provide training to staff on CSR requirements in an effort to report all cases meeting eligibility requirements.

A limited number of other errors were identified; however, no additional patterns of non-compliance were noted. *See* closed 2012 Case Nos. 12E-24004469 (This case was closed in the ACMS on May 17, 2012, but the last documented legal work occurred after the file was closed in the ACMS. KLA should have reopened the case.); 11E-24005772 (A final divorce decree was not issued until after the closing date listed on the ACMS. KLA should have reopened this case); and 12E-24005454 (The number of individuals listed in the household differed between the ACMS and case file); and closed 2011 Case No. 11E-24011367 (The closure category listed on the ACMS is K-Other, however, it is documented as A-Counsel and Advice in the case file).

There are no corrective actions required.

Finding 2: KLA's intake procedures and case management systems generally support compliance-related requirements; however, there were a few inconsistencies noted with respect to screening for income prospects, screening for income eligibility, and the format of its citizen attestation forms, therefore, further improvement was required.

The review revealed that intake procedures and practices generally support KLA's compliance related requirements with respect to performing conflict and duplicate checks during the intake process, screening for income and assets, and citizenship screening. However, modification to the form used to screen outreach applicants is required to ensure compliance with LSC's citizenship attestation requirements.

KLA estimates that approximately 95% of intake is conducted by telephone through its centralized intake hotline in its Intake Department, located at KLA's main office in Bowling Green. The remaining intake is conducted during outreach visits to senior citizen centers. KLA does not conduct walk-in intake, though provisions will be made to accommodate applicants with disabilities. Additionally, KLA has a live chat online intake system that is managed and staffed by the Intake Department.

Description of Intake, Case Acceptance, and Case Management

Since 2001, KLA has operated a centralized intake hotline through its Intake Department in Bowling Green. Applicants are screened for eligibility and, if determined eligible, are immediately transferred to an advocate to receive assistance.

The Intake Department has one (1) full-time paralegal and one (1) part-time KLA employee who conduct eligibility screening. Additionally, there are two (2) full-time attorneys, one (1) contract PAI attorney and one (1) full-time family law Paralegal in Bowling Green, and one (1) part-time family law Paralegal in Paducah who provide legal assistance in the Intake Department. The Intake Department is supervised by the Intake Director who has held the position since its inception in 2001.

Callers to the hotline first speak with the Bowling Green receptionist who conducts a brief prescreen of the caller's legal problem and county of residence. If the problem is within KLA's priorities and the caller resides in KLA's service area, the receptionist schedules the caller for a callback from the Intake Department. If the caller has an emergency, an intake is conducted immediately.

During a call-back, intake staff conducts a program-wide conflict check immediately after obtaining and confirming the full name of the applicant and adverse party. Intake staff also determines whether the caller has previously contacted KLA. If the applicant is a former client, and is calling the program with the same legal issue addressed in a case handled during the same calendar year, their old case will be reopened.

Once an applicant is determined eligible, their case is transferred to an advocate with the expertise needed to handle the issue in the applicant's case. That advocate will review the applicant's eligibility information, analyze their legal problem, make an acceptance determination and provide legal assistance, if necessary. A majority of these cases are resolved by the advocate only providing legal advice during the initial conversation. Occasionally, clients receive a follow-up advice letter which may include supplemental materials such as sample motions. The advocate, however, is authorized to decide whether extended representation is required. If extended representation is required, the case is referred to the appropriate office. KLA has different income and asset eligibility requirements for non-extended and extended service cases, therefore, as part of the referral process, intake advocates must confirm that client meets KLA's income and asset requirements for extended service cases. Details of the differing income and asset eligibility policies are discussed below.

Once a client is referred for possible extended service, an appointment is scheduled with the appropriate office. During the client's initial appointment at the referred branch the office, the advocate will have the client sign either an Advice/Brief Service Agreement³ or a Retainer Agreement, depending upon the anticipated level of assistance that will be necessary in the case. Both documents contain a citizenship attestation which is signed by the client.

The Intake Department can also refer cases to one (1) of three (3) pro bono coordinators for possible referral to a volunteer attorney for extended representation. Cases referred are predominately family law cases such as uncontested divorces, adoptions, guardianships, and custody modifications.

Live Online Intake System

Pursuant to an LSC TIG, KLA developed a Live Online Intake System ("LOIS") that allows applicants to apply for services through an online chat session with intake staff. This system uses A2J Author Technology, which is being utilized by several other LSC-funded programs. According to the Intake Director, LOIS was only being staffed for 12 to 15 hours per week at the time of the review.

Applicants access LOIS through KLA's website. When an initial chat inquiry is received, the intake staff obtains sufficient information from the applicant to conduct a conflict check. If there is no conflict, the applicant is provided a link to an online guided interview. The online guided interview is similar to the phone intake eligibility screening referenced above. Through the chat feature, intake staff take the applicant through the intake screening process in full, by verifying the information provided online and asking any required follow up questions. The intake advocate then determines whether the applicant is eligible for limited service. Once the applicant completes the interview and determines the applicant is eligible, intake staff imports the information into an eligibility record in the ACMS. If eligible, a case is created and the advocate either provides limited service or refers the client to the appropriate branch office for possible extended representation. The online chat is recorded into the LOIS section of the intake

³ An Advice/Brief Service Agreement is signed by the client after a case has been referred and an evaluation has been conducted by the branch office determining that only advice or brief services are warranted in the client's case.

record. If the applicant is determined ineligible, KLA will provide the individual with general legal information and reject the case.

When LOIS is not staffed, an applicant may click on a link to leave a message offline. This link directs the applicant to a screen where they can input their name, email address, telephone number, and identify their legal problem utilizing a drop down list. Subsequently, the applicant's information is reviewed by intake staff and the applicant is contacted by phone for eligibility screening.

Outreach Intake

Owensboro and Madisonville

Once per quarter, an Owensboro staff attorney conducts estate planning at senior centers located in the five (5) counties in its service area. Eligibility information is recorded on a written Senior Intake Form which is uniform throughout KLA. The review disclosed that the form does not have a section to document prospective income; however, staff interviewed stated that they make reasonable inquiries into each applicant's income prospects and record any prospective change on top of the form. Citizenship attestations or alien eligibility information are obtained on the Advice or Brief Service Agreement which is also uniform throughout KLA. Applications are entered into the ACMS within a day of staff returning to the office and conflicts are checked.

Advice is typically provided on-site and often a subsequent appointment is scheduled for an in-office visit or at the next visit to the senior center. Cases meeting LSC requirements are designated as LSC eligible on the ACMS and reported to LSC. Since conflicts are not conducted prior to KLA providing assistance, KLA was advised it should submit information to OCE with its comments to this DR explaining how this practice is sufficient under the Kentucky's Rules of Professional Responsibility.

In its comments to the DR, KLA explained that the, outreach services provided at senior centers have usually involved counsel and advice on benefits issues which do not create conflicts of interest. On the rare occasions that services are requested on issues which may involve or create a conflict, KLA indicated that its advocates obtain the names and social security numbers of applicants, and conduct conflict checks before accepting cases. In response to the DR, KLA provided OCE with a modified outreach intake form which specifies that if the nature of the legal problem is such that a conflict check must be performed, the intake screening must be conducted through the centralized intake process. Additionally, according to KLA a conflict of interest procedures policy has been developed that complies with the Kentucky Bar Association's ethics rules which instruct staff on when a conflict check must be performed.

Bowling Green

The Bowling Green Office receives State Health Insurance Program ("SHIP") funds for a 10 county area to provide Medicare recipients with counseling regarding benefits issues. In the months preceding Medicare open enrollment, the two (2) public benefits paralegals visit

locations such as senior centers, libraries, and other facilities that have internet access. The SHIP program is funded in part under the Older Americans Act. There are no financial eligibility guidelines for this program. Eligibility information is collected on the program-wide Senior Intake Form and citizenship attestations or alien eligibility information are obtained on the Advice or Brief Service Agreement. During outreach, the paralegals review Medicare options by comparing plans on the Medicare website. Applications are entered into the ACMS within a day of staff returning to the office. As stated in Finding 1, a pattern of inconsistency was identified where there were several sampled SHIP cases that were designated in the ACMS as not LSC-eligible but, the information documented in the file reflected that, the cases were LSC-eligible.

Case Closure, Oversight and Training

Case Closure: Advocates are responsible for closing their own cases with the applicable closure category on the ACMS. The Intake Department cases are predominantly closed with a limited service case closure category. These cases are generally closed the same day assistance is provided. Every Thursday, an open case list is generated to ensure all cases are closed in a timely manner. For extended service cases, advocates are also responsible for closing and assigning the applicable closure category on the ACMS. Additionally, the advocate is responsible for completing a CLASP Audit Form⁴, drafting a closing letter, and generating a closing memorandum. Managing Attorneys in each branch office are responsible, every quarter, for reviewing every case closed in their office during that time frame. In Paducah, the Managing Attorney indicated that staff meetings are held twice a month and that closed cases are reviewed each week, as they are closed, for any compliance issues.

Oversight: The Intake Director conducts oversight and receives an automatically generated list of all Intake Department cases. Additionally, the Intake Director receives a report of all cases referred to service offices for extended representation. Similarly, Managing Attorneys in each branch office are required each quarter to review every case closed by advocates in their office each quarter.

Compliance Training: Intake Department staff have quarterly meetings. Any new compliance rules are generally communicated through email from the Associate Director and, if necessary, training sessions will be scheduled.

Financial Eligibility and Case Management Issues

Inquiry Regarding Income Prospects: Recipients are required to make reasonable inquiry into each applicant's income prospects, pursuant to the requirements of 45 CFR § 1611.7(a)(1). Intake observation revealed that screeners consistently make appropriate inquiry as required. The ACMS contains a field specific to this inquiry. As stated previously, the written Senior Intake Form does not contain such an inquiry field, however, staff stated in interviews that the question is asked and prospective income is documented on the top of the form. It was recommended that KLA revise its written intake form to include a section for income prospects.

⁴ This form is a closing checklist utilized by KLA advocates to ensure that the required LSC documentation and information is in the case file.

In response to the DR, KLA has provided OCE with a revised written intake form which is used at outreach events. The intake form now has a check box labeled, "Asked about prospective income."

Income Screening and Authorized Exceptions to Income Ceilings: Intake observation, interviews, and case review reveal that income is thoroughly screened.

In accordance with 45 CFR § 1611.3(c)(2), KLA has adopted authorized exceptions to its annual income ceilings consistent with 45 CFR § 1611.5. KLA maintains two (2) documents governing financial eligibility guidelines: the Client Eligibility Guidelines and Case Acceptance Guidelines (current version dated 9/13/12, previous versions dated 5/23/06 and 12/01/10). The Client Eligibility Guidelines adopt a maximum income level of 125% of the Federal Poverty Guidelines ("FPG") with regulatory exceptions for applicants with income between 125%-200% of the FPG, and regulatory exceptions for applicants with income over 200% of the FPG. The Case Acceptance Guidelines adopts funding requirements for non-LSC grants and is more restrictive for LSC-funded extended service cases.

KLA's policy also adopts LSC-funded group eligibility requirements consistent with 45 CFR § 1611.6, however, there were no group cases opened or closed during the review period.

KLA's most recent Case Acceptance Guidelines lowered the income ceiling for extended service cases from 125% to 110% of the FPG. Interviews revealed that applicants requiring extended representation with income of 125% to 200% of the FPGs are screened by an intake specialist who, in addition to obtaining income and asset information, also obtains expense information and subtracts it from the gross annual income in an attempt to bring the adjusted income to 110% or below. If income cannot be reduced to 110% or below, the client is ineligible for extended representation. The Case Acceptance Guidelines do not reference the requirement of a spend-down; however, interviews revealed that a spend-down requirement has been in effect since May 23, 2006. The reported intention was to have the spend-down remain a requirement, even with the more restrictive income ceiling of 110% of the FPGs for extended service cases. It was recommended that KLA revise its Case Acceptance Guidelines to specifically include instructions related to its spend-down or to stop using a spend-down. KLA's policy and practices must match.

In response to the DR, KLA has provided OCE with revised case acceptance guidelines that specifically include a spend-down for applicants with income between 110% and 200% of the Federal Poverty Guidelines.

KLA's written intake procedures were also reviewed. The Basic Intake Screening Procedures and Intake System describe the procedures for intake staff when screening applicants with gross annual income between 125% to 200% of the FPGs, however, like the Case Acceptance Guidelines, the written procedures do not reference the spend-down practice. It was recommended that KLA also add a section regarding its spend-down practice to its written intake procedures. Additionally, KLA was reminded that LSC does not require the utilization of a

spend-down procedure, but if one is in use, recipients must ensure that they maintain a record of the applicant's total income. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

In response to the DR, KLA determined it was best not to revise its intake screening procedures to include spend-down procedures. This process was not incorporated into Intake Screening Procedures because spend down is performed by intake advocates rather than intake screeners, and the Intake Director felt that including it in the screening document would cause confusion.

It was further recommended that KLA merge its Financial Eligibility Policy and its Case Acceptance Guidelines for Financial Eligibility into one (1) document to possibly eliminate any confusion as to which is KLA's actual applicable financial eligibility requirements.

In response to the DR, KLA indicated it will consider merging the Financial Eligibility Policy and Case Acceptance Guidelines for Financial Eligibility into one document during the Board's next case acceptance review process.

