



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Oklahoma Indian Legal Services, Inc.
Case Service Report/Case Management System Review
January 8-10, 2013

Recipient No. 737018

I. EXECUTIVE SUMMARY

Finding 1: OILS' 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, specific programming deficiencies were noted that must be corrected.

Finding 2: OILS' intake procedures and case management system generally support the program's compliance related requirements; however, several procedural and documentational improvements are warranted. OILS' financial eligibility policy at the time of the on-site visit was not consistent with the requirements of 45 CFR Part 1611; however, OILS subsequently provided OCE with a new and compliant financial eligibility policy.

Finding 3: Review of the recipient's sampled cases evidenced substantial compliance with the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines ("FPG"); however, the reviewed files indicated non-compliance with the reporting requirements of the CSR Handbook (2008 Ed., as amended 2011), Chapter IV, as OILS has included non-LSC eligible cases in the CSR.

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

Finding 5: Review of the recipient's policies and sampled cases evidenced compliance with the restrictions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens); however, there were a few files that did not comply with the documentation requirements of the Regulation.

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

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

Finding 8: Review of the recipient's policies, sampled cases, and related documents, evidenced substantial compliance with the requirements of 45 CFR § 1620.3(a) and § 1620.6 (Priorities in use of resources).

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

Finding 10: Review of the recipient's sampled cases evidenced that its application of the CSR case closure categories was inconsistent with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011), as two (2) patterns of error were identified; however, OILS subsequently and sufficiently remedied one (1) of the patterns of error.

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

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

Finding 13: Review of the recipient's policies and interviews with management and staff evidenced no activities prohibited by 45 CFR Part 1604 (Outside practice of law).

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

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

Finding 16: Review of the recipient's notification letters and interviews with management and staff evidenced that they were inconsistent with the requirements of 45 CFR § 1610.5(a).

Finding 17: Review of the recipient's policies, fiscal records, and interviews with fiscal staff evidenced compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 18: Review of the recipient's timekeeping and other fiscal records evidenced general compliance with 45 CFR Part 1635 (Timekeeping requirement); however, the review revealed instances where time records had not been kept contemporaneously in violation of 45 CFR § 1635.3(b)(1).

Finding 19: Review of the recipient's sampled cases, fiscal and other records, and interviews with management and staff evidenced compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

Finding 20: Review of the recipient's policies, sampled cases, 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 21: Review of the recipient's sampled cases, as well as interviews with management, 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 22: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 23: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 24: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 25: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 27: Review of the recipient's policies and sampled cases, as well as interviews with management, evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 28: Review of the recipient's sampled cases, as well as interviews with management, evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Finding 29: Review of the recipient's LSC fund balances for each year during the review period evidenced compliance with 45 CFR § 1628.3 (Recipient fund balances), as the balances did not exceed 10% of its annual LSC support.

Finding 30: Review of the recipient's fidelity bonding or insurance on OILS employees for compliance with 45 CFR Part 1629 (Bonding of recipients) evidenced that coverage was inadequate at the time of the review; however, OILS immediately increased its fidelity insurance during the review evidencing compliance with Part 1629.

Finding 31: A limited review of the recipient's accounting records revealed that it is in compliance with the requirements of 45 CFR Part 1630 (Cost standards and procedures).

Finding 32: A limited review of the recipient's internal control policies and procedures evidenced weaknesses that are inconsistent with 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, the small size of the recipient's staff may preclude it from achieving the most stringent internal controls.

II. BACKGROUND OF REVIEW

On January 8 through 10, 2013, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") review at Oklahoma Indian Legal Services, Inc. ("OILS"). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.), and the Property Acquisition and Management Manual. The visit was conducted by a team of two (2) attorneys and two (2) fiscal compliance specialists. All team members were OCE staff.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that OILS has correctly implemented the 2008 CSR Handbook, as amended 2011. Specifically, the review team assessed OILS for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.3(a) and 1620.6 (Priorities in use of resources); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); former 45 CFR Part 1642 (Attorneys' fees)¹; 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

OILS is a Native American program that serves low-income Native American people in Oklahoma in status-related civil matters, through direct representation and education. OILS' main office is in Oklahoma City, Oklahoma, and it maintains a satellite office in Ada, Oklahoma. OILS' client population are citizens of 39 different tribes with a wide variety of laws which apply. Oklahoma does not have traditional reservation boundaries because the lands were allotted to individual Native Americans when Oklahoma became a state. As OILS' client population is distributed over a large geographical area, a system of "circuit riding" is used in order to provide services. OILS provides a full range of legal services dealing with issues involving the application of federal or state Indian law, as well as the application of specific tribal law. OILS' Indian law practice areas include: Indian land titles, probates, Guardian ad Litem in tribal courts, laws pertaining to the American Indian Probate Reform Act, wills and estate planning, laws pertaining to the Five Civilized Tribes and General Allotment Act Tribes,

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

jurisdiction, laws pertaining to the Indian Child Welfare Act, Indian housing, tribal court practice and appeals, and the treatment of Native American assets for taxation and social security purposes.

OILS does not have an established PAI program, as it does not receive an LSC Basic Field Grant and, therefore, the 45 CFR Part 1614 requirement that a Basic Field Grant recipient devote at least 12.5% of their Basic Field Grant award toward PAI involvement does not apply. *See* 45 CFR § 1614.1(a). However, OILS' June 1, 2012 Renewal Application submitted to LSC reported 45 CFR § 1614.1(b) efforts to engage the private bar through its website, Oklahoma Indian Bar Association meetings, and Tribal Bar Association meetings, for participation as pro bono Guardian ad Litem ("GAL") attorneys for children in tribal court custody. OILS further indicated on their renewal application that, due to the specialized area of law in which its attorneys practice and the time commitment necessary to represent these clients adequately, pro bono participation by private attorneys is not feasible in many cases. OILS indicated that it did not close any cases as PAI during the review period.

The OILS Native American Grant for 2010 was \$943,382, for 2011 it was \$905,668, for 2012 it was \$771,162, and OILS anticipates receiving \$775,882 in 2013. OILS has no subgrants approved by LSC within the review period. In its 2010 submission to LSC OILS reported 1,418 closed cases, in 2011 it reported 1,137 closed cases, and in 2012 it reported 987 closed cases. OILS also reported for 2010, 2011, and 2012, that 47.4%, 52.9%, and 54.4%, respectively, of its cases closed were family law cases. Additionally, OILS reported that for 2010, 2011, and 2012, 90.3%, 91.1%, and 89.1%, respectively, of its closed cases were Limited Service cases. OILS' 2010 self-inspection certification revealed a .7% error rate in CSR reporting, its 2011 self-inspection certification revealed a 1.8% error rate, and its 2012 self-inspection certification revealed a 12% error rate. OILS' 2010 self-inspection indicated one (1) error related to the failure to record household income, its 2011 self-inspection indicated one (1) set of duplicate cases, and its 2012 self-inspection indicated nine (9) errors related to files with reported income over 125% of the FPG, but under 200% of the FPG, lacking documentation of authorized exceptions pursuant to 45 CFR § 1611.5.

By letter dated November 12, 2012, OCE requested that OILS provide a list of all cases reported to LSC in its 2010 CSR data submission (closed 2010 cases), a list of all cases reported in its 2011 CSR data submission (closed 2011 cases), a list of all cases closed between January 1, 2012 and November 15, 2012 (closed 2012 cases), and a list of all cases which remained open as of November 15, 2012 (open cases). OILS was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004).

The OCE team interviewed members of OILS' upper and middle management, staff attorneys, and support staff. OILS' case intake, case acceptance, case management, and case closure practices and policies in the Oklahoma City office were assessed. A separate review was not conducted in the Ada office, as OILS' management stated that all intake and case management occurs in the main office. In addition to interviews, sample case files were reviewed. The sample case review period was from January 1, 2010 through November 15, 2012. In accordance with the approved work plan, a total of 167 case files were reviewed. The sample

was developed proportionately among 2010, 2011, and 2012 closed and open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with certain CSR instructions, for example: timely closing, proper application of the CSR case closure categories, and duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and OILS agreement of January 3, 2013, OILS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.² OILS' management and staff cooperated fully in the course of the review process.

As discussed in greater detail below, OILS was made aware of identified compliance issues during the on-site visit. This was accomplished by informing intermediaries, as well as the Executive Director, of any compliance issues uncovered during case review. OCE conducted an exit conference on January 10, 2013, during which OILS was provided with OCE's preliminary findings and was made aware of areas in which compliance issues were found. OILS was advised that it would receive a Draft Report which would include all of OCE's findings and that the program would have 30 days to submit comments.