Asset Screening/Authorized Exceptions to Asset Ceiling: The Kentucky Legal Aid Client Eligibility Guidelines, effective January 1, 2006, set KLA's asset ceiling at \$8,000 for an applicant, with an additional \$3,000 for each additional household member. Excluded from consideration is equity in an individual's principal residence and contiguous property, vehicles used for transportation, assets exempt from attachment under state or federal law including household goods and furnishings up to \$3,000, work-related equipment essential to employment or self-employment, and inaccessible assets. The most current Case Acceptance Guidelines further restrict the asset guidelines for extended representation. While the asset ceiling remains the same for extended service cases, the equity in a homestead and contiguous property may not exceed \$15,000 and vehicles used for transportation are excluded up to \$5,000 equity per licensed household member, not to exceed \$10,000 total per household.

In the DR, OCE explained that KLA's exclusion of contiguous property in its asset policy must be removed if a separate deed is required to own this property. The requirement of a separate deed allows this property to be liquidated which expands the exceptions listed in 45 CFR § 1611.3(d)(1).

In response to the DR, KLA has provided OCE with a modified asset guideline to specify that contiguous property from a separate deed cannot be excluded as an exempt asset.

KLA's asset policy does not describe the assets exempt from attachment under state or federal law. While the exemption of such assets is allowable under 45 CFR § 1611.3(d)(1), without a more clear definition as to the type of items that would fall under this exception, it is difficult for intake staff and applicants to understand what assets could, or could not be, included under this exception. It was recommended that KLA designate the categories of assets that it considers exempt under this provision.

In response to the DR, KLA concluded that publishing a comprehensive listing would be too lengthy and that a partial listing would likely result in more confusion. KLA indicated it will

continue to look at this issue, and may modify asset guidelines during its next case acceptance review process to simplify eligibility determination.

Intake observation, interviews, and case review evidenced that intake staff consistently and thoroughly question applicants regarding assets. All assets and associated equity are recorded in the asset section of the eligibility screen. Interviews with intake and case review intermediaries demonstrated a solid understanding of KLA's asset ceilings per household size and exclusions for extended service cases.

Citizenship and Eligible Alien Status Screening: As described above, intake staff verbally screen telephone applicants and record their citizenship and alien eligibility status in the ACMS. Clients seen in person and/or provided extended services sign either the Advice or Brief Service Agreement, or the Retainer Agreement, which contain compliant citizenship attestations. Eligible alien status is verified, as required, and a copy of the applicant's documentation is maintained in the file. Clients referred for placement with pro bono or contract attorneys sign a Lawyers Care Participation Agreement which also includes a citizenship attestation; however, the review team determined that this statement is not compliant as it is not in the form required under CSR Handbook (2008 Ed., as amended 2011), § 5.5. OCE explained in the DR that KLA must revise the citizen attestation form used for Pro Bono cases to comply with the CSR Handbook (2008 Ed., as amended 2011), § 5.5. KLA was asked to submit a copy of the revised form and any accompanying instructions to staff with its response to the DR.

In response to the DR, KLA has provided LSC with an amended pro bono participation agreement which contains a separate signature line for citizenship attestation. According to KLA, it was approved by the Board of Directors on September 10, 2013.

KLA does not consider Kennedy Amendment cases, funded by Violence Against Women's Act ("VAWA") and Services-Training-Officers-Prosecutors ("STOP") grants, to be LSC-Eligible and therefore they are not reported in CSRs. While senior management is aware of the changes pursuant to the reauthorization of VAWA in 2006, as set forth in Program Letter 06-2, KLA has decided not to report these cases out of caution because the LSC regulation has not been revised. KLA is reminded that the Program Letter 06-2 addresses this issue and states:

Because LSC funds may be used to provide service to LSC financially eligible persons under the VAWA 2006 Amendments, any cases accepted by grantees for financially eligible persons under this authority should be counted in the grantees' Case Service Reports ("CSR").

It was recommended that KLA report otherwise eligible Kennedy Amendment cases in CSRs.

Similar to the response above in Finding 1, KLA indicated it has been cautious about reporting any cases which may not meet all LSC eligibility criteria. KLA indicated it is conducting a program-wide meeting on November 1, 2013, and will provide training to staff on CSR requirements in an effort to report all cases meeting eligibility requirements.

In response to the DR, KLA has addressed the required corrective actions listed in this finding; therefore, no further action is required.

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

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.⁵ *See* 45 CFR § 1611.3(c) (1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

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

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" 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.

With three (3) exceptions, the sampled case files reviewed contained the required documentation to comply with LSC's income eligibility requirements. *See* closed 2012 Case No. 12E-24009354 (This is a case where the client's income was between 125% and 200% of the FPG. The file indicated the 45 CFR § 1611.4(vii) income exception, "other significant factors", but failed to indicate the factors considered); and closed 2010 Case Nos. 09E-27009811 and 09E-27009810 (Cases involving the same client whose income exceeded 125% of the FPG, but lacked documented 45 CFR § 1611.5 authorized exceptions).

There are no recommendations or corrective actions required.

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

Finding 4: KLA maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. There were no exceptions noted in the sampled files

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 clients' files.

Sampled case files reviewed contained the required documentation to comply with LSC's asset eligibility requirements.

There are no recommendations or corrective actions required.

Finding 5: Although interviews indicated that KLA is in compliance with the screening requirements of 45 CFR Part 1626, sampled cases evidenced non-compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.5, as there were two (2) case files that failed to contain a signed citizen attestation form when required and, as noted in Finding 3, the Lawyers Care Participation Agreement contained a non-compliant attestation format.

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.

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.

See 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant's oral response to the recipient's inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5; *See also* LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced non-compliance with 45 CFR § 1626.6 and CSR Handbook (2008 Ed., as amended 2011), § 5.5 as there were three (3) cases reviewed that failed to contain a citizen attestation when required. *See* Closed 2012 Case Nos. 12-E-24006710, 12E-2102721, and 12E-2102721. Additionally, there was one (1) case where the citizen attestation was not timely dated. *See* closed 2012 Pro Bono Case No. 11E-24002625 (This case was originally opened through the Intake Department on March 4, 2011. The client was seen in person on May 3, 2011; however, citizen attestation was not signed until February 13, 2012). There was also one (1) case that had a signed citizenship attestation that was not dated. *See* closed 2010 Case No. 10E-24005722. Furthermore, there were approximately 24 Pro Bono cases reviewed where the signed citizen attestation did not comply with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5. *See*, for example, Case Nos. 10E-24006303, 10E-24006151, 11E-24005756, 10E-24002873, 10E-24007679, 10E-24007360, 12-24003655, 12-24005229, 12-24007549, 12-24000426, 11E-24008361, and 12-24007840. As noted above, the deficient citizen attestation is included in a Lawyers Care Participation Agreement which is used for KLA's Pro Bono cases. The form was deemed deficient because the signature line on the form is not tied solely to the citizen attestation statement and the form lacks a space for the client to date the document.

KLA must ensure that all cases contain a signed citizen attestation when required. As discussed in Finding 2, KLA has addressed this concern, therefore, no further action is required.

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

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

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

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

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

There are no recommendations or corrective actions required.

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

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

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

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

There are no recommendations or corrective actions required.

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.)

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

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

Prior to the review, KLA provided its priorities for review.⁹ KLA’s priority goals for low-income people are to decrease child poverty by increasing self-sufficiency of low-income families, reduce domestic violence, improve health care of impoverished children and other individuals, protect low-income families and elderly individuals who have been victimized by fraud, financial abuse, or economic factors, improve the quality of life of impoverished elder and disabled individuals, and to improve the quality and stability of housing for low-income families.

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

There are no recommendations or corrective actions required.

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

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

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

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

⁹ *See* KLA’s 2012 Needs Assessment and Priority Report.

Sampled cases evidenced substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6. Although there were several cases reviewed that did not contain evidence of the legal assistance provided, several were open cases which were deselected for CSR reportability on the ACMS by the intermediary during the case review. *See* Open Case Nos. 11E-24006143 and 12E-24001534, *See* closed 2012 Case Nos. 12-E-24012439, 12-E-24001697, 12-E-24001353, 12-E-24003687, 12-E-24011644, 12E-24010340, 12E-24008955, and 12E-24003030, and Closed 2011 Case Nos. 19E-21011572 and 09E-21011571.

It was recommended that KLA review all case files prior to file closing to ensure that the legal assistance provided is properly documented. Case files lacking documented legal assistance should not be reported to LSC during the CSR data submission.

In response to the DR, KLA indicated it will provide staff training on the need to fully document legal assistance provided in case notes even when referral is being made to other advocates.

There are no corrective actions required.

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

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

There were eight (8) cases from the sample reviewed that had incorrect closure categories, however no pattern of error was noted and, therefore, KLA's application of the CSR case closure categories is substantially compliant with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). *See* closed 2012 Case Nos. 12E-24007565 (The case was closed with the closure code B-Limited Action, however, only advice was provided to the client, therefore, A-Counsel and Advice is the applicable closure category), 12E-24007648 (The case was closed with the closure category A-Counsel and Advice, however, the client was provided advice and the advocate called the housing authority on his behalf, therefore, B-Limited Action is the applicable closure category), 08E-24007298 (The case was closed with an L-Extensive Service closure category when the appropriate action would have been to close the case with an I(a)-Uncontested Court Decision closure category since a final divorce decree was issued by the judge in the case), 11E-27010372 (This case was closed with an A-Counsel and Advice closure category when the more appropriate action would have been to close the case with an L-Extensive Service closure category since the case handler obtained and reviewed several financial documents and materials over a one-year period to advise the client on a potential bankruptcy filing), 11E-24010719 (The case was closed with an A-Counsel and Advice closure category, but the case should have been closed with a L-Extensive Service closure category since

the case handler prepared and filed a motion for child visitation and withdrew when the client went into rehabilitation), 12E-24005347 (The case was closed with a A-Counsel and Advice closure category when the appropriate action would have been to close the case with an B-Limited Action closure category since the case handler advised the client regarding Medicaid Supplemental Benefits and contacted the Kentucky Insurance Commission), and 12E-24003986 (The case was closed with an I(a) – Uncontested Court Decision closure category. According to the notes in the file, KLA’s attorney filed a Motion to Withdraw prior to court making a case dispositive decision in the case, therefore, L-Extensive service is the applicable closure category) and closed 2011 Case No. 11E-24002551 (The case was closed with closure category L-Extensive Service when the more appropriate action would have been to close the case with a B-Limited Action closure category since the advocate provided legal advice to the client and sent a letter to the opposing party regarding an offer for an automobile).

There are no recommendations or corrective actions required.

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

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, limited action, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, limited action, or referral was provided. There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

There were seven (7) Intake Department PAI cases that were either dormant or untimely closed. *See* closed 2013 Case Nos. 12-E-24001184, 12-E-24009833, and 12-E-24005447, and Open Case Nos. 09E-24001127, 11E-24006143, 11E-24003369, and 12E-24001534. According to the Intake Department Director, these were cases from one (1) PAI attorney who should have closed the cases in a previous reporting year. During the case review the Intake Department Director deselected the cases in the ACMS ensuring they would not be reported to LSC in the upcoming reporting year. Additionally, the Intake Department Director indicated he will begin conducting increased oversight of this attorney’s cases. Furthermore, there were five (5) additional cases that were either dormant or not timely closed. *See* closed 2013 Case No. 12E-24004992, closed 2012 Case Nos. 09E-24003892 and 11E-24005722, and closed 2011 Case Nos. 08E-24011421 and 12E-24007585.

Sampled cases reviewed evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3; however, it was recommended that the Intake Department Director increase oversight of PAI cases.

In response to the DR, KLA indicated its Intake Director has been advised to more closely monitor open cases of PAI intake attorneys.

No corrective action is required.

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

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

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

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

KLA is in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases as there were no duplicate case files noted in the review sample.

There are no recommendations or corrective actions required.

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

This part is intended to provide guidance to recipients in adopting written policies relating to the outside practice of law by recipients' full-time attorneys. Under the standards set forth in this part, recipients are authorized, but not required, to permit attorneys, to the extent that such activities do not hinder fulfillment of their overriding responsibility to serve those eligible for

assistance under the Act, to engage in pro bono legal assistance and comply with the reasonable demands made upon them as members of the Bar and as officers of the Court.

Prior to the compliance review, KLA provided OCE with a copy of its policy governing the outside practice of law by full-time attorneys employed with KLA. The policy contains restrictions and procedures which comport with 45 CFR Part 1604. Additionally, the review of timekeeping records, as well as interviews with management and the staff who were granted permission to engage in outside practice activities from January 1, 2010 through December 31, 2012, demonstrated that the subject matter of the cited circumstances were within the guidelines of 45 CFR § 1604.4, and that approval to engage in the activity was sought and was granted by the Executive Director.

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

There are no recommendations or corrective actions required.

Finding 14: A limited fiscal and sampled case file review, as well as interviews conducted with management and staff, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

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

A limited review of the vendor list, chart of accounts, cash receipts and cash disbursement journals, general ledger, trial balance reports, and KLA's personnel manual, demonstrated that from January 1, 2010 through December 31, 2012, KLA appears to have not expended LSC grant funds, personnel, or equipment for prohibited political activities and is in compliance with 45 CFR § 1608.3(b).

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

As such, KLA is in compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

There are no recommendations or corrective actions required.

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

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

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

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

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

subject the grantee to compliance and enforcement action. Additionally, the regulatory provisions regarding accounting for and use of attorneys' fees and acceptance of reimbursement from clients remain in force, and violations of those requirements, regardless of when they have occurred, will subject the grantee to compliance and enforcement action.

KLA has a written policy governing fee-generating cases. This policy is in compliance with 45 CFR Part 1609. None of the sampled files reviewed, as well as interviews with members of management and staff evidenced legal assistance with respect to fee-generating cases. KLA is therefore in compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

There are no recommendations or corrective actions required.

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

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

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

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

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

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

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

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

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

KLA does not appear to be engaged in any restricted activities which would present 45 CFR Part 1610 compliance issues based upon a limited review of trial balances for the review period, chart of accounts, the vendor's list, as well as from observation of the physical location of the offices and interviews. A limited review of the cash trial balances for the review period identified no inappropriate transfers pursuant to 45 CFR § 1610.7 or 45 CFR § 1610.4. A limited review of fiscal activities, as well as the review of sampled cases, disclosed no instances where non-LSC funds were used for any purpose prohibited by 45 CFR Part 1610.

A limited review of the cash receipts journal, list of individual donors, grants, contracts, and funding source notification letters from January 1, 2010 through December 31, 2012, disclosed substantial compliance with 45 CFR § 1610.5. LSC recipients are required by 45 CFR § 1610.5 to provide sources of funds in the amount of \$250 or more with written notification of the prohibitions and conditions tied to the use of the funds. KLA receives funding from federal governmental agencies, foundations, law firms, and individuals. The fiscal review disclosed that KLA sends written notifications to all sources of funds in the amount of \$250 or more, however the notification letters do not specifically mention the prohibitions and conditions which apply to the funds but rather, inform that there are restrictions which are listed on LSC's website.

It was recommended that KLA include the prohibitions and conditions in the notification letters rather than just referring the funder to LSC's website.

In response to the DR, KLA provided OCE with a revised version of its funding source notification letter which includes the prohibitions and conditions in the notification letters rather than just referring the funder to LSC's website.

There are no corrective actions required.

Finding 17: KLA is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, a few exceptions were identified with regards to 45 CFR § 1614.3(e) that required improvement.

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

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

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

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

Expenditures and Allocations

A review of the Audited Financial Statement (“AFS”) for Fiscal Year Ending December 31, 2011 determined that KLA is in substantial compliance with LSC requirements in 45 CFR § 1614.3(e) relating to the allocation of direct and indirect expenses to the PAI requirement. However, the review evidenced that KLA’s administrative, staff, and support costs related to PAI activities are not consistently based on reasonable or current operating data but are based on estimated time in relation to prescribed duties, which is not in accordance with LSC regulations. Therefore, OCE advised KLA that its PAI cost allocation methodology must be updated.

The Executive Director initiated a change in KLA’s PAI personnel cost allocations for the Pro Bono Director in 2010 and Pro Bono Coordinators in 2011. At the time of the visit, 68% of the Pro Bono Director’s time and 75% of the three (3) Pro Bono Coordinators’ time was allocated to the PAI requirement. This allocation is based on the estimated time, in relation to prescribed duties and responsibilities, of the Pro Bono Director and Coordinators and not based on actual reasonable operating data. OCE advised that KLA should conduct a time study to ensure that the time allocated towards PAI is accurate and based on reasonable operating data, and not based on estimated time in relation to prescribed duties. The review also evidenced that a percentage of the Executive Director’s management and administrative time was allocated as a direct cost towards the PAI effort; however, it was also not based on recent operating data. The percentage of time allocated was based on an outdated time study conducted by KLA in 1998 and 1999. Additionally, KLA was advised that the Executive Director’s time spent managing PAI should be captured in the indirect cost allocation, not direct, using reasonable operating data.

In response to the DR, KLA indicated it will conduct a time study using its electronic case management system to assure that time allocated toward PAI by the Pro Bono Director is accurate and based on reasonable operating data. Furthermore, KLA provided OCE with an updated accounting manual which incorporated the requirement of a periodic time study by the Pro Bono Director. This modification was approved by KLA's Board of Directors on September 10, 2013.

Additionally, according to KLA its Pro Bono Coordinator already keeps detailed time records which note time attributable to PAI activities and requirement is also noted in the accounting manual that was provided to OCE.

Furthermore, according to KLA the modified accounting manual that has been provided to LSC ensures that time spent by the Executive Director managing KLA's PAI program is allocated as indirect cost using reasonable operating data.

Furthermore, KLA also used budgeted percentages for management, technology, and intake costs allocated to PAI, rather than using actual reasonable data. KLA needed to update its PAI indirect cost allocation methodology using reasonable operating data rather than budgeted percentages. It was recommended that KLA’s Financial Administrator maintain a worksheet that reflects the direct and indirect cost allocations for PAI.

In response to the DR, KLA indicated it will maintain a worksheet that reflects direct and indirect cost allocations for PAI as set out in the program's revised accounting manual that was provided to OCE.

Finally, interviews with the Executive Director and the Director of Finance evidenced that the maximum hourly contractual rate KLA paid to a PAI attorney was \$60 per hour, which, after analysis, was determined to be far below the prevailing market rate. However, the documentation provided evidenced that the most recent review of the market rate by KLA was conducted in 2010. A review of KLA's PAI Plan indicated that there is a requirement for KLA to conduct an annual review of the hourly market rate. It was recommended that KLA conduct annual reviews of the market rate in accordance with its own policy.

In response to the DR, KLA indicated it will conduct an annual review of local private attorney's hourly market rate in accordance with its PAI policy.

Overview of the PAI Program

KLA's PAI program is comprised of two (2) components: pro bono and reduced fee. In advance of the review, KLA provided a copy of its Private Bar Involvement Plan, which sets forth the legal needs of eligible clients in the service area and the delivery mechanisms potentially available to provide opportunities for private attorney involvement. The PAI Plan reflected that KLA consulted with the legal community. KLA's PAI components were assessed and the on-site review found KLA's PAI practices consistent with its PAI Plan.

The Intake Process

The intake screening process for private attorney cases is no different from the intake process for a staff case. As discussed in Finding 2, intake is conducted by the Intake Department.

Referral to Pro Bono Attorneys

KLA has developed uniform case referral procedures and documents for the pro bono component. A Program Operations Manual sets forth referral and oversight procedures for cases handled by pro bono attorneys. The referral program, known as the Lawyers Care Program, is managed by three (3) part-time pro bono coordinators located in Bowling Green, Paducah, and Owensboro. A majority of the referrals are prepared through the Bowling Green office which covers a 35 county service area. KLA maintains a pro bono panel of private attorneys to provide legal assistance to LSC-eligible clients pursuant to 45 CFR Part 1614 and engage in legal information efforts. The pro bono attorneys on the panel agree to accept at least three (3) cases or provide 30 hours of assistance, per year.

The Pro Bono Coordinators are responsible for referring cases to the pro bono attorneys. Pro bono attorneys focus primarily in the area of family law, i.e., uncontested divorces, adoptions, guardianships and custody modifications. Following the decision to refer a case to a pro bono attorney, the applicable Pro Bono Coordinator notifies the client immediately by letter. The

letter requires the client to sign and return a Lawyers Care Participation Agreement before the client's case will be referred to a pro bono attorney. As previously described, the Lawyers Care Participation Agreement contains a citizenship statement that does not meet the requirements of 45 CFR § 1626.6(a) and the CSR Handbook (2008 Ed., as amended 2011), § 5.5 and corrective action is required. Prior to referral, the applicable Pro Bono Coordinator will also explain, either by phone or in-person, the referral process to a client. If the Coordinator is unable to make contact with the client, a letter is sent requesting them to contact the program within 15 days or their case will be closed.

Once the required Lawyers Care Participation Agreement is returned, a pro bono coordinator refers the client's case to an attorney within close geographic proximity of the client. The client is provided the pro bono attorney's contact information and requested to contact the attorney within 10 days of being notified of the referral. If, after 10 days, the Pro Bono Coordinator is notified by the attorney that there has been no contact with the client, the client is notified by a letter that their case is closed. If KLA is unable to place a case with a pro bono attorney, the client is notified to re-contact the Intake Department for additional assistance.

KLA has implemented a thorough oversight and follow-up system of its pro bono cases and these procedures are documented in KLA's Intake Operations Manual. Each Pro Bono Coordinator uses the ACMS to track the referred pro bono cases. The Pro Bono Coordinator will contact a pro bono attorney if they have not received a status update of the case within 60 days of referral. At case closure, pro bono attorneys are required to submit a case report indicating the legal assistance provided.

Pro Bono Coordinators' responsibilities also include closing the cases in the ACMS and selecting the applicable closure category. Subsequent to case closure, Pro Bono Coordinators complete an electronic closing memorandum, send the pro bono attorney a closing letter, and send the client a Client Satisfaction Survey. The Pro Bono Director reviews all cases and electronically signs off on the closing memoranda.

Sample case review revealed that case status updates were generally completed on a monthly basis with case notes thoroughly documenting the legal assistance provided.

Referrals to Contract (Reduced Fee) Attorneys

KLA also uses contract attorneys in the direct delivery of legal assistance to eligible clients. A majority of the PAI contract cases are with a contract attorney who provides assistance via KLA's hotline in the Intake Department approximately 6 to 7 hours per week. The attorney works remotely from her private firm in Bowling Green with access to KLA's ACMS. All of the contract attorney's cases are funded with non-LSC funds. The Intake Director is responsible for conducting oversight and supervising the contract attorney's cases.

Closed cases handled by the contract attorney were reviewed and documentation of legal assistance was found to be sufficient. However, as stated previously in Finding 11, this attorney

had a number of dormant and untimely closed cases. It was recommended that KLA implement additional regular oversight measures to review the contract attorney's open cases for dormancy.

KLA currently has two (2) additional active contracts with attorneys who primarily assist in uncontested divorce cases in Taylor and Hart counties, which are both located in the easternmost portion of KLA's service area. Intake Department staff will refer clients to the appropriate contract attorney. Prior to referral, the intake advocate will email a contract attorney a client's name in order to conduct a conflict check. If there is no conflict, the advocate will send a copy of the client's intake, with case notes, to the contract attorney. The client is sent a referral letter providing the attorney's contact information and asking the client to call the attorney as soon as possible. Subsequently, the case is coded as Case Type "P" (PAI) and the case is assigned to the Associate Director. The Associate Director is responsible for tracking the contract cases and approving monthly invoices. Each contract attorney is responsible for obtaining a signed citizen attestation form or a copy of eligible alien documentation and submitting it to KLA, along with monthly status updates, copies of an executed retainer, and any pleadings or final orders. Once a case is closed by a contract attorney, the Associate Director is responsible for closing the case on the ACMS and assigning it an applicable closure category.

Conclusions:

Interviews with management and staff evidenced that the pro bono Lawyer's Care Program and KLA's contract attorneys operate in a consistent manner. The Intake Director, Pro Bono Coordinators and the Associate Director have similar systems in place to periodically track the private attorneys' progress on cases, case tracking forms, letters, and documents, as well as the oversight process. KLA has maintained organizational consistency because each coordinator complies with the instructions in the Operations Manual and Private Bar Involvement Plan for the placement and oversight of cases. Each Pro Bono Coordinator and the Associate Director has the flexibility to provide targeted and effective follow-up and oversight of the cases in their specific service area.

With exception of the dormant and untimely closed cases noted in Finding 11, interviews and sampled files demonstrated that KLA's PAI systems ensure that PAI cases are active and that current and accurate information is maintained within the files.

Therefore, KLA is in compliance with 45 CFR §§ 1614.3(a), (b), (c), and (d) which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. However, as stated previously, a few exceptions were identified with regards to 45 CFR § 1614.3(e) that required improvement.

KLA's responses sufficiently address this corrective actions in this finding, therefore, no further action is required.

Finding 18: KLA is in compliance with the requirements of 45 CFR Part 1627 which prohibits recipients from using LSC funds to pay membership fees or dues to any private or nonprofit organization.

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, e.g., accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

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

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

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with the regulations and shall maintain records sufficient to document the recipient's compliance. *See* 45 CFR § 1627.8.

The fiscal review of KLA's policy for subgrants and membership fees or dues indicated consistency with LSC requirements. The fiscal review of KLA's accounting records for selected general ledger expenses that track and account for litigation expenses which include fees and dues payments from January 1, 2010 through December, 31 2012, evidenced that all non-mandatory dues and fees were paid with non-LSC funds. As such, KLA is in compliance with the requirements of 45 CFR § 1627.4(a).

Review of KLA's 2012 un-audited financial statement, and 2011 AFSs, along with 1099 Tax Statements, four (4) PAI contracts, and related invoices, as well as associated payments made during the review period, revealed that KLA did not use LSC funds to pay for subgrants or mandatory membership fees or dues. However, a review of 2010 AFSs, indicated that KLA used LSC funds to cover a small portion of mandatory dues to the Kentucky State Bar as permitted under 45 CFR § 1627.4(b) during that fiscal year.