Subsequent to the CSR/CMS review, and prior to the issuance of the Draft Report, OCE and OILS maintained open communications which facilitated the resolution of additional questions and certain compliance concerns. As noted within this Final Report, several compliance concerns were rectified before the issuance of the Draft Report, as OILS readily corrected and/or clarified potential issues, as necessary. For example, on March 7, 2013, OILS provided OCE with the agenda, notes, and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed and specific intake and case closure issues identified during the CSR/CMS review were discussed. OILS' willingness to engage in this process with OCE demonstrated an ongoing effort to engage in compliance related activities.

By letter dated April 23, 2013, OCE issued the Draft Report detailing its findings, recommendations, and Required Corrective Actions regarding the January 8 through 10, 2013, CSR/CMS visit. OILS was asked to review the Draft Report and provide written comments within 30 days. By emails dated May 20, 2013, and June 19, 2013, OILS requested two (2) extensions of the time it had to provide written comments to the Draft Report. Considering the basis of OILS' requests, the extensions were granted. By email dated July 20, 2013, OILS responded to some of the Required Corrective Actions and recommendations issued by OCE in the Draft Report; however, several Required Corrective Actions remain open as OILS did not provide comments or documents necessary for OCE to deem the Required Corrective Actions sufficiently acted upon or implemented.

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

By email dated August 2, 2013, OCE highlighted for OILS the Required Corrective Actions which it had failed to respond to and detailed the process by which OCE would follow-up on Required Corrective Actions deemed open upon the issuance of this Final Report. By email dated August 9, 2013, OILS provided one (1) additional document in response to a Required Corrective Action not previously responded to in its July 20, 2013, submission. In the August 9, 2013, email, OILS also indicated that it would provide additional items responsive to Required Corrective Actions which remain open as soon as possible.

Comments and/or materials received from OILS have been incorporated into this Final Report, including language indicating where OILS has failed to respond, and have been attached as an appendix hereto where appropriate. Based on the actions taken and documents provided by OILS in response to the Draft Report, OCE finds that Required Corrective Actions 2, 3, 7, and 9 have been fully implemented and that no further action is needed, but that Required Corrective Actions 1, 4, 5, 6, 8, 10, 11, 12, 13, and 14 remain open and must be responded to. As is indicated in the cover letter to this Final Report, as well as in the body of this Final Report, OILS is required to provide comments and/or documents sufficient to demonstrate that each open Required Corrective Action has been acted upon or implemented, as appropriate.

In furtherance of these objectives, OILS is required to provide comments and/or documents demonstrating its compliance with open Required Corrective Actions according to the following schedule:

1. Required Corrective Actions 4, 5, 6, and 8 must be acted upon or implemented within 30 days of the issuance of this Final Report;
2. Required Corrective Actions 11, 12, 13, and 14 must be acted upon or implemented within 60 days of the issuance of this Final Report; and
3. Required Corrective Actions 1 and 10 must be acted upon or implemented within 90 days of the issuance of this Final Report.

III. FINDINGS

Finding 1: OILS' 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, specific programming deficiencies were noted that must be corrected.

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.

OILS uses Kemps Clients Prime Case Management System as its ACMS. Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, OILS' ACMS is generally sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

A comparison of the information yielded by the ACMS to information contained in the case files evidenced a general consistency in the transfer of data to ensure that information necessary for the effective management of cases is accurately and timely recorded; however some mistakes were noted that appeared to be the result of human error. One (1) file listed opening and closing dates in 2011, but the ACMS indicated that the file had been opened and closed on February 12, 2012. *See* Closed 2012 Case No. 12E-1023337. Three (3) files were found to indicate incorrect Problem Codes, which are required by Chapter IX of the CSR Handbook (2008 Ed., as amended 2011). *See* Closed 2012 Case No. 12E-1023347 (the case was indicated as Problem Code 30 – Adoption, but the legal issue related to custody and therefore the Problem Code should have been 31 – Custody/Visitation); Closed 2010 Case No. 10E-1020167 (the case was indicated as Problem Code 99 – Other Miscellaneous, but the legal issue related to the expungement of a criminal record and therefore the Problem Code should have been 89 – Other Individual Rights, as discussed in CSR Frequently Asked Questions (July 2011), Chapter IX-Legal Problem Code Categories and Codes, Question 13); and Closed 2010 Case No. 10E-1020582 (the case was indicated as 99 – Other Individual Rights, but the legal issue related to a repossessed mobile home and therefore the Problem Code should have been 65 – Mobile Homes).

As part of the intake process review, discussed in more detail in Finding 2, a blank, or "dummy," ACMS intake screen was opened and the intake paralegal walked through the steps of a routine intake. During this review, it was observed that the "Eligibility" screen displays "\$0.00" in the "Total Income," "Total Assets," and "Total Expenses" fields. The fields reserved for intake staff to enter individual amounts pertaining to income and assets were blank, however it is necessary that the ACMS be modified to remove the impermissible default "\$0.00" found in the "Total Income," "Total Assets," and "Total Expenses" fields in order to prevent inadequate data collection and to bring OILS' ACMS into compliance with Program Letter 02-6, "Limitation of Defaults in Case Management Software" (June 6, 2002) and CSR Handbook (2008 Ed., as amended 2011), § 3.6. Program Letter 02-6 includes "income" and "assets" fields among those ACMS fields that should "never have a default value." *See* Program Letter 02-6, ¶ 7.

As part of the intake process review, a redacted intake application printed from the ACMS was obtained. This printout evidenced several outdated choices for “Reason Closed Codes” to be used when closing a case. *See* CSR Handbook (2008 Ed., as amended 2011), Chapter VIII (Case Definitions and Closure Categories). The “Reason Closed Codes” listed at the bottom right of the ACMS printout contained case closure categories from the 2001 edition of the CSR Handbook, that were deleted from the 2008 edition. *See* CSR Handbook (2008 Ed., as amended 2011). The ACMS in use by OILS, therefore, appears to be outdated. This raised a concern regarding the accuracy of the automatic Federal Poverty Guideline (“FPG”) income limit calculations that are known to be a function of the Kemps Clients Prime Case Management System ACMS, as FPG figures can change annually.

OCE’s concerns related to the ACMS application printout and the possibility of inaccurate FPG calculations were communicated to OILS’ Executive Director subsequent to the visit, and on February 21, 2013, a response was received. OILS stated that the outdated case closure categories are not in use by staff and they are not visible on the computer screen. The incorrect categories *do* continue to appear when an ACMS application is printed; however, the drop-down menus in use by staff when closing a case contain the current CSR case closure categories. The outdated categories appear to be built-in to the system and attempts by staff to correct them have been futile due, in part, to the fact that they are not visible on the computer screen. Kemps support has been contacted and OILS fully intends to remedy the issue. OILS’ Office Manager is charged with updating all of the content in the ACMS, as necessary, and did update OILS’ ACMS in 2008 when LSC issued its updated CSR Handbook. Likewise, updated FPG amounts are entered into the ACMS by OILS’ Office Manager upon their publication in the Federal Register. The Executive Director indicated that she receives emails from the Federal Register and from LSC upon the publication of new FPG amounts.

The Draft Report indicated that, considering the aggregate of the above noted exceptions, it was essential that OILS correct the programming deficiencies contained in its ACMS as soon as possible to ensure the accuracy of its CSRs. Specifically, the Draft Report required that OILS take corrective action to remove the impermissible defaults in its ACMS and recommended that it continue to work towards removing the outdated case closure categories from its ACMS intake printout.

In response to the Draft Report and this finding, OILS indicated that it has been unable to modify the ACMS with respect to the outdated case closure categories appearing on its ACMS application printout (Recommendation 1). OILS did not offer individualized comments with respect to the impermissible defaults found in its ACMS and, as such, Required Corrective Action 1 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 1 within 90 days of the issuance of this Final Report.

Finding 2: OILS' intake procedures and case management system generally support the program's compliance related requirements; however, several procedural and documentational improvements are warranted. OILS' financial eligibility policy at the time of the on-site visit was not consistent with the requirements of 45 CFR Part 1611; however, OILS subsequently provided OCE with a new and compliant financial eligibility policy.

The intake and case management, as well as oversight procedures, in OILS' offices were assessed by interviewing the Intake Paralegal, Administrative Paralegal, Director of Litigation, and the Executive Director, and by reviewing the ACMS and paper forms and letters utilized during the intake process. Further, the results of the intake system were tested during the sample case review.

OILS Intake, Case Management, and Oversight

OILS maintains a centralized intake system in its Oklahoma City office. Considering that its client population encompasses the 39 tribes existing in the state of Oklahoma, intake interviews are typically conducted by the office's Intake Paralegal over the telephone. However, in-person intake interviews are conducted by the Intake Paralegal for applicants appearing in person at the Oklahoma City office. Additionally, intake interviews may be conducted in the field by attorneys at clinics, as well as when providing Court Facilitator document preparation services in various tribal courts.

The Intake Paralegal asks appropriate eligibility questions and simultaneously enters the information obtained into the ACMS. The Intake Paralegal simply conducts data entry during intake interviews and is not authorized to make any eligibility determinations based on the information gathered.

The Intake Paralegal begins each intake interview by inquiring into the nature of the applicant's legal issue. The Intake Paralegal then enquires into an applicant's citizenship and records the responses in the ACMS. If the intake interview is conducted in person, a written citizenship attestation is obtained at that time. The Intake Paralegal stated that she has never had an applicant state that they are not a U.S. Citizen, but, if it did occur, she would seek guidance from the Director of Litigation or the Executive Director. Next, the Intake Paralegal asks for the applicant's full name and the name of the opposing party in order to conduct a six (6) way conflict check. This check also serves as a duplicate case check. If the applicant appears to have no conflicts, the Intake Paralegal will then conduct a comprehensive eligibility screening.

ACMS drop-down menus are used as a guide during the screening of income, assets, and expenses. All information obtained is recorded into the ACMS.

Case Acceptance, Closure, and Review

Once an intake interview is complete, the Intake Paralegal informs the applicant that their application must be submitted for review by the Director of Litigation who will make a determination regarding eligibility and determine whether limited services should be provided.

Once the Director of Litigation determines that an applicant is eligible for services, the application documents may be provided to an assigned staff attorney, or the Administrative Paralegal is asked to draft an advice-only letter which is signed by the Director of Litigation. If a staff attorney has been assigned, they will contact the applicant within five (5) business days and obtain more detailed case information, if necessary, and are authorized to provide limited services over the telephone. The staff attorney will then discuss the applicant's case with the Executive Director who determines whether the case should be accepted for extended services. If the case is accepted for extended services, the Administrative Paralegal creates a file, sends the applicant a Client Service Agreement, a Citizenship Attestation, and a Verification of Income form for completion, and opens the case in the ACMS. In either scenario, an applicant should receive a letter signed by the Director of Litigation or an assigned staff attorney within seven (7) to 10 days summarizing any limited services provided and informing them if their case has been accepted or rejected for extended services.

When an applicant is found ineligible or a decision has been made to not provide extended services, the Administrative Paralegal will send a rejection letter detailing the basis of the rejection. If a decision has been made to provide advice-only legal assistance, the Administrative Paralegal will modify an existing advice-only letter for review and signature by the Director of Litigation. These advice-only letters are discussed in more detail below, as it is necessary that they be modified in order to become compliant with LSC regulations.

Staff attorneys are responsible for maintaining their files by ensuring that all necessary paperwork is obtained. At the conclusion of a case, staff attorneys must also return any necessary paperwork to clients along with a closing letter before giving the file to the Administrative Paralegal. The Administrative Paralegal then assigns a case closure category to the case, puts a closing memorandum checklist in the file, and forwards the file to the Executive Director who reviews it for sufficiency. Once approved by the Executive Director, the file is returned to the Administrative Paralegal for ACMS closure.

The Director of Litigation has responsibility for conducting case reviews with staff attorneys. Official case reviews are conducted twice per year to provide in person review of open cases with staff attorneys. Also, due to the small size of the office, the Director of Litigation has the ability to be continuously apprised of the status of open cases. He stated that he periodically conducts ACMS open case reviews where he reads case notes and checks for dormancy.

Clinics

OILS conducts Wills Clinics and formerly conducted Tax Clinics (through 2012) within the tribal community at various venues such as tribal courthouses and tribal community centers. Clinics are staffed by staff attorneys, with the assistance of support staff, and intake is conducted on-site utilizing paper intake forms. OILS also provides Court Facilitator assistance in tribal courts on scheduled dates to assist individuals appearing pro se with completing necessary court documents. Tribal courts conduct the scheduling for individuals seeking assistance from an OILS Court Facilitator and intake is conducted on-site utilizing paper intake forms. When necessary, conflicts are checked by calling the Oklahoma City office.

Intake Compliance Issues

OILS Financial Eligibility Policy

During the on-site visit, OILS did not have a current, compliant financial eligibility policy as required by 45 CFR Part 1611. The existing OILS policy was outdated and did not reflect the program's current practices. During the on-site visit, a meeting was conducted with the Executive Director where 45 CFR Part 1611 policy requirements were discussed and non-compliant sections of OILS' existing financial eligibility policy were identified. A compliant sample financial eligibility policy was also provided to the Executive Director. The Executive Director indicated subsequent to the meeting that she had begun the process of rewriting the policy and expressed confidence that a new policy could be completed and approved by OILS' Board of Directors ("Board") before the issuance of the OCE Draft Report. On February 5, 2013, OILS provided OCE with a new financial eligibility policy which had been approved by the Executive Committee of its Board on January 24, 2013. The policy was scheduled to be ratified by OILS' full Board at the next scheduled Board meeting. On March 7, 2013, OILS provided OCE with the agenda, notes, and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed with staff. OCE has reviewed OILS' new financial eligibility policy and found it to be compliant with 45 CFR Part 1611, and, therefore, no further corrective action is necessary.

Food Stamps Included as Income

Intake observations revealed that the ACMS drop-down menu for income sources includes the value of food stamps. Paper intake forms used by OILS in the field also include a section for applicants to document the amount of food stamps received. LSC regulations, at 45 CFR § 1611.2(i), indicate that the value of food stamps is not an income source. Laws pertaining to the Food Stamp Program, at 7 USC § 2017(b), explicitly state that that value of these benefits:

...[S]hall not be considered income or resources for any purpose under any Federal, State, or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs, and no participating State or political subdivision thereof shall decrease any assistance otherwise provided an individual or individuals because of the receipt of benefits under this chapter.

As stated above, the Director of Litigation reviews and approves all applications and expressed in interviews that he does not include the recorded value of food stamps when determining an applicant's financial eligibility. On February 5, 2013, OILS provided OCE with a redrafted financial eligibility policy which defines "income" and specifically states that the value of food stamps is not a source of income, consistent with 45 CFR § 1611.2(i). On March 7, 2013, OILS provided OCE with the agenda and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed with staff. Considering the new, compliant policy regarding the screening for and recording of the value of food stamps and its February 6, 2013, staff meeting, OILS has substantially addressed OCE's concerns regarding this requirement. However, to avoid future confusion, the Draft Report recommended that OILS remove food stamps as a selection on its ACMS "income" drop-down menu and from its paper

intake forms and instruct the Intake Paralegal to record food stamp information, if necessary, in another location. Additionally, the Draft Report required that OILS ensure that its Intake Paralegal and staff conducting intake in the field are aware of this screening requirement and are applying it appropriately.

Documentation of Income/Assets of Domestic Violence Perpetrator

Intake interviews evidenced that OILS' Intake Paralegal has been, incorrectly, documenting the income and assets of the alleged perpetrator of domestic violence when conducting intake for a domestic violence victim if the alleged perpetrator resides with the applicant. The income and assets of an alleged perpetrator of domestic violence should not be considered when assessing the eligibility of a domestic violence victim. *See* 45 CFR § 1611.3(e). Although all of OILS intake applications are reviewed and approved by the Director of Litigation who demonstrated an understanding of the aforementioned exemption, OILS was advised that it would be prudent to instruct the Intake Paralegal to collect this information, if necessary, in an ACMS location that could not be misunderstood as being a source of funds for an applicant. On February 5, 2013, OILS provided OCE with a redrafted financial eligibility policy which properly states the requirements of 45 CFR § 1611.3(e) and instructs staff to exclude the income and assets of an alleged perpetrator of domestic violence when determining the financial eligibility of a domestic violence victim. On March 7, 2013, OILS provided OCE with the agenda and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed with staff. Considering the new, compliant policy regarding the exclusion of the income and assets of an alleged perpetrator of domestic violence when conducting intake for a domestic violence victim, and its February 6, 2013 staff meeting, OILS has substantially addressed OCE's concerns regarding this requirement. However, the Draft Report required that OILS ensure that its Intake Paralegal and staff conducting intake in the field are aware of this screening requirement and are applying it appropriately.

Screening for Income Prospects

Intake interviews conducted during the on-site visit revealed that OILS does not consistently screen for income prospects, as required by 45 CFR § 1611.7(a)(1). Staff only inquired into income prospects if the applicant first disclosed these prospects. The prospects were then documented in the "Notes" section of the ACMS. Subsequent to the on-site visit, on February 5, 2013, OILS provided OCE with a redrafted financial eligibility policy which contains a section describing the requirements of 45 CFR § 1611.7(a)(1) and instructs staff on collecting the required information. On March 7, 2013, OILS provided OCE with the agenda and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed with staff. Considering the new, compliant policy regarding the screening of income prospects and its February 6, 2013 staff meeting, OILS has substantially addressed OCE's concerns regarding this requirement. However, the Draft Report recommended that OILS establish a procedure that facilitates the screening of income prospects and ensures that applicant responses are recorded in the ACMS or case files, as well as on paper intake forms, such as adding this question to an ACMS intake screen and on its paper intake forms. The Draft Report further required that OILS take corrective action to ensure that its Intake Paralegal and staff

conducting intake in the field are aware of this screening requirement and are applying it appropriately.