A limited fiscal review of KLA's accounting records, related operating policies and procedures, the audited and unaudited financial statements from January 1, 2010 through December 31, 2012, as well as discussions with members of fiscal management, disclosed compliance with the financial reporting requirements of 45 CFR § 1627.3. The review noted no evidence of payments to private attorneys that required subgrants, as none of the program's judicare attorneys had received payments approaching \$25,000 for any year during the review period, or any exceptions or inconsistencies in this area. As such, KLA is in compliance with 45 CFR § 1627.2.

There are no recommendations or corrective actions required.

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

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

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour which comprise all of the efforts of the attorneys and paralegals for which compensation is paid by the recipient. Each record of time spent must contain: for a case, a unique client name or case number; for matters or supporting activities, an identification of the category of action on which the time was spent. The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity

during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

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

KLA uses an automated time management system that records and accounts for time spent by attorneys and paralegals who work on cases, matters, and supporting activities. The fiscal review of case handlers' timekeeping records, sampled from two (2) different pay periods, disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter, or supporting activity is recorded in compliance with 45 CFR §§ 1635.3(b) and (c). All staff interviewed demonstrated a familiarity with the timekeeping system.

The KLA timekeeping system is able to aggregate time record information on both closed and pending cases by legal problem type, consistent with the provisions of 45 CFR § 1635.3(c). Further, KLA maintains a list of timekeeping codes for cases, matters, supporting activities, and funding sources.

The Financial Administrator also indicated that KLA does not employ any attorneys who work part-time for another organization that engages in restricted activities. *See* 45 CFR § 1635.3(d).

There are no recommendations or corrective actions required.

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

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.¹⁰ However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010).¹¹

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

¹¹ Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

The limited fiscal review of KLA's accounting records, including a review of audited financial statements for 2010 and 2011, evidenced no instances in which KLA recognized or reported the receipt of any attorneys' fees or court-awarded payments for cases. Additionally, the sampled files reviewed did not contain a prayer for attorneys' fees. KLA is in compliance with the requirements of former 45 CFR Part 1642.

There are no recommendations or corrective actions required.

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

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

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

There are no recommendations or corrective actions required.

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

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

KLA has a written policy containing the 45 CFR Parts 1613 and 1615 restrictions which comports with LSC regulations.

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

There are no recommendations or corrective actions required.

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

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

KLA has a written policy concerning the initiation or participation in class action lawsuits as required by 45 CFR Part 1617, which comports with this Part.

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

There are no recommendations or corrective actions required.

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

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

KLA has a written policy containing the 45 CFR Part 1632 restrictions and has implemented procedures which comport with this Part.

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

There are no recommendations or corrective actions required.

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

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

KLA has a written policy governing the defense of certain eviction proceedings as required by 45 CFR Part 1633, which comports with this Part.

None of the sampled files reviewed involved defense of any such eviction proceeding. Interviews with management and staff, as well as review of the recipient's policies, confirmed that KLA is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1633.

There are no recommendations or corrective actions required.

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

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

KLA has a written policy governing the representation of incarcerated persons as required by 45 CFR Part 1637, which comports with this Part.

None of the sampled files reviewed involved participation in civil litigation or administrative proceedings on behalf of incarcerated persons. Interviews with management and staff, as well as review of the recipient's policies, confirmed that KLA is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1637.

There are no recommendations or corrective actions required.

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

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.¹² This restriction has been contained in all subsequent appropriations acts.¹³ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: “This part is designed to ensure that recipients and their employees do not solicit clients.”

KLA has a written policy containing the 45 CFR Part 1638 restrictions and has implemented procedures which comport with the regulation.

Interviews with management and staff, as well as review of the recipient’s policies, confirmed that KLA is not involved in this prohibited activity and is in compliance with the requirements of 45 CFR Part 1638.

There are no recommendations or corrective actions required.

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

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

KLA has a written policy governing the restrictions on assisted suicide, euthanasia, and mercy killing as required by 45 CFR Part 1643.

None of the sampled files reviewed evidenced involvement in these activities. Interviews with management and staff, as well as review of the recipient’s policies also confirmed that KLA is not involved in this prohibited activity and is, therefore, in compliance with the requirements of 45 CFR Part 1643.

There are no recommendations or corrective actions required.

¹² *See* Section 504(a) (18).

¹³ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

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

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.

KLA has a written policy governing the restrictions on abortion, school desegregation litigation, and military selective service as required by 42 USC 2996f § 1007 (a) (8), 42 USC 2996f § 1007 (a) (9), and 42 USC 2996f § 1007 (a) (10).

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

There are no recommendations or corrective actions required.

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

In accordance with 45 CFR Part 1644, recipients are directed to disclose to LSC and the public certain information on cases filed in court by their attorneys. 45 CFR § 1644.3 requires that the

following information be disclosed for all actions filed on behalf of plaintiffs or petitioners who are clients of the recipient:

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

KLA has a written policy governing the disclosure of case information as required by 45 CFR Part 1644, which comports with this Part.

There are no recommendations or corrective actions required.

Finding 31: A limited review of KLA's internal control policies and procedures demonstrated that they compare favorably to the elements outlined in Chapter 3 - Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System of the Accounting Guide for LSC Recipients (2010 Ed.). However, a few exceptions were noted and further improvement was required.

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

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

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

KLA Fiscal Structure and Operating Systems

Fiscal Structure

KLA's fiscal department consists of a Financial Administrator, who has overall fiscal and accounting responsibilities, and reports to the Executive Director.

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

Operating Systems

KLA uses MIP software which allows journal entries to be based on grants, account numbers, functions, and location. KLA uses this coding to allocate expenses and revenues by grant office site, and function (i.e., if a cost is related to housing, KLA records the expense to the "housing" function). MIP then allows KLA to create reports based on each designation. KLA is able to monitor resources spent by grant, office and function.

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

Internal Controls and Documentation

A limited fiscal review assessed whether KLA has a system of authorizations and approvals in place for all significant actions and financial transactions of the organization consistent with the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, Section A(1) (Accounting Procedures and Internal Controls). The review found that KLA has internal controls in place and maintains appropriate documentation; however, a few exceptions were identified and improvement was required.

Segregation of Duties

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

While the review compared favorably to the Accounting Guide for LSC Recipients (2010 Ed.), two (2) weaknesses in KLA's internal controls, as they relate to segregation of duties, were identified within its financial operations. The review disclosed that the Executive Director's expense reports are approved and reviewed by the Associate Director for KLA. Additionally, a review of KLA's credit card statements, which sometimes include charges by the Executive Director, revealed that they are approved by the Executive Director. Strong internal control guidelines require that a supervisor approve expense reports and credit card statements. *See* Accounting Guide for LSC Recipients (2010 Edition), Appendix VII, Section A(1) (Accounting Procedures and Internal Controls). A proper segregation of duties requires that the BOD, who supervises the Executive Director, review his expense reports and credit card charges. The BOD's review and approval of these expense reports and credit card charges can be conducted after payments are made in order to prevent delays or late fees.

As a corrective action, KLA was required to strengthen its internal controls and ensure the adequate segregation of duties.

In response to the DR, KLA has provided OCE with an amended accounting manual to require that the Chairman of the Board review the Executive Director's paid expenses and credit card charges on a quarterly basis. This amended policy was adopted by KLA's Board of Directors at its meeting on June 11, 2013. This amended policy sufficiently addresses the corrective action; therefore, no further action is required.

Bank Reconciliations

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

KLA maintains numerous bank accounts which are used for various purposes. The on-site review determined that the bank statement reconciliation process is performed monthly and is consistent with the recommendations contained in the Accounting Guide for LSC Recipients (2010 Ed.). The Financial Administrator indicated that the Executive Director receives the unopened bank statements and performs an initial review. The Financial Administrator then reviews the monthly bank statement reconciliation and reconciles the balances to the General Ledger. Lastly, the Executive Director reviews the Financial Administrator's final reconciliation. A limited review of KLA's bank statement reconciliations revealed that the bank statements are reconciled timely and that the review is appropriately documented.

A limited review of KLA's bank statement reconciliations demonstrated that KLA's policies and procedures compare favorably to the elements outlined in Chapter 3 – Internal Controls/Fundamental Criteria of an Accounting and Financial Reporting System, § 3-5.1 of the Accounting Guide for LSC Recipients (2010 Ed.).

The Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, §, I(7), recommends that all checks outstanding for over six (6) months should be resolved. A limited review of KLA's bank statement reconciliations identified one (1) outstanding check that was for a minimal amount (\$35.15).

In response to the DR, KLA indicated that the single check discussed was a travel reimbursement to an attorney board member which was not timely deposited. KLA's financial administrator indicated that she complied with the program's accounting manual which states in part, "Checks, which are still outstanding for six months, will be researched." According to KLA, the check was issued on May 24, 2012, "researched" beginning October 10, 2012, voided on February 28, 2013, and reissued. KLA indicated that while it has been difficult to clear this \$35.13 check, they feel that accounting manual policies were properly followed.

There are no recommendations or corrective actions required.

Cash Receipts

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

Furthermore, a limited review of KLA's cash receipts logs, monthly deposits, cash receipts journal, bank statements, and general ledger, as well as interviews with staff, determined that KLA properly records its cash receipts to the cash receipts log, including regular deposits, donor contributions, and client trust deposits. A limited review of a sample of February 2013 cash receipts/deposits revealed that cash receipts are deposited in a timely manner to the programs bank accounts and that they are reconciled to the cash receipts log and cash receipts journal on a monthly basis. KLA further strengthens its internal controls by maintaining separate cash receipts logs for general cash deposits that are used in its normal operations, and client trust deposits used specifically for client trust accounts. Moreover, KLA further strengthens its internal controls by providing cash receipt notification to walk-in clients and/or applicants through signage informing them that they are entitled to a receipt for all cash submitted to KLA as outlined in the Accounting Guide for LSC Recipients (2010 Ed.), § 3-5.4.

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

There are no recommendations or corrective actions required.

Cash Disbursements

A limited review of KLA's cash disbursement journals, bank statements, and general ledger, as well as interviews with staff, it was determined that KLA failed to report certain checks and voided transactions in its accounting system. It was revealed that KLA made payments using E-checks to its Kentucky retirement fund, but that it failed to input these checks in its accounting system and, therefore, there were inconsistencies in KLA's check register/cash disbursement

journal. Subsequent discussions with the Financial Administrator prompted the inclusion of the E-checks and/or voided checks in the accounting system. As a result, from January 1, 2013 through February 28, 2013, the cash register/cash disbursement journal reflects these changes. *See Accounting Guide for LSC Recipients (2010 Ed.), App VII, §§ G1 and 3-5.4.*

There are no recommendations or corrective actions required.

Finding 32: Interviews and a limited review of procedures, practices, and documents related to TIG No. 06365 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

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 the onsite review of TIGs, OCE staff examines a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients (2010 Edition), certain LSC TIG Assurances, the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

KLA's grant award for TIG Grant No. 06365 was approved on September 8, 2006. KLA received a TIG award from LSC in the amount of \$35,600 with a term date from January 2007 – December 2007.¹⁴ Prior to the start of the term, KLA received \$20,600 of the grant funds in 2006. The review evidenced that, as of July 1, 2009, KLA had fully expended all TIG funds received for this grant.

A limited review of relevant materials and interviews concerning KLA's TIG Grant No. 06365 was conducted. According to the Evaluation Report of TIG Grant No. 06365 it had several objectives:

1. Development of a system to improve legal services program advocates' ability to serve and support clients by increasing the ease and efficiency with which these staff advocates can retrieve useful practice information from the advocate library on Kentucky's statewide website, www.kyjustice.org. The goal of the project was to build a "Tech Bridge" (changes in programming) between Kemps Prime Case Management and Kentucky's statewide website so that Kentucky advocates have a secure, one-click, no password access to legal practice documents stored in the advocate library at www.kyjustice.org. This allowed advocates to save time and improve the quality of their legal assistance by having instant access to documents and forms that have been uploaded to the statewide website by experienced attorneys in their service area;

¹⁴ The review revealed that the term of the grant was subsequently extended.

2. Expand the public and private document libraries at www.kyjustice.org by 300 percent, with particular attention to three priority practice areas: Family, Consumer, and Housing;
3. Develop infrastructure necessary to sustain and secure the online library's quality, usability, and durability as a valued resource for Kentucky advocates; and
4. Improve advocates' ability to serve Spanish-speaking clients, and improve Spanish-speaking clients' access to vital legal education documents in Spanish.

Grant Assurances

In accordance with Grant Assurance No. 4 (in effect at the time TIG 06365 was awarded) KLA was required to report to its LSC TIG contact person any significant modifications (including budget changes) within 30 days after the change was identified. A comparison between the TIG budgets, and audited financial statements, from 2008 through 2009 of TIG No. 06365, revealed that KLA moved \$6,688 of TIG expenses, approximately 18.8% of the overall TIG budget, from one budgeted line-item to another without advising their LSC TIG contact person. As a result, KLA failed to comply with the TIG Grant Assurance (No. 4), in effect at that time, which required that the recipient report significant budget changes. KLA was advised that it should provide evidence that it has developed and implemented policies and procedures to ensure that such lapses do not occur in the future.

In response to the DR, KLA provided OCE with an accounting manual to include a section on TIG grants. This policy requires that significant budgetary changes made in future TIGs will require prior approval from LSC.

Subgrant Agreements/Vendor Contracts (45 CFR Part 1627)

A review of invoices, and contracts as well as related payments made to vendors or revealed that KLA was in compliance with 45 CFR § 1627.