Group Application Procedures

Intake interviews indicated that the occurrence of a group application is extremely rare; however, a review of OILS' financial eligibility policy and discussions with the Director of Litigation revealed a non-compliant "Tribal or Group Eligibility Certification" ("group eligibility form") that would be used if a group applied for legal representation. The group eligibility form utilized by OILS allowed a tribal officer to attest that an applicant tribal group was primarily composed of individuals who meet OILS financial eligibility guidelines and that the tribal group has no funds or means of securing private counsel. While this language is generally compliant with the requirements of 45 CFR §§ 1611.6(a) and 1611.6(a)(1), the program, not a tribal officer, must make this determination and collect information demonstrating these requirements. See 45 CFR §§ 1611.6(b)(1) and 1611.6(b)(2). During the on-site review, issues concerning this form were communicated to OILS management who acknowledged the error, but stated that the form had not recently been in use. Additionally, OILS' Executive Director indicated that she was drafting a new financial eligibility policy which would correct deficiencies found in the current policy. On February 5, 2013, OILS provided OCE with a redrafted financial eligibility policy which properly states the requirements of 45 CFR § 1611.6, instructs staff on collecting the required information, and discontinues the use of its non-compliant group eligibility form. On March 7, 2013, OILS provided OCE with the agenda and attendance list for a staff meeting it held on February 6, 2013, where the new financial eligibility policy was reviewed with staff. Considering the new, compliant policy regarding the representation of groups and its February 6, 2013, staff meeting, OILS has substantially addressed OCE's concerns regarding its group application procedures. However, the Draft Report suggested that OILS ensure that its Intake Paralegal and staff conducting intake in the field are aware of this screening requirement and are applying it appropriately.

Citizenship Attestation on Paper Intake Forms

When OILS conducts intake in the field, either as part of a clinic, when providing services in tribal court as a Court Facilitator, or, as necessary, at community education or outreach events, staff gathers essential eligibility and other compliance-related information using various manual Court Facilitation and Field Service applications ("paper intake forms"). A review of these paper intake forms evidenced that they were uniform in the information requested, but contained citizenship attestations that did not comply with the documentation requirements of the CSR Handbook (2008 Ed., as amended 2011), § 5.5. For example, some of OILS' intake forms provided one (1) applicant signature line attesting to the following four (4) items:

I understand that the court facilitator is not accepting my case for extended representation. I hereby certify that the above information is true and correct to the best of my knowledge. I further certify that I am a citizen of the United States of America, and that I have accurately stated my financial situation.

The CSR Handbook (2008 Ed., as amended 2011), § 5.5, indicates that a citizenship attestation should be stated in the following manner: “I am a citizen of the United States: Signature of applicant Date: _____.” Section 5.5 of the CSR Handbook specifically requires that there be a separate signature line tied only to the citizenship attestation. Upon identification and communication of this form defect to OILS, the program immediately reformatted the paper intake forms to comply with § 5.5 of the CSR Handbook and provided samples to the review team.

Via email on February 21, 2013, OILS’ Executive Director indicated that OILS has replaced its various paper intake forms with one (1) reformatted and comprehensive paper intake form and that all other paper intake forms have been taken out of circulation. A copy of the new form was also provided and it appeared to be sufficient to collect essential eligibility and compliance related information; however, additional changes were recommended in the Draft Report. Specifically, the Draft Report indicated that the new paper intake form continued to lack an inquiry into the income prospects of applicants, information which is required to be obtained and recorded by 45 CFR § 1611.7(a)(1), and it continued to collect the value of food stamps under a column indicated for “income sources,” which could lead to unnecessary confusion as LSC Regulations at 45 CFR § 1611.2(i) indicate that the value of food is not an income source. Furthermore, considering that OILS’ paper intake form is a simplified version of its comprehensive ACMS based eligibility screening, the Draft Report required that OILS take corrective action to ensure that necessary staff, including staff utilizing this form in the field, has a thorough understanding of OILS and LSC eligibility requirements.

Routine Letters Utilized at Intake

OCE reviewed a sampling of OILS’ acceptance, rejection, and advice letters. The “advice” letters raised one (1) compliance concern and another potential compliance issue. No compliance concerns were identified in the other letters reviewed.

The reviewed “advice” letters informed applicants that OILS could not provide them with assistance before giving them, what OILS had identified as, legal advice. The letters opened by stating “I am sorry to inform you that after a review of your application for legal services, Oklahoma Indian Legal Services ... cannot assist you...,” followed by the reason why the application could not be accepted. Next, depending on the legal issue that was presented by the applicant, the letters proceeded to provide guidance regarding at least one (1) of the following: how to get a court appointed attorney under the Indian Child Welfare Act (“ICWA”) and/or when the ICWA applies; information regarding specific types of divorce and the elements and considerations regarding the division of property and child custody; information regarding the type of evidence needed and the burden for a custody or visitation modification or enforcement; information regarding jurisdiction and property distribution issues related to probates for members of the Five Tribes; and other basic legal advice and information. The compliance concerns raised by these letters are detailed below.

Legal Advice v. Legal Information

The guidance provided in the reviewed “advice” letters did not always appear to be tailored to the applicants’ individual legal needs and, therefore, the letters could have been easily characterized as “legal information,” as defined in § 2.3 of the CSR Handbook (2008 Ed., as amended 2011), and not “legal assistance,” as defined in § 2.2. *See also* ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.6 on the Provision of Legal Information and Standard 3.4-1 on Representation Limited to Legal Advice. The concern, ultimately, is whether case files containing these letters, and letters like them, would meet the definition of a “case,” as defined in § 2.1 of the CSR Handbook (2008 Ed., as amended 2011). *See also* 45 CFR §§ 1635.2(a) and 1620.2(a). Therefore, letters where only legal information is provided should not be reported as cases in the CSR.

The discussion of what constitutes the provision of “legal information” and what is “legal advice” is a very current and active issue in the United States legal community, and it is noted that sometimes the distinctions between services that amount to legal advice and those that do not are not precisely clear. The line between legal advice and legal information can be very close. For example, telling someone the actual number of days left for him or her to appeal (i.e. doing the math calculation) would, for LSC CSR purposes, be legal advice. In contrast, just telling someone the overall number of days in an appeal period without any specific math calculation would be legal information only. It is essential to establish clear delineations and standards that provide the necessary separation between cases and “other services.”

Accordingly, it is required that “advice” letters contain legal advice consistent with the CSR Handbook (2008 Ed., as amended 2011) and the ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.6 on the Provision of Legal Information and Standard 3.4-1 on Representation Limited to Legal Advice. According to the ABA Standards, the provision of legal advice occurs whenever an attorney applies their legal judgment to a client’s particular set of facts. ABA Standard 3.6 on the Provision of Legal Information provides a helpful discussion concerning the difference between legal information and legal advice noting that:

Legal information is aimed at helping the recipients of the information understand their rights and responsibilities and the appropriate procedures for redressing those rights and fulfilling those responsibilities. It is general in nature and not tailored to the unique facts of the individual’s situation, although when legal information is offered to individuals, the provider may have enough knowledge about the person’s situation to choose generally, what information is appropriate. Legal information is neutral and does not recommend a strategic course based on the judgment of the individual offering the information. Thus, the person offering the information might tell the recipient of options that are available in response to the legal problem, but would not suggest what option to take. Similarly, legal information might inform an individual of forms that are appropriate to use and the general information about what to include in a statement of facts or a request for relief. It should not suggest the specific facts to put on the forms. A provider could, for example, explain the different grounds for divorce and let the litigant choose the applicable one. *Legal advice* in contrast is specific to the unique

circumstances of the inquirer. It is strategic in that it offers an approach that is tailored to the fact situation of the asker and goes beyond mere general advice appropriate for all persons who confront the same issue. The giving of legal advice is legal representation and creates an attorney-client relationship.

See ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.6 on the Provision of Legal Information.

“Advice” Rejection Letters

The CSR Handbook (2008 Ed., as amended 2011), §§ 2.1(c) and 2.4(b), makes clear that in order for there to be a CSR reportable case there must be an “accepted” client. In other words, if OILS chooses to decline an applicant, then it should not proceed to provide legal advice to the declined applicant. *See* CSR Handbook (2008 Ed., as amended 2011), § 2.1(c) and CSR Frequently Asked Questions (July 2007), Chapter II-Key Definitions, § 2.1, Question 1. Consequently, if OILS intends to provide advice in writing when informing an applicant that their case has not been accepted for extended representation, its “advice” letters cannot be both rejection and advice letters and the letters must contain legal advice consistent with the CSR Handbook (2008 Ed., as amended 2011) and the ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.6 on the Provision of Legal Information and Standard 3.4-1 on Representation Limited to Legal Advice.

Prior to the issuance of the Draft Report, the above concerns were expressed to OILS, and on February 22, 2013, OILS’ Executive Director provided OCE with samples of its redrafted “advice” letters. The new letters open in the following manner: “We are unable to accept your case for direct legal representation. However, we have accepted your case to provide you with the following legal advice only.” Additionally, OILS stated that the content of the letters is a basic outline and that it would be specifically tailored to the client’s individual situation by the attorney assigned to the case. Considering the edited portion of the letters and clarification regarding how the letters will be specifically tailored to the client’s individual circumstances, OILS has substantially addressed OCE’s concerns regarding its “advice” letters. However, the Draft Report required that OILS take corrective action to ensure that staff utilizing these letters are aware of the above detailed requirements and are applying them properly.

In response to the Draft Report and this finding, OILS offered no individualized comments with respect to this finding and, as such, Required Corrective Action 4, including subsections (a), (b), (c), and (d)(i) and (ii), remain open.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 4, including subsections (a), (b), (c), and (d)(i) and (ii), within 30 days of the issuance of this Final Report.

Finding 3: Review of the recipient’s sampled cases evidenced substantial compliance with the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (“FPG”); however, the reviewed files indicated non-compliance with the reporting requirements of the CSR Handbook (2008 Ed., as amended 2011), Chapter IV, as OILS has included non-LSC eligible cases in the CSR.

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.³ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable 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.

Review of the recipient’s sampled cases evidenced substantial compliance with the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the FPG. Three (3) LSC funded cases were found with a recorded income over OILS’ LSC income guidelines or lacked documented authorized exceptions, as required by 45 CFR § 1611.5. *See* Open Case No. 11E-1022760 (the file indicated one (1) household member with a total monthly income of \$1,940); Closed 2012 Case No. 09E-1016261 (the file indicated two (2) household members with a total monthly income of \$2,600); and Closed 2011 Case No. 11E-1021311 (the file indicated four (4) household members with a total monthly income of \$2,946).

The reviewed files, however, indicated non-compliance with the reporting requirements of the CSR Handbook (2008 Ed., as amended 2011), Chapter IV, as OILS has included non-LSC

³ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

eligible cases in its CSR. Seven (7) *non-LSC* funded cases were also found to have recorded income over OILS' LSC income guidelines or to lack documented authorized exceptions, but were indicated as CSR reportable nonetheless, contrary to the requirements of CSR Handbook (2008 Ed., as amended 2011), Chapter IV (Reporting Requirements). *See* Open Case No. 12E-1024068 (the file indicated seven (7) household members with a total monthly income of \$6,500); Open Case No. 12E-1025289 (the file indicated one (1) household member with a total monthly income of \$2,083.); Open Case No. 12E-1025263 (the file indicated one (1) household member with a total monthly income of \$1,885); Closed 2011 Case No. 11E-1021168 (the file indicated two (2) household members with a total income of \$2,500); Closed 2010 Case No. 07E-1011655 (the file indicated one (1) household member with a total monthly income of \$2,125); and Closed 2011 Case Nos. 11E-1022856 and 11E-1022857 (files pertaining to the same client indicated three (3) household members with a total monthly income of \$2,160).

The Draft Report required that OILS take corrective action to ensure that all cases with clients whose income exceeds OILS' LSC income eligibility guidelines are not LSC funded, indicated as CSR eligible, or reported to LSC in its CSRs. The Draft Report further recommended that OILS review its non-LSC funded cases which remain open, or have been recently closed and not yet reported in a CSR, to ensure that they are properly coded and not mistakenly reported to LSC in a future CSR.

In response to the Draft Report and this finding, OILS indicated that all cases "staffed for acceptance" that are between 125 and 200% of the FPG will be reviewed by the Executive Director during the case staffing meeting and "stamped with the reason for acceptance and signed by the Executive Director prior to case opening." OILS further indicated that a review of its open cases was conducted by the Office Manager and it was found that the files of all clients whose income was between 125 and 200% of the FPG contained "proper documentation of the reason for acceptance." Finally, OILS indicated that a monthly review of closed cases has been implemented and will be conducted by the Office Manager as part of case closing procedures in order to "ensure proper coding of funding source[s] and CSR eligibility." Based on the comments provided by OILS, including the remedial actions and newly implemented procedures described, OCE finds that the actions taken sufficiently satisfy this finding and Required Corrective Action 2 and that no further action is needed.

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

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁴ *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

⁴ 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.

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

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

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 5: Review of the recipient's policies and sampled cases evidenced compliance with the restrictions of 45 CFR Part 1626 (Restrictions on legal assistance to aliens); however, there were a few files that did not comply with the documentation requirements of the Regulation.

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

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁵ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data

⁵ *See* Kennedy Amendment at 45 CFR § 1626.4.

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.

All sampled cases had evidence of eligibility under 45 CFR Part 1626; however, three (3) files pertaining to tribal court appointments lacked a signed citizenship attestation. *See* Closed 2012 Case Nos. 12E-1023487, 12E-1023490, and 12E-1023493. Via email on February 21, 2013, OILS' Executive Director stated that the three (3) identified files were Seminole Tribal Court misdemeanor criminal defense appointments⁶ and that the Seminole Tribal Court judge has since signed a Client Service Agreement and Citizenship Form on behalf of each client and the forms have been placed in the files.

With the three (3) noted exceptions, sampled cases evidenced compliance with the eligibility requirements of 45 CFR Part 1626 but non-compliance with the documentation requirements of the Regulation. As all cases that had been initiated at OILS contained the required Part 1626 documentation, the Draft Report required that OILS take corrective action to ensure that staff attorneys accepting court appointments in tribal courts are aware of the documentation requirements of 45 CFR Part 1626 and are collecting necessary documentation when in the field.

In response to the Draft Report and this finding, OILS indicated that it contacted tribal court clerks and judges to inform them of LSC's 45 CFR Part 1626 requirements with regard to minor children. OILS indicated that it informed the tribal court clerks and judges that it could not accept court appointments "without first having the verification of the citizenship of the child in the file." OILS further indicated that it amended the citizenship verification form it uses for child appointments to allow tribal social workers with access to a child's birth certificate to sign the citizenship verification or to request a copy of the child's birth certificate as proof of citizenship. Based on the comments provided by OILS, including the remedial actions and newly implemented procedures described, OCE finds that the actions taken sufficiently satisfy this finding and Required Corrective Action 3 and that no further action is needed.

Finding 6: Review of the recipient's policies, sampled cases, and related documents 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

⁶ LSC Regulations, at 45 CFR § 1613.2, state that "[a] misdemeanor or lesser offense tried in an Indian tribal court is not a 'criminal proceeding,'" and, thus, this type of representation is not prohibited by Part 1613. Additionally, LSC Program Letter 12-3 (November 8, 2012), on Criminal Proceedings in Tribal Courts, informed LSC recipients that "Congress has amended section 1007(b)(2) of the LSC Act to permit LSC recipients to use LSC funds to represent persons in all criminal proceedings in tribal courts" and that LSC recipients may report such cases in their CSRs. *See* 42 USC § 2996f(b)(2).

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.⁷ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Review of the recipient's policies, sampled cases, and related documents evidenced substantial compliance with the retainer requirements of 45 CFR § 1611.9. All cases that had been initiated at OILS contained a required retainer; however, two (2) files pertaining to Guardian Ad Litem court appointments lacked the Client Service Agreement that serves as the retainer and is typically signed by the judge upon appointment. *See* Closed 2011 Case Nos. 10E-1019261 and 09E-2016622. As all cases that had been initiated at OILS contained the required 45 CFR § 1611.9 documentation, the Draft Report recommended that OILS remind staff attorneys accepting court appointments in tribal courts of the requirements of § 1611.9 and ensure that staff is collecting the necessary documentation when in the field.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 7: Review of the recipient's policies and 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).

Review of the recipient's policies and sampled cases evidenced compliance with the requirements of 45 CFR Part 1636. All files that required a Part 1636 statement contained the necessary document.

In response to the Draft Report and this finding, OILS offered no individualized comments.

⁷ 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 recipient’s policies, sampled cases, and related documents, evidenced substantial compliance with the requirements of 45 CFR § 1620.3(a) and § 1620.6 (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.

OILS has adopted a written policy titled “2012 Resource Allocation and Case Priorities” to guide its staff in complying with 45 CFR Part 1620. Although the policy is generally consistent with 45 CFR Part 1620, it was not completely current. OILS provided Board of Directors Executive Committee Minutes from March 6, 2012, indicating that its 45 CFR Part 1620 policies were reviewed and updated as required by 45 CFR § 1620.5 however, portions of its written policy have not been updated to reflect the program’s current prioritization process. OILS’ statement of priorities includes outdated language reflecting its method of appraising client need for the year 2000, and yet, also reflects recent updates authorized by its governing body. The document, in its entirety, should be made current.