Timekeeping

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1. 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 an employee's time, account for a full day's work, and be able to identify the portion of time devoted to grant projects. Interviews with the Financial Administrator, as well as a review of related timekeeping records, disclosed compliance with the timekeeping requirements of 45 CFR § 1635.1, 45 CFR Part 1630, and the OMB Circular A-122. KLA requires all personnel to maintain their time through KLA's timekeeping system.

Property Asset Management Manual (“PAMM”)

Moreover, a review of assets purchased in relationship to TIG No. 06365 revealed that KLA was in compliance with PAMM and 45 CFR § 1630.5(b) because no assets exceeded \$10,000. Even though none of the TIG asset purchases exceed \$10,000, it was recommended that KLA’s Financial Administrator, tag and inventory all assets purchased, and a schedule be maintained of those assets.

KLA provided no comments in response to this recommendation.

Accounting Guide for LSC Recipients (“AGFR”) Section 2-2.1

A Review of KLA’s 2008 through 2009 audited financial statements revealed that TIG No. 06365 was not separately reported in accordance with Section 2-2.1 and 45 CFR Section 1628.3(g). In the future KLA should separately report all TIG expenses and revenues in its audited financial statements.

KLA provided no comments in response to this recommendation.

Finding 33: Interviews and a limited review of procedures, practices, and documents related to TIG No. 08365 evidenced partial compliance with certain TIG grant assurances and other applicable LSC regulations, rules, and guidelines.

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 the onsite review of TIGs, OCE staff examines a sampling of TIG-related activities and expenditures to ensure their compliance with applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not limited to, the LSC Audit Guide for Recipients and Auditors, the Accounting Guide for LSC Recipients (2010 Edition), certain TIG Assurances, the Property Acquisition and Management Manual, and with any amendments of the foregoing adopted before or during the period of the TIG grant.

TIG Grant No. 08365

KLA’s grant award for TIG No. 08635 was approved on September 10, 2008. KLA received a TIG award from LSC in the amount of \$27,000 with a term date from January 2009 – December 2009. Prior to the start of the term, KLA received \$8,678 of the grant funds in 2008. The review evidenced that as of November 17, 2011, KLA had fully expended all TIG funds received for this grant.

A limited review of relevant materials, as well as interviews, regarding KLA’s 2009 TIG Grant No. 08635 was conducted. According to the Evaluation Report of Grant No. 08365, it had several objectives:

1. Design and develop the KLA LOIS;
2. Improve client access and effectiveness of KLA intake system by implementation and on-going refinement of the KLA LOIS; and
3. Develop new access points at KLA and partner locations.

As detailed in Finding 2 above, this system allows applicants to apply for services through an online chat session with intake staff. Applicants access LOIS through KLA's website.

Grant Assurances

In accordance with Grant Assurance No. 4 (in effect at the time TIG 08635 was awarded) KLA was required to report to its LSC TIG contact person any significant modifications (including budget changes) within 30 days after the change was identified. A comparison between the TIG budgets, and audited financial statements, from 2008 through 2011 of TIG No. 08635, revealed that KLA moved \$4,140 of TIG expenses, approximately 15.3% of the overall TIG budget, from one budgeted line-item to another without advising their LSC TIG contact person.. As a result, KLA failed to comply with the TIG Grant Assurance (No. 4), in effect at that time, which required that the recipient report significant budget changes. KLA was advised that it should provide evidence that it has developed and implemented policies and procedures to ensure that such lapses do not occur in the future.

In response to the DR, KLA provided OCE with an accounting manual to include a section on TIG grants. This policy requires that significant budgetary changes made in future TIGs will require prior approval from LSC.

KLA's response sufficiently addresses this corrective action therefore, no further action is required.

Subgrant Agreements/Vendor Contracts (45 CFR Part 1627)

A review of invoices and contracts, as well as related payments made to vendors, revealed that KLA was in compliance with 45 CFR § 1627.

Timekeeping

The timekeeping requirement, 45 CFR Part 1635, is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1. Additionally, the OMB Circular A-122 – Cost Principles for Non-Profit Organizations requires a non-profit to maintain records of an employee's time, account for a full day's work, and be able to identify the portion of time devoted to grant

projects. Interviews with the Financial Administrator, as well as a review of related timekeeping records, disclosed compliance with the timekeeping requirements of 45 CFR § 1635.1, 45 CFR Part 1630, and the OMB Circular A-122. KLA requires all personnel maintain their time through KLA's timekeeping system.

Property Asset Management Manual ("PAMM")

A review of the assets purchased in relationship to KLA's TIG projects revealed that KLA was in compliance with the Property Acquisition and Management Manual ("PAMM") and the 45 CFR 1630 requirement that prior LSC approval be obtained for the purchases and leases of equipment, furniture, or other personal non-expendable items, if the purchase price of any individual item of property exceeds \$10,000. The review disclosed that no assets obtained by KLA in relation to its TIG project exceeded a value of \$10,000.

Accounting Guide for LSC Recipients ("AGFR") Section 2-2.1

Review of KLA's 2008 through 2011 audited financial statements revealed that TIG grant No. 08365 was not separately reported in accordance with AGFR Section 2-2.1 and 45 CFR § 1628.3(g). In the future, KLA should separately report all TIG grants separate on its audited financial statements.

Finding 34: A limited review of KLA's 2011 audited financial statement revealed that KLA had an unexpended fund balance of \$305 relating to a 2000 TIG award.

LSC's fund balance policies are intended to ensure the timely expenditure of LSC funds for the effective and economical provision of high quality legal assistance to eligible clients. According to 45 CFR § 1628.3(g), no funds provided under a one-time or special purpose grant may be expended subsequent to the expiration date of the grant with-out prior written approval of the LSC and all unexpended funds under such grants shall be returned to LSC.

A review of KLA's 2011 audited financial statement revealed that KLA had unexpended funds in the amount of \$305 related to a 2000 TIG.¹⁵ This discrepancy was not discovered by KLA until sometime in 2011. According to KLA, it contacted LSC regarding the discrepancy but, no further action was taken. Pursuant to 45 CFR § 1628.3(g), KLA should return the \$305 of unexpended funds to LSC.

According to KLA, the TIG grant referenced was from 2003 rather than 2000. It involved a statewide technology grant for which KLA served as the lead administrative program.

According to KLA, in 2004, it inadvertently charged \$305 of LSC expense to the TIG account. KLA indicated that this problem was detected and reported to the program's independent auditor and the carryover was shown separately in audited financial statements submitted to LSC. In

¹⁵ The 2000 TIG award was outside OCE's review period and, thus was not reviewed.

2011, following several inquiries on how to rectify this issue, KLA's Director discussed this matter with LSC staff and was advised to send an email to LSC describing the issue and seeking instruction and no response was received.

In response to the DR, KLA stated that since the \$305 mischaracterization from 2004 was a small amount, and considering that this expense mischaracterization occurred nine years ago and was reported to LSC, KLA would like for LSC to approve a transfer of this expense to its LSC account as allowed by 45 CFR § 1628.3(g). KLA further stated that, if this request is denied, it would promptly remit payment to the Corporation.

After careful consideration, LSC must deny KLA's request to transfer the \$305 expense to its LSC basic field account. KLA's TIG is a separate one-time, special purpose grant award and the reprogramming of TIG funds is only to be used for something related to the original purpose of the TIG project. The funds are not allowed to be reprogrammed for other general, non-TIG related uses and, therefore, the \$305 of unexpended TIG funds must be returned to LSC.

As such, LSC requests KLA return the unexpended \$305 to LSC by November 15, 2013. Please include the TIG number on the remittance.

IV. RECOMMENDATIONS¹⁶

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

1. Report all cases in its CSRs where there has been an eligibility determination showing that the client meets LSC eligibility requirements, regardless of the funding source supporting the cases in accordance with CSR Handbook (2008 Ed., as amended 2011), § 4.3;

According to KLA, it has been cautious about reporting any cases which may not meet all of LSC's eligibility criteria. KLA indicated it is conducting a program-wide meeting on November 1, 2013, and will provide training to staff on CSR requirements in an effort to report all cases meeting eligibility requirements.

2. Revise its written intake form to include a section for income prospects to facilitate compliance with 45 CFR § 1611.7(a)(1);

In response to the DR, KLA has provided OCE with a revised written intake form which is used at outreach events. The intake form now has a check box labeled, "Asked about prospective income."

3. Revise its Case Acceptance Guidelines to specifically include its spend-down requirement for applicants with income between 110% and 200% of the FPG;

In response to the DR, KLA has provided OCE with revised case acceptance guidelines that specifically include a spend-down for applicants with income between 110% and 200% of the Federal Poverty Guidelines.

4. Revise its Basic Intake Screening Procedures and Intake System to include its spend-down procedures for intake screeners;

In response to the DR, KLA determined it was best not to revise its intake screening procedures to include spend-down procedures. This process was not incorporated into Intake Screening Procedures because spend down is performed by intake advocates rather than intake screeners, and the Intake Director felt that including it in the screening document would cause confusion.

¹⁶ 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.

5. Indicate in its asset policy the categories of assets that it considers exempt under state and federal law;

In response to the DR, KLA concluded that publishing a comprehensive listing would be too lengthy and that a partial listing would likely result in more confusion. KLA indicated it will continue to look at this issue, and may modify asset guidelines during its next case acceptance review process to simplify eligibility determination.

6. Merge its Financial Eligibility Policy and its Case Acceptance Guidelines for Financial Eligibility into one (1) document in order to eliminate any confusion regarding which guidelines are applicable;

In response to the DR, KLA indicated it will consider merging the Financial Eligibility Policy and Case Acceptance Guidelines for Financial Eligibility into one document during the Board's next case acceptance review process.

7. Review all case files prior to file closing to ensure that the legal assistance provided is properly documented. Case files lacking documented legal assistance should not be reported to LSC during the CSR data submission;

In response to the DR, KLA indicated it will provide staff training on the need to fully document legal assistance provided in case notes even when referral is being made to other advocates.

8. Increase oversight of the PAI Intake Department cases in order to reduce dormancy and untimely closure issues;

In response to the DR, KLA indicated the Intake Director has been advised to more closely monitor open cases of PAI intake attorneys.

9. Include LSC's prohibitions and conditions in the funding source notification letters required under 45 CFR § 1610.5 instead of referring the funder to LSC's website;

In response to the DR, KLA provided OCE with a revised version of its funding source notification letter which includes the prohibitions and conditions in the notification letters rather than just referring the funder to LSC's website.

10. Maintain a worksheet that reflects direct and indirect cost allocations for PAI;

In response to the DR, KLA indicated it will maintain a worksheet that reflects direct and indirect cost allocations for PAI as set out in the program's revised accounting manual that was provided to OCE.

11. Conduct annual reviews of local private attorneys' hourly market rate, in accordance with its own policy; and

In response to the DR, KLA indicated it will conduct an annual review of local private attorney's hourly market rate in accordance with its PAI policy.

V. REQUIRED CORRECTIVE ACTIONS

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

1. Ensure that all case files contain sign and dated citizenship attestations pursuant to 45 CFR Part 1626, and that the attestations comply with the requirements of CSR Handbook (2008 Ed., as amended in 2011), § 5.5. To satisfy this requirement, KLA was asked to amend the attestation form used for Pro Bono cases to comply with the CSR Handbook (2008 Ed., as amended 2011), § 5.5 and submit a copy of the revised form, and any accompanying instructions to staff, in its response to the DR;

In response to the DR, KLA has provided LSC with an amended pro bono participation agreement which contains a separate signature line for citizenship attestation. According to KLA it was approved by the Board of Directors on September 10, 2013.

The amended pro bono participation agreement sufficiently addresses this corrective action, therefore, no further action is required.

2. Conduct a time study to ensure that the time allocated towards PAI by the Pro Bono Director and Pro Bono Coordinator is accurate and based on reasonable operating data;

In response to the DR, KLA indicated it will conduct a time study using its electronic case management system to assure that time allocated toward PAI by the Pro Bono Director is accurate and based on reasonable operating data. Furthermore, KLA provided OCE with an updated accounting manual which incorporated the requirement of a periodic time study by the Pro Bono Director. This modification was approved by KLA's Board of Directors on September 10, 2013.

KLA's response sufficiently addresses this corrective action, therefore, no further action is required.

3. Ensure that the time spent by the Executive Director to manage KLA's PAI program is captured in the indirect cost allocation using reasonable operating data;

According to KLA the modified accounting manual that has been provided to LSC ensures that time spent by the Executive Director managing KLA's PAI program is allocated as indirect cost using reasonable operating data.

KLA's response sufficiently addresses this corrective action, therefore, no further action is required.

4. Strengthen its internal controls and ensure the adequate segregation of duties by having a supervisor approve expense reports and credit card statements in accordance with Accounting Guide for LSC Recipients (2010 Edition), Appendix VII, Section A(1) (Accounting Procedures and Internal Controls);

In response to the DR, KLA has provided OCE with an amended accounting manual which requires that the Chairman of the Board review the Executive Director's paid expenses and credit card charges on a quarterly basis. This amended policy was adopted by KLA's Board of Directors at its meeting on June 11, 2013.

KLA's response sufficiently addresses this corrective action, therefore, no further action is required.