A review of the 45 CFR § 1620.6 required written agreements signed by all staff members who handle cases or matters, or who are authorized to make decisions about case acceptance, demonstrated that OILS obtains these agreements from necessary personnel. Additionally, sampled cases were within program priorities. Further, interviews with the Executive Director and staff evidenced appropriate knowledge regarding the requirements of 45 CFR § 1620.3(a) and § 1620.6.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 9: Review of the recipient’s sampled cases evidenced substantial compliance with the requirements of 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.

Review of the recipient's sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6. Three (3) sampled cases lacking evidence of legal advice were found to have been reported to LSC in a CSR. Two (2) of the identified files were found to lack a description of the legal assistance provided because OILS was never able to communicate the legal assistance that was contemplated to the clients. *See* Closed 2012 Case Nos. 12E-1024573 (the file evidenced that an advice letter had been drafted and sent, but the letter was returned as undeliverable and the client had not previously received oral advice, where the CSR Handbook (2008 Ed., as amended 2011), Footnote 5, clearly states that this case is not CSR reportable because the client did not actually receive the benefit of the legal advice contained in the letter) and 10E-1018454 (the client never appeared for his appointment). Both of the aforementioned files should have been deselected, but were instead closed with case closure category "A" (Counsel and Advice) in error. One (1) additional file lacked evidence of the legal assistance provided, but the circumstances surrounding the deficiency could not be determined. *See* Closed 2012 Case No. 11E- 1021129.

On March 7, 2013, OILS provided OCE with the agenda, notes, and attendance list for a staff meeting it held on February 6, 2013, where case closure issues identified during the CSR/CMS review were discussed. The materials indicated that staff was instructed on a method of case de-selection in instances where an advice letter is drafted and sent, but returned as undeliverable. The Draft Report required that OILS further remind staff that § 2.1(d) and Footnote 5 of the CSR Handbook (2008 Ed., as amended 2011) clearly indicate that in order for *any* case to be CSR reportable, the legal assistance provided to the client must meet the criteria of one (1) of the Chapter VIII case closure categories and the legal assistance must have actually been *provided* to the client, as opposed to having simply been *prepared*. Cases lacking a description of the legal assistance provided to the client should not be included in a CSR. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6.

In response to the Draft Report and this finding, OILS offered no individualized comments and, as such, Required Corrective Action 4(e) remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 4(e) within 30 days of the issuance of this Final Report.

Finding 10: Review of the recipient's sampled cases evidenced that its application of the CSR case closure categories was inconsistent with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011), as two (2) patterns of error were identified; however, OILS subsequently and sufficiently remedied one (1) of the patterns of error.

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

Case review revealed eight (8) cases that were found to have been closed with incorrect case closure categories, with two (2) patterns of error identified.

The first pattern of error related to the underreporting of OILS' level of service. Two (2) files closed with case closure category "A" (Counsel and Advice) were found to contain evidence of third-party communication with an administrative agency supporting case closure category "B" (Limited Action), and the legal assistance provided may have even supported the use of case closure category "L" (Extensive Service). *See* Closed 2012 Case Nos. 09E-1016261 and 12E-1024067 (both case files evidenced the submission of documents to the IRS and attempts to resolve the clients' tax matters). Additionally, one (1) file closed with case closure category "B" (Limited Service) should have been closed with case closure category "L" (Extensive Service) because the program represented the client in a Petition for Guardianship, but ultimately concluded the case by filing a Motion for Voluntary Dismissal. *See* Closed 2012 Case No. 09E-1017453. OILS should ensure that it closes its cases with the case closure category that indicates the highest level of service provided to the client.

The second pattern of error related to the use of the case closure category "K" (Other) as a method of de-selection. Four (4) files evidenced a pattern of the misuse of the "K" (Other) case closure category in order to signify a rejected case. *See* Closed 2012 Case Nos. 12E-1024097, 12E-1024102, and 12E-1024098 and Closed 2011 Case No. 10E-1020428. Case closure category "K," as well as all other LSC case closure categories, may only be used for cases that meet all of the requirements of a CSR reportable case. *See* CSR Handbook (2008 Ed., as amended 2011), Chapters II and V. Accordingly, the use of case closure category "K" to denote a deselected case – or any other case in which legal assistance was not rendered to an eligible client – is non-compliant. While LSC does not mandate a procedure for de-selection of ineligible cases, § 3.5 of the CSR Handbook (2008 Ed., as amended 2011) makes recommendations for identifying and de-selecting cases that should not be reported to LSC in the CSR.

It was suggested to OILS that a new case closure category "X," or another letter near the end of the alphabet, be designated for de-selecting cases from cases. Such a system is recommended for OILS as it would prevent deselected cases from inadvertently being reported to LSC in its CSR. OILS must cease using case closure category "K" (Other) as a de-selection method and ensure that deselected cases are not unintentionally being reported to LSC in its CSR. On March 7, 2013, OILS provided OCE with the agenda, notes, and attendance list for a staff meeting it held on February 6, 2013, where case closure issues identified during the CSR/CMS review were

discussed. The materials indicate that the ACMS has been updated to include “X” for the de-selection of cases. The Executive Director further indicated that cases closed with the “X” code will not be included in its CSRs. Considering the new, compliant procedure providing for the closure of deselected cases with the letter “X,” OILS has addressed OCE’s concerns regarding its former use of case closure category “K.”

One (1) additional file, not appearing as part of a pattern of error, was closed with case closure category “I(a)” (Uncontested Court Decision), but should have been closed with case closure category “G” (Negotiated Settlement With Litigation) because a plea was negotiated on behalf of the client in a misdemeanor tribal court criminal matter.⁸ See Closed 2012 Case No. 11E-2022093. See also CSR Frequently Asked Questions (July 2011), Chapter VIII-Case Definitions and Closure Categories, Question 4.

OILS’ application of the CSR case closure categories was found to be inconsistent with Chapters VIII and IX, of the CSR Handbook (2008 Ed., as amended 2011), as two (2) patterns of error were identified. As noted above, the incorrect usage of CSR case closure category “K” (Other) as a method of de-selection has been substantially addressed and remedied by OILS. However, the Draft Report required that OILS take corrective action to ensure that staff closing cases have a sufficient understanding of the case closure categories defined in Chapter VIII of the CSR Handbook (2008 Ed., as amended 2011) in order to prevent the underreporting of cases and ensure that cases are closed utilizing the CSR case closure category that best reflects the highest level of service provided to the client.

In response to the Draft Report and this finding, OILS reiterated its previously provided information regarding the staff meeting it held on February 6, 2013, where case closure issues identified during the CSR/CMS review were discussed. OILS offered new information indicating that copies of the CSR Handbook (2008 Ed., as amended 2011) were distributed to attendees, that staff attorneys were counseled to utilize the CSR case closure category reflecting the highest level of service provided to the client when closing a case, and that staff was instructed to direct any questions regarding CSR case closure categories to the Office Manager. Based on the comments provided by OILS, including additional details regarding the information discussed at its February 6, 2013, staff meeting, OCE finds that the actions taken appear to sufficiently satisfy this finding and Required Corrective Action 5; however, OCE reserves a definitive conclusion to Required Corrective Action 5 as one (1) inquiry remains regarding staff present at the meeting. The attendance list provided to OCE for the February 6, 2013, meeting indicates that just one (1) of three (3) OILS paralegals were present. OCE inquires whether the Administrative Paralegal responsible for applying CSR case closure categories at case closure was present for the aforementioned staff meeting.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 5 within 30 days of the issuance of this Final Report.

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

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

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

Two (2) files reviewed were found to be untimely closed where limited service cases were closed more than two (2) years after all legal assistance had ceased, and lacked statements explaining why they should be held open into the following year, as required by CSR Handbook (2008 Ed., as amended 2011), § 3.3(a)(ii). *See* Closed 2012 Case No. 10E-1018454 (opened on 2/26/10 and closed on 5/8/12 with case closure category “A” (Counsel and Advice), but failed to contain evidence of legal assistance after it was opened because the client did not appear for his appointment) and Closed 2010 Case No. 07E-1011655 (opened on 2/16/07 and closed on 11/22/10 with case closure category “B” (Limited Action), but failed to contain evidence of legal assistance after 8/2008).

With the two (2) noted exceptions, sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 regarding the timely closing of cases. The Draft Report recommended that OILS ensure that all cases are closed in a timely manner by conducting periodic reviews of case management reports on open and recently closed cases, particularly those files that remain open for extended periods of time.

In response to the Draft Report and this finding, OILS offered no individualized comments.

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

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

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

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

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

Two (2) sets of duplicate cases were identified; in both scenarios, one (1) file pertained to the legal advice provided to the client while the second file, opened within the same calendar year, pertained to limited action assistance (document preparation) concerning the same legal problem. *See* Closed 2012 Case Nos. 12E-1023510 and 12E-1023708 (the client was provided legal advice regarding divorce and subsequently assisted with completing related pro se forms) and Closed 2010 Case Nos. 10E-1018179 and 10E-1019128 (the client was provided legal advice regarding probate and subsequently assisted with completing a related affidavit). In both of these cases, only one (1) file at the "B" (Limited Action) level of service should have been closed.

With the two (2) noted exceptions, sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.2 regarding duplicate cases. The Draft Report required OILS to take corrective action to ensure that necessary staff understands that two (2) types of limited service pertaining to the same legal problem in the same calendar year should be reported as only one (1) case, and at the highest level of service, and that OILS provide an effective methodology to eliminate duplicate files from its CSR.

In response to the Draft Report and this finding, OILS offered no individualized comments and, as such, Required Corrective Action 6 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 6 within 30 days of the issuance of this Final Report.

Finding 13: Review of the recipient's policies and interviews with management and staff evidenced no activities prohibited by 45 CFR Part 1604 (Outside practice of law).

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

OILS has adopted a written policy to guide its staff in complying with 45 CFR Part 1604 that is consistent with Part 1604. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. The OILS Executive Director indicated that staff members did not participate in outside practice activities. Interviews of other OILS' staff identified no unauthorized outside practice of law activities.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

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

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

OILS has a written policy to guide its staff in complying with 45 CFR Part 1608. OCE reviewed the policy and determined that it is consistent with Part 1608. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. A limited review of accounting records reflected in OILS' Chart of Accounts, including cash disbursements, and fiscal interviews with the Bookkeeper disclosed that no grant funds, personnel, or equipment were used for activities prohibited by 45 CFR § 1608.3(b). A review of hard-copy informational materials and publications which OILS makes available to applicants and clients that are published by OILS and other federal, state, and private organizations, as well as a review of OILS' website, evidenced no content prohibited by 45 CFR §§ 1608.4, 1608.5, and 1608.6. Additionally, the Director of Litigation sent an email to staff prior to recent elections reminding staff of their obligation to refrain from prohibited political activities. Interviews with the Executive Director and the Director of Litigation further identified no prohibited political activities.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 15: Review of the recipient's policies and sampled cases, as well as fiscal and other records, and interviews with 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 (2) private attorneys; neither the referral service nor two (2) private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 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. Attorneys' fees received by a recipient for representation supported in whole or in part with LSC funds shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the LSC funds expended bears to the total amount expended to support the representation. Further, attorneys' fees received shall be recorded during the accounting period in which the money from the fee award is actually received by the recipient and may be expended for any

purpose permitted by the LSC Act, regulations and other applicable law at the time the money is received. *See* 45 CFR § 1609.4.

OILS has a written policy to guide its staff regarding 45 CFR Part 1609, that it is generally consistent with the Regulation. It is recommended that OILS review 45 CFR Part 1609 and its own corresponding policy to evaluate whether changes should be made to incorporate additional permissible exceptions and/or to detail procedures to be used by staff when accepting a case pursuant to this Part. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. A limited review of accounting records and interviews with program management and the Bookkeeper disclosed no fee-generating cases during the period of review. Further, no sampled files involved legal assistance with respect to a fee-generating case.

Based on the materials reviewed and interviews with management and the Bookkeeper, OILS evidenced compliance with 45 CFR Part 1609.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 16: Review of the recipient's notification letters and interviews with management and staff evidenced that they were inconsistent with the requirements of 45 CFR § 1610.5(a).

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

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

A sample of five (5) donor letters pertaining to contributions of \$250 or more were found to be inconsistent with the requirements of 45 CFR § 1610.5(a), as the letters failed to include notification of the prohibitions and conditions which apply to the funds. Additionally, interviews with OILS'

Bookkeeper and Executive Director revealed that OILS fails to provide its non-LSC funding sources with written notification. During the on-site review, OILS was advised that it must strengthen its procedures to ensure that it provides written notification to all donors of funds in the amount of \$250 or greater of the prohibitions and conditions which apply to those funds, as well as written notification to its non-LSC funding sources, as required by 45 CFR § 1610.5(a). The Executive Director advised that OILS will take the necessary steps to provide the required notification. OILS' management requested, and was provided, a sample donor letter which contained the required disclosure language.

Based on the review of donor notification letters and interviews with the Executive Director and Bookkeeper, OILS practices were found to be inconsistent with the requirements of 45 CFR § 1610.5(a). The Draft Report required that OILS take corrective action to ensure that its procedures provide for proper 45 CFR § 1610.5(a) notification.

In response to the Draft Report and this finding, OILS indicated that it "will modify its fundraising letters and donor thank you letters to include the disclaimer on the use of non-LSC funds." OILS further indicated that, donations "in excess of \$250" will be sent a donor letter containing the "required disclosure language." Finally, OILS indicated that all non-LSC funding sources will be sent a "letter of disclosure" annually. Based on the comments provided by OILS, OCE finds that the actions taken do not sufficiently satisfy this finding and Required Corrective Action 8 and, as such, this finding and Required Corrective Action 8 remain open. In particular, OILS indicates the notification requirement contained in 45 CFR § 1610.5(a) incorrectly, as applying to donations "in excess of \$250." LSC Regulations, at 45 CFR § 1610.5(b), indicate that notification is not required for donors of "less than \$250" – in other words, donors of \$250 or more do require notification. Furthermore, OCE requests specific information regarding the procedures implemented to ensure that proper funding source notification is occurring and also asks that OILS provide OCE with a copy of its updated and compliant notification letter.

OILS is required to provide comments and/or documents demonstrating its compliance with this finding and Required Corrective Action 8 within 30 days of the issuance of this Final Report.

Finding 17: Review of the recipient's policies, fiscal records, and interviews with fiscal staff evidenced compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing 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.¹⁰ Except that the definition does not include transfers related to

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

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

Additionally, 45 CFR § 1627.4(a) states that:

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

OILS has a written policy to guide its staff in complying with 45 CFR Part 1627 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. A limited review of OILS' fiscal records and discussions with its Bookkeeper confirmed that the program had no LSC funded subgrants in effect during the review period. Additionally, a limited review of OILS' accounting records and discussions with its Bookkeeper determined that OILS is in compliance with 45 CFR § 1627.4(a) as the program pays for membership fees and dues with non-LSC funds. Review of OILS' cash disbursements for 2012, confirmed that membership dues are paid with unrestricted funds.

Based on the materials reviewed and interviews with the Bookkeeper, OILS evidenced compliance with 45 CFR § 1627.4(a).

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 18: Review of the recipient's timekeeping and other fiscal records evidenced general compliance with 45 CFR Part 1635 (Timekeeping requirement); however, the review revealed instances where time records had not been kept contemporaneously in violation of 45 CFR § 1635.3(b)(1).

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.

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

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.

OILS' staff attorneys and paralegals utilize the Kemps timekeeping system to enter time worked, by activity, in as little as six (6) minute increments or tenths of an hour. A review of four (4) advocates' timekeeping records, including three (3) staff attorneys and one (1) paralegal, for two (2) pay periods ending June 30, 2011 and October 15, 2012, disclosed that the employees had worked a minimum of 40 hours per week, as required by OILS' work week requirement. The review also revealed that time records were electronically kept and that the time spent on each case, matter, or supporting activity was regularly recorded in substantial compliance with 45 CFR §§ 1635.3(b) and (c); however, three (3) of the time records reviewed were missing time worked by the employee indicating that the time records were not being kept contemporaneously in violation of 45 CFR § 1635.3(b)(1). While the review team was on-site, OILS' Bookkeeper met with the advocates with missing time and instructed the advocates to record the missing time into the timekeeping system.

Additionally, OILS' payroll is run two (2) times per month, with employees completing a manual Time and Attendance ("T&A") sheet which details the number of hours worked for each day of a pay period. Both the employee and their supervisor sign the T&A sheet. OILS' Bookkeeper advised that the supervisor's signature authorizes the employees' time for payroll purposes, but that supervisors do not regularly compare the T&A sheet to the time records in the timekeeping system. The Bookkeeper advised that some reviews are conducted of employees' time records, but that documentation is not maintained demonstrating that the reviews are conducted and further noted that the reviews are performed infrequently. Therefore, the Draft Report required that OILS take corrective action to institute a procedure that ensures that employees' timekeeping records are reviewed for accuracy and which guarantees contemporaneous entry of employee time records into its timekeeping system. *See* 45 CFR § 1635.3.