5. Return the \$305 of unexpended funds remaining from its 2000 TIG to LSC in accordance with 45 § CFR 1628.3(g);

In response to the DR, KLA stated that since the \$305 mischaracterization from 2004 was a small amount, and considering that this expense mischaracterization occurred nine years ago and was reported to LSC, KLA would like for LSC to approve a transfer of this expense to its LSC account as allowed by 45 CFR § 1628.3(g). KLA further stated that, if this request is denied, it would promptly remit payment to the Corporation.

After careful consideration, LSC must deny KLA's request to transfer the \$305 expense to its LSC basic field account. KLA's TIG is a separate one-time, special purpose grant award and the reprogramming of TIG funds is only to be used for something related to the original purpose of the TIG project. The funds are not allowed to be reprogrammed for other general, non-TIG related uses and, therefore, the \$305 of unexpended TIG funds must be returned to LSC.

As such, LSC requests KLA return the unexpended \$305 to LSC by November 15, 2013. Please include the TIG number on the remittance.

6. Provide evidence that it has developed and implemented policies and procedures to ensure that significant budgetary changes made to future TIGs receive prior approval from LSC;

In response to the DR, KLA provided OCE with an accounting manual to include a section on TIG grants. This policy requires that significant budgetary changes made in future TIGs will require prior approval from LSC.

KLA's response sufficiently addresses this corrective action, therefore, no further action is required.

7. Remove “contiguous property” as an exclusion in its asset policy if a separate deed is required to own this property so KLA’s asset exceptions do not expand beyond the exclusive list of allowable exceptions under 45 CFR § 1611.3(d)(1);

In response to the DR, KLA has provided OCE with a modified asset guideline to specify that contiguous property from a separate deed cannot be excluded as an exempt asset.

KLA’s response sufficiently addresses this corrective action, therefore, no further action is required.

8. KLA should submit information to OCE with its comments to this DR explaining whether and how providing advice at the senior center and subsequently conducting a conflicts check is sufficient under the Kentucky’s Rules of Professional Responsibility.

According to KLA, outreach services provided at senior centers have usually involved counsel and advice on benefits issues which do not create conflicts of interest. On the rare occasions that services are requested on issues which may involve or create a conflict, KLA indicated that its advocates obtain the names, and social security numbers of applicants and conduct conflict checks before accepting cases. In response to the DR, KLA provided OCE with a modified outreach intake form which specifies that if the nature of the legal problem is such that a conflict check must be performed, the intake screening must be conducted through the centralized intake process. Additionally, according to KLA a conflict of interest procedures policy has been developed that complies with the Kentucky Bar Association’s ethics rules which instruct staff on when a conflict check must be performed.

KLA’s response sufficiently addresses this corrective action, therefore, no further action is required.



KENTUCKY
LEGAL
AID

Scott K. Crocker
Executive Director

September 26, 2013

270.782.1924

Scott K. Crocker

direct telephone: 270.780.8831
direct fax: 270.780.8831
direct email: Scrocker@KLAid.org

toll free:
1.800.782.1924

Laura Rath, Director
Office of Compliance and Enforcement
Legal Services Corporation
333 K Street, NW 3rd Floor
Washington, DC 20007-3522

- via email and hard copy--

fax:
270.782.1993

Dear Ms. Rath:

Attached is Kentucky Legal Aid's response to the Draft Report of the Office of Compliance and Enforcement. I would first like to commend Craig Dober and the OCE team for their professionalism during this visit. The visit was the most comprehensive and thorough that I've experienced during my thirty-five years with Kentucky Legal Aid.

1700 Destiny Lane
Bowling Green
Kentucky
42104

As noted in the report, KLA is strongly committed to regulatory compliance, and we attempt to put in place best practices to accomplish this goal. We have found that the visit has assisted KLA to understand LSC regulations and compliance requirements more thoroughly.

We offer the attached response to recommendations and required corrective actions noted in the report. Please let me know if you have any further questions.

Sincerely,

Scott K. Crocker
Executive Director

email:
klaid@KLAid.org

on the web:
www.KLAid.org

A non-profit corporation serving low income persons in Allen, Ballard, Barren, Bath, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Green, Hancock, Hart, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCracken, Meade, Marshall, Metcalfe, Muhlenberg, Ohio, Simpson, Taylor, Todd, Tigg, Union, Warren and Webster Counties



Funded in Part By: The Legal Services Corporation, Commonwealth of Kentucky, Older Americans Act, HUD, KBA, IOLIA, and United Way
This project is funded in part, under contracts and/or master agreements with the GRMJD, BADD, PEADD, BRADD, Kentucky Department for Aging and Independent Living, Kentucky Cabinet for Health and Family Services with funds from the U.S. Department of Health and Human Services.



Kentucky Legal Aid does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

**RESPONSE OF KENTUCKY LEGAL AID
RECIPIENT NO. 618036
TO
OFFICE OF COMPLIANCE AND ENFORCEMENT
DRAFT REPORT**

RESPONSES TO RECOMMENDATIONS

1. KLA's staff and Board take great pride in the number of cases the program closes each year. Based on training provided by LSC personnel, KLA has been cautious about reporting any cases which may not meet all LSC eligibility criteria. KLA is conducting a program-wide meeting on November 1, 2013 and will provide training to staff on CSR requirements in an effort to report all cases meeting eligibility requirements.
2. KLA has revised its written intake form which is used at outreach events. The intake form now has a check box labeled "Asked about prospective income." [Attached]
3. KLA has revised its case acceptance guidelines to specifically include spend-down for applicants with income between 110% and 200% of the Federal Poverty Guidelines. [Attached]
4. After serious consideration, KLA determined it was best not to revise its intake screening procedures to include spend-down procedures. This process was not incorporated into Intake Screening Procedures because spend down is performed by intake advocates rather than intake screeners, and the Intake Director felt that including it in the screening document would cause confusion.
5. KLA has discussed revising intake screens to include specification of assets exempt under state and federal law. We have concluded that publishing a comprehensive listing would be too lengthy and that a partial listing would likely result in more confusion. KLA will continue to look at this issue, and may modify asset guidelines during its next case acceptance review process to simplify eligibility determination.
6. KLA will consider merger of Financial Eligibility Policy and Case Acceptance Guidelines for Financial Eligibility into one document during the Board's next case acceptance review process.
7. KLA's supervisory staff currently review all case files prior to approval of closing. One item evaluated is whether legal assistance provided is adequately documented in case notes to meet CSR standards. This is especially important in cases in which counsel and advice are provided prior to referral for extended service, and the client does not keep the referral appointment. KLA will provide staff training on the need to fully document legal assistance provided in case notes even when referral is being made to other advocates.

8. The program's Intake Director has been advised to more closely monitor open cases of PAI intake attorneys.
9. KLA has adopted a funding source notification letter provided by the OCE team. [Attached]
10. KLA will maintain a worksheet that reflects direct and indirect cost allocations for PAI as set out in the program's revised accounting manual section. [Attached]
11. KLA will conduct an annual review of local private attorney's hourly market rate in accordance with its PAI policy.
12. KLA certainly agrees the program should comply with its accounting manual policy to resolve outstanding checks. The single check discussed was a \$35.13 travel reimbursement to an attorney board member which was not timely deposited. KLA's financial administrator indicates that she complied with the program's accounting manual which states in part, "Checks, which are still outstanding for six months, will be researched." [Attached] In this case, the check was issued on May 24, 2012, "researched" beginning October 10, 2012, [see attached e-mails], voided on February 28, 2013, and reissued. While it has been difficult to clear this \$35.13 check, we feel that accounting manual policies were properly followed.

RESPONSES TO REQUIRED CORRECTIVE ACTIONS

1. Kentucky Legal Aid takes very seriously the requirements of 45 CFR Part 1626 regarding signed and dated citizenship attestations. With over 22,000 LSC eligible files closed during the review time period, reviewers detected only three cases without proper citizenship attestations.

As required, KLA has amended its pro bono participation agreement to contain a separate signature line for citizenship attestation. A copy of this form which was approved by KLA's Board of Directors on September 10, 2013 is attached.

2. Kentucky Legal Aid will conduct a time study using its electronic case management system to assure that time allocated toward PAI by the Pro Bono Director is accurate and based on reasonable operating data. KLA incorporated the requirement of a periodic time study by the Pro Bono Director into its accounting manual [Attached], and this modification was approved by KLA's Board of Directors on September 10, 2013.

KLA's Pro Bono Coordinator already keeps detailed time records which note time attributable to PAI activities. This requirement is also noted in the accounting manual. [Attached]

3. Kentucky Legal Aid has modified its accounting manual to ensure that time spent by the Executive Director managing KLA's PAI program is allocated as indirect cost using reasonable operating data. [Attached]

4. During OCE's exit conference, a fiscal evaluator indicated that he had not evaluated a program with stronger internal controls than Kentucky Legal Aid. While we are extremely proud of our financial product, we recognize the importance of strengthening internal controls and ensuring adequate segregation of duties. As required by the OCE Report, KLA has amended its accounting manual to require that the Chairman of the Board review the Executive Director's paid expenses and credit card charges on a quarterly basis. This amended policy was adopted by KLA's Board of Directors at its meeting on June 11, 2013 and is attached.
5. KLA was not informed prior to the OCE's visit that TIG funding would be audited. The TIG grant referenced was from 2003 rather than 2000 according to KLA's records. It involved a statewide technology grant for which KLA served as the lead administrative program.

In 2004, KLA inadvertently charged \$305 of LSC expense to the TIG account. This problem was detected and reported to the program's independent auditor and the carryover was shown separately in audited financial statements submitted to LSC. Following several inquiries on how to rectify this issue, KLA's Director discussed this matter with LSC staff and was advised to send an email to LSC describing the issue and seeking instruction. [Attached] No response was received.

KLA was not informed that TIG financials would be reviewed during the OCE visit, and no TIG documentation requests were made. We were informed that OCE was developing procedures to review TIGs, and a request was made to review prior KLA TIGs on a trial basis. KLA's administrative staff went to great lengths to obtain old financial reports and backup files from storage. The Financial Administrator brought to the attention of the OCE officer the \$305 discrepancy from nine years prior, and requested instruction on how to rectify this amount in the program's financial statements. According to the Financial Administrator, the officer indicated that KLA would likely be allowed to move the expense from TIG to LSC.

While this \$305 mischaracterization from 2004 is a small amount, considering that this expense mischaracterization occurred nine years ago and was reported to LSC, we request that LSC approve a transfer of this expense to our LSC account as allowed by 45 CFR 1628.3(g). If this request is denied, KLA will promptly remit payment to the Corporation.

6. KLA has amended its Accounting Manual to include a section on TIG grants. [Attached] This policy requires that significant budgetary changes made in future TIGs will require prior approval from LSC.
7. KLA has modified its asset guidelines to specify that contiguous property from a separate deed cannot be excluded as an exempt asset. [Attached]
8. Outreach services provided at senior centers have usually involved counsel and advice on benefits issues which do not create conflicts of interest. On the rare occasions that services are requested on issues which may involve or create a conflict, advocates obtain the names and social security numbers of applicants and conduct conflict checks before accepting cases. In order to formalize this practice, KLA has modified its outreach intake form to specify that if the nature of the legal problem is such that a conflict check must be performed, the intake screening must be conducted through the

centralized intake process. [Attached in Number 2 of Responses to Required Corrective Actions] Additionally, a conflict of interest procedures policy has been developed that complies with Kentucky Bar Association ethics rules which instruct staff on when a conflict check must be performed. [Attached]

INTAKE FORM

This form is intended for outreach intake. If the nature of the legal problem is such that a thorough conflict check must first be performed, the intake screen should generally be handled through the standard centralized intake process.

Date: _____
Advocate: _____ Office: _____

Problem Code: _____
Client Name: _____ Soc. Sec. No.: _____

US Citizen: Yes No If no, list alien status: _____

Date of Birth: ____-__-____ Age: _____ Gender: Male Female

Race: Asian Black Hispanic Native American White Other

Marital Status: Married Single Separated Divorced Widowed

Name of non-adverse spouse, if any: _____

Mailing Address: _____

City: _____ County: _____ State: _____ Zip: _____

Phone Numbers: _____

Adverse Party Name: _____

Residence Address: _____

City: _____ County: _____ State: _____ Zip: _____

Living Arrangements: Rent Own Staying with family or friends Other _____

Number of people currently living in client's household: Adults _____ Children _____

FINANCIAL INFORMATION

Case Number _____

Client's gross income \$ _____

Weekly Monthly Yearly

Spouses gross income \$ _____

Weekly Monthly Yearly

Employment \$ _____

Social Security \$ _____

SSDI \$ _____

SSI \$ _____

Pension \$ _____

VA Benefits \$ _____

Interest/Investment Income \$ _____

Other \$ _____

Other \$ _____

Other \$ _____

Other \$ _____

Homebound? Institutionalized?

Rural? Frail or Disabled?

Limited English? Severely Disabled?

Low Income? Dementia?

Receiving Medicare Veteran In Household

Domestic Violence Issue(s) In Case

ASSETS

Cash \$ _____

Bank Accounts \$ _____

Investments \$ _____

Home Equity \$ _____

Other Real Property \$ _____

Vehicle Equity \$ _____

Other \$ _____

Other \$ _____

Asked About Prospective Income

9/20/13

KENTUCKY LEGAL AID CASE ACCEPTANCE GUIDELINES

The following case acceptance guidelines shall be applied by KLA staff in determining which new cases should be accepted by the program and the level of extended services which should be provided. For all cases, the client must meet all KLA financial eligibility guidelines, and the case must fall within KLA program priorities (or be accepted as a non-priority "emergency" case pursuant to the procedures set forth in the Kentucky Legal Aid Program Priorities Statement). KLA intake advocates shall utilize these case acceptance guidelines in determining which cases should be referred to service office advocates or for pro bono referral through the Lawyers' Care program, with the final case acceptance decision to be made by the service office advocate (or pro bono coordinator). Requests to decline service are subject to approval by the Associate Director in accordance with KLA procedures for case management and review. All cases accepted must also be in conformance with LSC federal regulations as reported in CFR 45 part 1600 et seq. Requests for representation in "fee-generating" cases (as defined in 45 CFR § 1609.2) may only be considered if (1) the case has been rejected by the client's local lawyer referral service, or by two private attorneys; or, (2) neither the lawyer referral service nor two private attorneys will consider the case without payment of a consultation fee. Case acceptance without first attempting private attorney referral must be approved by the KLA Executive Director and conform to the provisions of 45 CFR § 1609.3.

Specific case acceptance guidelines follow for the more common types of cases handled by Kentucky Legal Aid, including

- Adoption
- Child Custody
- Child Support
- Child Visitation
- Divorce
- Domestic Violence
- Post-divorce Decree Enforcement/Modification
- Bankruptcy
- Collection Defense
- Public Benefits
- Powers of Attorney and Living Wills
- Wills
- Evictions
- Unemployment Insurance
- Tort Defense

For cases not falling within one of the specific areas listed above, the decision whether to accept for extended service should be made after considering the following general criteria:

- Assistance with the case should generally promote one or more of the basic priorities as set forth in the KLA Program Priorities Statement, specifically
 - I. Decreasing child poverty and increasing self-sufficiency of low-income, single parent families;
 - II. Improving the quality and stability of housing for low-income families;
 - III. Reducing long-term domestic violence;
 - IV. Improving health care of impoverished children and elderly individuals;
 - V. Improving the financial status for low-income families and elderly individuals and those who have been victimized by fraud or financial abuse;
 - VI. Improving the quality of life of impoverished and disabled individuals; or,
 - VII. Assisting populations with special vulnerabilities.

- In all cases, consideration shall be given to whether the case might be referred to a volunteer attorney for pro bono assistance. If pro bono referral is not an available option, then acceptance for assistance by a KLA advocate will depend on the general probability of success after evaluation of the merits of the case; availability of an advocate with appropriate expertise in the particular substantive law area; staff time and other program resources that will be required for the case, relative to the anticipated benefit to be obtained and the program's existing caseload commitments; and any other unusual facts or circumstances attendant to the particular case.

Extended services are generally limited to those who are under 110 percent of federal poverty guidelines, or after considering the factors in section 45 CFR 1611.5 are under 110 percent of federal poverty guidelines. These factors include:

1. Current income and seasonal variations—Intake personnel may consider only client's current income, or may consider a longer period to determine whether an applicant has the ability to afford legal representation.
2. Medical expenses - Intake personnel may deduct routine or average medical expenses or medical insurance premiums which are paid by the applicant.
3. Fixed debts - Intake staff may deduct fixed debts and obligations including unpaid federal, state and local taxes from prior years. Fixed debts may also include child support and maintenance obligations but does not include ordinary living expenses such as rent, mortgage payments, car payments, or credit card payments.
4. Employment expenses - Deductions may be made for expenses such as dependent care, transportation, clothing and equipment necessary for employment, job training, or educational activities in preparation for employment.
5. Age or disability - Intake personnel may deduct other non-medical expenses associated with age or disability.
6. Current taxes - Intake personnel may deduct current federal, state, local taxes, FICA, or other federal deductions which are non-discretionary.
7. Other factors - Intake personnel may consider other factors relating to financial ability to afford legal assistance such as lack of other financial support, special needs children, or domestic violence.



KENTUCKY
LEGAL
AID

rec 9

Scott K. Crocker
Executive Director

August 9, 2013

Scott K. Crocker

direct telephone: 270.780.8831
direct fax: 270.780.8831
direct email: Scrocker@KLAid.org

270.782.1924

NOTICE

Dear Legal Aid Supporter:

toll free:
1.800.782.1924

Kentucky Legal Aid is funded in part by the Legal Services Corporation. As a condition of receiving LSC funding, we are required to notify you that we are restricted from engaging in certain activities in our legal work – including work supported by other funding sources. Kentucky Legal Aid may not expend any funds for any activity prohibited by the Legal Services Corporation Act, 42 U.S.C. 2996 et seq. or by Public Law 104-134. Public Law 104-134 §504(d) requires that notice of these restrictions be given to all funders of programs funded by the Legal Services Corporation. For a copy of these laws or for any other information or clarification, please contact me.

fax:
270.782.1993

Thank you for your support of Kentucky Legal Aid. We look forward to continuing to work with you to meet the needs of those in our community.

Sincerely,

1700 Destiny Lane
Bowling Green
Kentucky
42104

Scott K. Crocker
Executive Director

email:
klaid@KLAid.org

on the web:
www.KLAid.org

A non-profit corporation serving low income persons in Allen, Ballard, Boone, Butler, Caldwell, Calloway, Carlisle, Christian, Crittenden, Daviess, Edmonson, Fulton, Graves, Green, Hancock, Hart, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, McCreckin, Meades, Marshall, Meigs, Muhlenberg, Ohio, Simpson, Taylor, Todd, Trigg, Union, Warren and Webster Counties



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This project is funded in part, under contracts and/or master agreements with the CHADD, BHDD, PEADD, BHADD, Kentucky Department for Aging and Independent Living, Kentucky Cabinet for Health and Family Services with funds from the U.S. Department of Health and Human Services.



Kentucky Legal Aid does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

KENTUCKY LEGAL AID
ACCOUNTING MANUAL

PRIVATE ATTORNEY INVOLVEMENT

POLICY:

KLA will adhere to 45 CFR Part 1614 pertaining to Private Attorney Involvement. KLA will devote an amount equal to at least twelve and one-half percent (12 ½%) of the LSC annualized basic field award to the involvement of private attorneys in the delivery of legal services (referred to as the "PAI requirement").

KLA is required to insure that a substantial amount of funds be available to encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients through both Pro bono and compensated mechanisms, and that such funds are expended in an economic and efficient manner. General PAI cost allocation procedure should accurately identify and account for direct staff, support, and administrative costs related to PAI activities.

Procedure:

The salaries of lawyers and paralegals charged to are PAI allocated on a percentage of total compensated time. Time worked will be based on actual time slips coded to PAI and will be documented by time sheets accounting for the time spent of PAI activities. Private attorneys who provide PAI services to KLA will sign contracts stating they have not been a staff attorney for KLA for over two years, and that over one half of their professional income is from a source other than from KLA. Their compensation for services on behalf of eligible clients will be charge to PAI.

Periodically, The Pro Bono Director shall conduct a time study to ensure that the time allocated towards PAI is accurate and based on reasonable data. The Pro Bono Director shall then annually prepare an estimate of time spent on all activities associated with duties set out in her job description based on the time study, and the percentage of total employment expenses related with PAI activities will be allocated toward her PAI expenses. Pro Bono Coordinators will document actual time spent on PAI activities in their time sheets, and PAI time as a percentage of total time will be used to allocate their PAI employment expense.

rec 10 -

KLA will allocate management and administrative time as well as non-personnel expenses to PAI based on the number of PAI cases closed during the preceding year compared with total cases closed during that year. Prior year's closing will be used since the program will not have an accurate count of cases until February as a result of CSR procedures. Management and administrative positions for PAI allocation purposes includes the Executive Director, Financial Administrator, Accounts Payable clerk, and Network administrator.

KENTUCKY LEGAL AID
ACCOUNTING MANUAL

BANK RECONCILIATIONS

POLICY:

The Financial Administrator will be responsible for reconciling all KLA bank accounts to the General Ledger on a monthly basis. The Financial Administrator does not receive cash or checks, open the incoming mail, prepare bank deposits, or sign checks. The Financial Administrator does post journal entries, but the Executive Director approves these for control purposes. The Executive Director will be responsible for reviewing and approving all bank reconciliations.

All KLA bank statements are delivered, unopened, to the Executive Director or his/her designee, who will look at the returned checks for unauthorized signatures, unusual endorsements and other such matters as may come to his/her attention.

PROCEDURE:

The Executive Director or his/her designee will give bank Statements to the Financial Administrator after initial review. Statements will be reconciled no later than twenty (20) working days after receipt.

The Financial Administrator is responsible for ensuring that the reconciled bank statements are in agreement with the General Ledger balances. Any differences must be fully explained on the completed reconciliation.

Checks, which are still outstanding for six months, will be researched. The A/P Clerk will be responsible for researching the reason the check is still uncashed and will determine whether the check should be re-issued.

The Financial Administrator will keep a running cash balance spreadsheet, so he/she knows when to move funds during the month. This helps the Financial Administrator manage cash flow.

Below are some things to consider when performing bank reconciliations:

1. Comparison of checks with check register as to number, date, payee, and amount
2. Examination of signatures (if the check is not adequately endorsed, please notify bank)
3. Examination of voided checks
4. Looking at serial numbers of checks
5. Comparison of date and amount of daily deposit as shown by cash receipt with the bank statement. Also comparison of details of deposit slips from bank with corresponding details in the cash receipt record.

The Financial Administrator and the Executive Director have access to the on-line banking account. The Executive Director periodically logs onto the account to review the variety of disbursement methods used to withdraw cash.

Jill Moore

From: Jill Moore

Sent: Wednesday, October 10, 2012 10:27 AM

To: Maria White

Subject: Outstanding checks

Check 19499 is for 35.13 to Brian Driver. Can we see if he has lost it or plans to cash it?

Thanks,
Jill

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*Jill Moore
Financial Administrator (CPA)
Kentucky Legal Aid
1700 Destiny Lane
Bowling Green, KY 42104*

*Phone: 270 780-8832
Fax: 270-467-0196*

8/9/2013

Jill Moore

From: Jill Moore
Sent: Friday, December 07, 2012 10:41 AM
To: Maria White
Subject: Brian Driver check

Did we hear anything about this? It has still not cleared.

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*Jill Moore
Financial Administrator(CPA)
Kentucky Legal Aid
1700 Destiny Lane
Bowling Green, KY 42104*

*Phone: 270 780-8832
Fax: 270-467-0196*

8/9/2013

Jill Moore

From: Jill Moore
Sent: Saturday, January 05, 2013 7:46 AM
To: Maria White
Subject: Chk 19499 Brian Driver

This check for 35.13 still has not cleared. I know you have made several calls on this. Please let me know an update.

CONFIDENTIALITY NOTICE: The contents of this e-mail message and any attachment(s) are confidential and are sent in trust and for the sole use of the intended recipient(s) and may contain confidential information and may be legally privileged. If you have received this transmission in error, any use, reproduction or dissemination of this transmission, in whole or in part, is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail and delete all copies of the original message and any attachment(s).

*Jill Moore
Financial Administrator (CPA)
Kentucky Legal Aid
1700 Destiny Lane
Bowling Green, KY 42104*

*Phone: 270-780-8832
Fax: 270-467-0196*

8/9/2013

Cumberland Trace Legal Services INC dba Kentucky Legal Aid
Check/Voucher Register
From 1/1/2012 Through 8/9/2013

<u>Vendor Name</u>	<u>Check Number</u>	<u>Check Amount</u>	<u>Document Date</u>
HON. BRIAN DRIVER	19499	35.13	5/24/2012
HON. BRIAN DRIVER	19499	<u>(35.13)</u>	2/28/2013
Report Total		<u>0.00</u>	

LAWYERS CARE PARTICIPATION AGREEMENT

As an applicant for Lawyers Care found to be eligible for a referral, I agree to the following conditions.

1. I understand that I do not have an attorney/client relationship with Lawyers Care or Kentucky Legal Aid as a result of my eligibility for the Program. I further understand that this Participation Agreement does not constitute a Retainer Agreement with Lawyers Care or KLA.
2. I affirm that the financial information I have provided to Lawyers Care in order to determine my eligibility for the Program is correct. I understand that if I have provided false or misleading information, or if my financial situation changes so that I am no longer eligible for pro bono representation, the attorney who accepts my case may discontinue services and withdraw as my attorney of record. I authorize Lawyers Care to verify information provided to the Program regarding my eligibility and to obtain information from the Department of Human Resources, Social Security Administration, any past or present employer, any bank or financial institution, and any other sources necessary to verify my eligibility for the Program.
3. I understand that Lawyers Care makes no assurances that it will be able to obtain an attorney willing to represent me on a volunteer basis. Volunteer lawyers are under no obligation to accept cases and may decide after speaking with me that they are unable or unwilling to provide representation. If my referral attorney is not able or willing to represent me, I may contact the Lawyers Care Coordinator for reassessment.
4. I will keep all appointments with my volunteer attorney. If an emergency arises making it impossible for me to keep an appointment, I will notify my attorney as soon as possible. I agree to attend all hearings that my volunteer attorney instructs me to attend. If my address, telephone number, employment or income changes, I will notify my volunteer attorney and Lawyers Care immediately. If Lawyers Care or my volunteer attorney instructs me to obtain papers or information concerning my case, I agree to provide that information in a timely manner. If I am unable to provide said information, I will discuss with the requesting party the problems I am encountering in providing that information. If I do not cooperate with Lawyers Care or my volunteer attorney, I understand that I may become ineligible for pro bono assistance.
5. If I am not satisfied with the manner in which my request for assistance was handled by Lawyers Care, I am entitled to a grievance procedure. I may contact the Lawyers Care Coordinator or Executive Director of KLA to discuss the problem.

Applicant

Lawyers Care

I am a citizen of the United States: _____ Date: _____

Signature of Applicant

PRIVATE ATTORNEY INVOLVEMENT

POLICY:

KLA will adhere to 45 CFR Part 1614 pertaining to Private Attorney Involvement. KLA will devote an amount equal to at least twelve and one-half percent (12 ½%) of the LSC annualized basic field award to the involvement of private attorneys in the delivery of legal services (referred to as the "PAI requirement").

KLA is required to insure that a substantial amount of funds be available to encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients through both Pro bono and compensated mechanisms, and that such funds are expended in an economic and efficient manner. General PAI cost allocation procedure should accurately identify and account for direct staff, support, and administrative costs related to PAI activities.

Procedure:

The salaries of lawyers and paralegals charged to are PAI allocated on a percentage of total compensated time. Time worked will be based on actual time slips coded to PAI and will be documented by time sheets accounting for the time spent of PAI activities. Private attorneys who provide PAI services to KLA will sign contracts stating they have not been a staff attorney for KLA for over two years, and that over one half of their professional income is from a source other than from KLA. Their compensation for services on behalf of eligible clients will be charge to PAI.

- ② Periodically, The Pro Bono Director shall conduct a time study to ensure that the time allocated towards PAI is accurate and based on reasonable data. The Pro Bono Director shall then annually prepare an estimate of time spent on all activities associated with duties set out in her job description based on the time study, and the percentage of total employment expenses related with PAI activities will be allocated toward her PAI expenses. Pro Bono Coordinators will document actual time spent on PAI activities in their time sheets, and PAI time as a percentage of total time will be used to allocate their PAI employment expense.
- ③ KLA will allocate management and administrative time as well as non-personnel expenses to PAI based on the number of PAI cases closed during the preceding year compared with total cases closed during that year. Prior year's closing will be used since the program will not have an accurate count of cases until February as a result of CSR procedures. Management and administrative positions for PAI allocation purposes includes the Executive Director, Financial Administrator, Accounts Payable clerk, and Network administrator.

KENTUCKY LEGAL AID
ACCOUNTING MANUAL

TRAVEL

POLICY:

Employees will be reimbursed for mileage and parking costs incurred while performing within the scope of their duties at the current rate per mile. (see Personnel Manual)
Parking costs will be reimbursed when the employee is charged for parking at their destination.

Parking receipts are required for such reimbursement as well as mileage records recorded on KLA travel forms and signed by the employee. When a receipt is not possible, a missing receipt form is to be prepared with a description of the expense.

Meals are paid at the program per diem rate when overnight travel is required.

Travel out of the local area will be reimbursed based on the actual cost of the airline ticket. A copy of the airline ticket must be submitted along with other travel reimbursement data to be reimbursed. (See Personnel Manual)

PROCEDURE:

Employees should complete a Travel Reimbursement Request at least monthly recording the date, purpose of the trip, miles driven and other incidental expenses incurred.

If the travel is to be charged to a particular funding source, the employee must indicate the purpose and the funding source to be charged and whether the expense can be attributed to Private Attorney Involvement.

The completed form must be given to the employees' immediate supervisor for approval and forwarding to Accounting for processing.

Board members are paid for mileage to board meetings unless they waive the reimbursement. Board members are reimbursed at the rate paid by the State of Kentucky as of the date of the meeting.

Supervisors shall conduct periodic review of travel expenditures compared to time records and case file activity. Case related travel expense records will require submission of a client name to facilitate supervisors' periodic comparison of travel expenses to time records and case notes. The Chairman of the Board is to review the Executive Director's paid expenses quarterly.

KENTUCKY LEGAL AID
ACCOUNTING MANUAL

Kentucky Legal Aid
Credit Card Procedures

KLA's credit card/cards are to only be used for program related expenses. The cards will be provided only to individuals authorized by the Executive Director.

The Executive Director has the authority to establish credit card limits and obtaining Board Approval as deemed necessary. Managing Attorneys may charge no more than \$500 on the card without the Executive Directors prior approval.

Executive Director Credit Card/Business Director Credit Card

- All receipts should be tendered within 30 days of purchases unless receipts are not available.
- Transactions will follow purchasing procedures, A-133 guidelines and or LSC guidelines for expenditures
- Accountant matches receipts to credit card bills and retains supporting documentation
- Expenses are coded to relative grants
- Credit card balances are paid off monthly – no interest or service charges should be incurred

ATM withdrawals are not allowed. All cards will be kept under lock and only personnel approved by the Executive Director will have access to the card.

The card is to be immediately returned to the Executive Director if an employee possessing a credit card is terminated or is transferred to a position incompatible with the use of the credit card. If an employee fails to do this, the card should be canceled. Any disallowed charges may be deducted from the employee's paycheck. The Chairman of the Board is to review the paid expenses quarterly.

Jill Moore

From: Jill Moore
Sent: Monday, February 25, 2013 4:43 PM
To: Scott K. Crocker
Subject: FW: TIG financial report
Attachments: TIG Financials.pdf

From: Scott K. Crocker
Sent: Thursday, September 22, 2011 1:27 PM
To: 'richardd@lsc.gov'
Cc: Jill Moore
Subject: TIG financial report

Dear Jane,

Back in 2004, KLA inadvertently charged the LSC TIG funding code \$305 in audit costs which should have been charged to LSC in a prior period.

Our Financial Administrator recently finalized the financial statements on Kentucky Legal Aid's most recent LSC TIG Grant. She ran the financials for the final grant which covered the last several years. In order to get her fund balance for TIG to equal zero and expenses to equal revenues for the current grant, she had to show a bottom line of \$305. Therefore, she started looking for the misallocation of the \$305 and discovered the error which occurred in 2004.

Consequently, in 2004, there was \$305 of audit cost that was incorrectly allocated to the LSC TIG funding code and shown on the 2004 audit as being charged to LSC. At that time, Kentucky Legal Aid did not have a TIG grant, so the funding code showed combined under LSC on the financials.

Therefore, when we ran the final numbers for the TIG grant that started in 2006, the \$305 was counted toward that grant. KLA's administrator reported this occurrence to the program's independent auditors and to the Executive Director. The auditors found it immaterial. I contacted Tillie Lacayo and she recommended I report his situation to you. I have attached a report that will help explain the \$305 discrepancy. To sum it up, \$305 of LSC TIG money was allocated to LSC rather than the LSC TIG grant. If you need more details, please contact our financial auditor, Jill Moore at JMoore@KLAid.org.

Scott K. Crocker
Executive Director
270-780-8831

8/9/2013

KENTUCKY LEGAL AID
ACCOUNTING MANUAL

BUDGETING

POLICY:

The Financial Administrator should prepare a budget in concert with the Executive Director that is reasonable for the following year and present to the Board. This budget shall be provided to the Board for review, modification if necessary, and approval.

PROCEDURE:

The Financial Administrator prepares spreadsheets per county based on the poverty population in comparison to the cases. This spreadsheet will give him/her information based on offices that he/she uses to allocate funding to each office. If the poverty population is not available then he/she will use the most reasonable method available. He/she will then prepare a budget for the following year. He/she will work with the Executive Director and any other appropriate staff to determine reasonable revenue and expense amounts to present to the Board. He/she presents the budget to the Board in comparison to the previous year's budget. Once the Board approves the budget, he/she then prepares a budget worksheet per office. The percentages from the spreadsheet are then used to allocate payroll after all direct expenses are subtracted. The allocation percentages are also entered in MIP to be used to allocate appropriate expenses. The Financial Administrator will also prepare a budget for two years out. The two year budget mainly shows expected changes in staff and benefits expenses. He/she e-mails this to the Executive Director to help KLA plan for the future. Management sets reasonable budgets so no incentive exists to miscode expenditures.

TIG Grants from LSC

Technology Initiative Grants (TIG) 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. If KLA receives a TIG grant from LSC, the person in charge of the TIG grant should coordinate with the Financial Administrator to ensure that significant budgetary changes made to the grant receive prior approval from LSC. Most TIG grants require KLA to report any significant modifications (including budget changes) within a certain time period after the change has been identified. Each TIG grant is to be reported separately in the audit report.

Section B: Assets Eligibility

The following asset ceiling guidelines are to be used in determining eligibility of clients and are developed to insure the availability of services to those in greatest economic and legal need, are consistent with KLA's established priorities, and give special consideration to the legal needs of the elderly, institutionalized, disabled individuals, and other special populations.

In unusual situations, the Executive Director or his designee may grant waivers of this asset ceiling. When the asset ceiling is waived, the decision shall be documented and included in the client's file.

A. "Assets" means cash or other resources of the applicant or members of the applicant's household that are readily convertible to cash, which are currently and actually available to the applicant.

B. The asset ceiling for an applicant is \$8,000; the asset ceiling increases by \$3,000 for each additional member of the applicant's household.

C. The following items are excluded in calculating an applicant's assets:

(1) Equity in an individual's principal residence and contiguous property.

This exclusion does not apply to contiguous property that is owned through a separate deed from the principal residence.

(2) Vehicles used for transportation.

(3) Other assets which are exempt from attachment under state or federal law including household goods and furnishings up to \$3,000.

(4) Work-related equipment essential to employment or self-employment.

(5) Inaccessible assets - Assets which are inaccessible to the applicant, legally or practically, do not meet the definition of "assets" under these guidelines. This exclusion may include retirement plans and other assets which are not readily convertible to cash, but does not include real estate which is addressed in the prior section.

CA 7

Choose Income Chart

- 1 15% - ESC
- 2 200% - Schedule B

Size	Weekly	Monthly	Yearly	Comments
1	\$276.21	\$1,196.92	\$14,363.00	
2	\$372.85	\$1,615.67	\$19,388.00	
3	\$469.48	\$2,034.42	\$24,413.00	
4	\$566.12	\$2,453.17	\$29,438.00	
5	\$662.75	\$2,871.92	\$34,463.00	
6	\$759.38	\$3,290.67	\$39,488.00	
7	\$856.02	\$3,709.42	\$44,513.00	
8	\$952.65	\$4,128.17	\$49,538.00	
9	\$1,049.29	\$4,546.92	\$54,563.00	Add \$5,025.00 per year for each additional person.

Choose Asset Chart

- 1 Non-Extended Service
- 2 Extended Service

Guideline	Asset Type	Assets
Non-Extended Service	Residence	Excluded. Must be principal residence. Includes contiguous property unless the property is owned through a separate deed from the principal residence.
Non-Extended Service	Vehicles	Excluded. Must be used for transportation.
Non-Extended Service	Household furnishings	Excluded. Must be for personal use.

INTAKE FORM

This form is intended for outreach intake. If the nature of the legal problem is such that a thorough conflict check must first be performed, the intake screen should generally be handled through the standard centralized intake process.

Date: _____ Advocate: _____ Office: _____

Problem Code: _____ Client Name: _____ Soc. Sec. No.: _____

US Citizen: Yes No If no, list alien status: _____

Date of Birth: ____-____-____ Age: _____ Gender: Male Female

Race: Asian Black Hispanic Native American White Other

Marital Status: Married Single Separated Divorced Widowed

Name of non-adverse spouse, if any: _____

Mailing Address: _____

City: _____ County: _____ State: _____ Zip: _____

Phone Numbers: _____

Adverse Party Name: _____

Residence Address: _____

City: _____ County: _____ State: _____ Zip: _____

Living Arrangements: Rent Own Staying with family or friends Other _____

Number of people currently living in client's household: Adults _____ Children _____

FINANCIAL INFORMATION

Case Number _____

Client's gross income \$ _____

Weekly Monthly Yearly

Spouses gross income \$ _____

Weekly Monthly Yearly

Employment \$ _____

Social Security \$ _____

SSDI \$ _____

SSI \$ _____

Pension \$ _____

VA Benefits \$ _____

Interest/Investment Income \$ _____

Other \$ _____

Other \$ _____

Other \$ _____

Other \$ _____

Homebound? Institutionalized?

Rural? Frail or Disabled?

Limited English? Severely Disabled?

Low Income? Dementia?

Receiving Medicare Veteran In Household

Domestic Violence Issue(s) In Case

ASSETS

Cash \$ _____

Bank Accounts \$ _____

Investments \$ _____

Home Equity \$ _____

Other Real Property \$ _____

Vehicle Equity \$ _____

Other \$ _____

Other \$ _____

Asked About Prospective Income

Conflict of Interest Procedures

No consultation with Kentucky Legal Aid staff shall occur regarding any legal matter until Kentucky Legal Aid staff has searched program records to determine whether a conflict of interest exists. A conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. If a program staff member is unable to access program records to determine whether a conflict of interest exists, then the staff member will contact other program staff who do have access to the program records and can determine whether a conflict of interest exists before consultation regarding the legal matter occurs.