Interviews with OILS' Bookkeeper also revealed that only one (1) of three (3) employees designated by OILS as a "paralegal" maintains timekeeping records. Under 45 CFR § 1635.3(b), "[t]ime 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” (emphasis added). An interview was conducted with the staff attorney supervisor of one (1) of OILS’ designated paralegals who was not entering her time worked in the timekeeping system. The staff attorney advised that the paralegal was not a certified paralegal and that the vast majority of her time was spent on administrative tasks, which did not include the provision of legal assistance or other case handling duties. However, the staff attorney indicated that the paralegal did, from time to time, conduct a very limited amount of legal research. Therefore, further information is needed before a determination can be made as to whether this violates 45 CFR § 1635.3(b).

The Draft Report required that OILS take corrective action to determine whether its paralegals meet Oklahoma’s legal definition of a “paralegal” and, thus, determine whether the staff members’ job titles should be amended or whether they should engage in timekeeping as required by 45 CFR § 1635.3(b). The Draft Report indicated that if OILS determined that the duties of its paralegals that have not been entering time worked in the timekeeping system meet Oklahoma’s legal definition of a paralegal, OILS would be required to take corrective action to ensure that those paralegals’ time records are kept in OILS’ timekeeping system.

Based on the limited review of fiscal and timekeeping records, OILS evidenced general compliance with 45 CFR Part 1635. As discussed above, however, there were instances where timekeeping records had not been kept contemporaneously in violation of 45 CFR § 1365.3(b)(1) and, therefore, the Draft Report required OILS to take corrective action to remedy this deficiency. Additionally, the Draft Report required OILS to evaluate whether the duties of its paralegals who do not engage in timekeeping meet Oklahoma’s requirements and, based on the outcome, decide whether their titles should be amended and/or paralegal duties reassigned or to take corrective action to ensure that the paralegals keep time in the timekeeping system as required by 45 CFR § 1635.3(b).

In response to the Draft Report and this finding, OILS indicated that its current procedure requires that staff attach a Kemp’s Case Management time-keeping report to their signed timesheet when submitting it for payroll processing. OILS further indicated that timekeeping will be checked “at the end of the pay period for compliance.” Based on the comments provided by OILS, including its newly implemented payroll procedure, OCE finds that the actions taken satisfy this finding, in part, and Required Corrective Action 9; however, OILS offered no individualized comments with respect to the part of this finding which corresponds to Required Corrective Action 10. Required Corrective Action 10 requires that OILS conduct an evaluation of the duties of its “paralegals” to determine whether they should engage in timekeeping pursuant to 45 CFR § 1635.3(b). As no individualized comments were offered by OILS regarding this requirement, Required Corrective Action 10 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with the part of this finding which corresponds to Required Corrective Action 10 within 90 days of the issuance of this Final Report.

Finding 19: Review of the recipient’s sampled cases, fiscal and other records, and 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 correct and retain attorneys’ fees in any case undertaken on behalf of a client of the recipient. *See* former 45 CFR § 1642.3.¹¹ However, with the enactment of LSC’s FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys’ fees was lifted. Therefore, at its January 30, 2010, meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys’ fees. Accordingly, effective March 15, 2010, recipients may claim, collect, and retain attorneys’ fees for work performed, regardless of when such work was performed.

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

A limited review of OILS’ fiscal records, its 2010 and 2011 Audited Financial Statements, and interviews with OILS management evidenced that there were no attorneys’ fees awarded, collected, or retained for cases serviced directly by OILS that would violate former 45 CFR Part 1642. Further, no sampled cases involved any issues relating to former 45 CFR Part 1642.

Based on the materials reviewed, OILS evidenced compliance with former 45 CFR Part 1642.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 20: Review of the recipient’s policies, sampled cases, 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 45 CFR Part 1612 is to ensure that LSC recipients and their employees do not engage in certain prohibited activities, including representation before legislative bodies or other direct lobbying 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.

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

OILS has a written policy to guide its staff in complying with 45 CFR Part 1612 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. A limited review of OILS' fiscal records reflected in OILS' Chart of Accounts, sampled cash disbursements, and interviews with the Executive Director, Bookkeeper, and Director of Litigation provided no indication of lobbying or other restricted activities during the review period. Moreover, as discussed *supra* in Finding 14 with regard to Part 1608, a review of hard-copy informational materials and publications which OILS makes available to applicants and clients which are published by OILS and other federal, state, and private organizations, as well as a review of OILS' website, did not evidence any content prohibited by 45 CFR §§ 1612.4, 1612.8, and 1612.9. The Executive Director and Director of Litigation also stated that OILS is not involved in any prohibited public rulemaking or lobbying activities. Also, no sampled cases indicated any issues regarding 45 CFR Part 1612.

Based on the materials reviewed and interviews with management and the Bookkeeper, OILS evidenced compliance with 45 CFR Part 1612.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 21: Review of the recipient's sampled cases, as well as interviews with management, 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.

No sampled cases involved legal assistance with respect to a criminal proceeding or a collateral attack in a criminal conviction, as prohibited by 45 CFR Part 1615. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.¹²

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

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

Finding 22: Review of the recipient’s policies and sampled cases, as well as interviews with management, 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).¹³

OILS has a written policy to guide its staff in complying with 45 CFR Part 1617 that is consistent with the Regulation. OILS’ policies are available to all employees online through OILS’ Export Network intranet and also in a binder kept in a common area. No sampled cases involved initiation or participation in a class action. Furthermore, the Executive Director stated that OILS is not involved in any class actions.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 23: Review of the recipient’s policies and sampled cases, as well as interviews with management, 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.

OILS has a written policy to guide its staff in complying with 45 CFR Part 1632 that is consistent with the Regulation. OILS’ policies are available to all employees online through OILS’ Export Network intranet and also in a binder kept in a common area. No sampled cases revealed participation in litigation related to redistricting. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

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

Finding 24: Review of the recipient's policies and sampled cases, as well as interviews with management, 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 of other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

OILS has a written policy to guide its staff in complying with 45 CFR Part 1633 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. No sampled cases involved defense of any such eviction proceeding. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 25: Review of the recipient's policies and sampled cases, as well as interviews with management, 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.

OILS has a written policy to guide its staff in complying with 45 CFR Part 1637 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. No sampled cases involved participation in civil litigation, or administrative proceedings challenging the conditions of incarceration, on behalf of an incarcerated person. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 26: Review of the recipient's policies and sampled cases, as well as interviews with management, 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. *See* Section 504(a)(18). This restriction has been contained in all subsequent appropriations acts. This restriction is a strict prohibition from being involved in a case in which the 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."

OILS has a written policy to guide its staff in complying with 45 CFR Part 1638 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. No sampled files reviewed, or documentation such as community education materials and program literature, indicated program involvement in such activity. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 27: Review of the recipient's policies and sampled cases, as well as interviews with management, 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.

OILS has a written policy to guide its staff in complying with 45 CFR Part 1643 that is consistent with the Regulation. OILS' policies are available to all employees online through OILS' Export Network intranet and also in a binder kept in a common area. No sampled cases indicated program involvement in such activity. Furthermore, the Executive Director stated that OILS is not involved in this prohibited activity.

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 28: Review of the recipient's sampled cases, as well as interviews with management, evidenced compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).

Section 1007(b) (8) of the LSC Act prohibits the use of LSC funds to provide legal assistance with respect to any proceeding or litigation which seeks to procure a non-therapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution. Additionally, Public Law 104-134, Section 504 provides that none of the funds appropriated to LSC may be used to provide financial assistance to any person or entity that participates in 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 desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior law.

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

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

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 29: Review of the recipient's LSC fund balances for each year during the review period evidenced compliance with 45 CFR § 1628.3 (Recipient fund balances), as the balances did not exceed 10% of its annual LSC support.

Recipients are permitted to carry into a subsequent fiscal year LSC fund balances of up to 10% of their LSC support. *See* 45 CFR § 1628.3(a). In special circumstances, recipients may request a waiver in order to retain an LSC fund balance of up to 25% of their LSC support. *See* 45 CFR § 1628.3(b). In extraordinary circumstances, as described in 45 CFR § 1628.3(c), a recipient may request a waiver to retain a fund balance greater than 25% of its annual LSC support.

OILS year-end LSC fund balance was below the 10% maximum allowable amount for each year during the review period. For 2011, OILS' LSC fund balance was 4.8% indicating that it had expended over 95% of its LSC support.

Based on the fund balances reviewed, OILS evidenced compliance with 45 CFR § 1628.3.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 30: Review of the recipient's fidelity bonding or insurance on OILS employees for compliance with 45 CFR Part 1629 (Bonding of recipients) evidenced that coverage was inadequate at the time of the review; however, OILS immediately increased its fidelity insurance during the review evidencing compliance with Part 1629.

LSC regulations, at 45 CFR Part 1629, require that recipients carry fidelity bonds or insurance at a minimum level of at least, 10% of their annualized LSC funding level for the previous fiscal year and that the bond or insurance not be less than \$50,000. It was determined by the fiscal review team that OILS was only maintaining \$25,000 of insurance. When this deficiency was explained to management, OILS immediately corrected it by raising its coverage to \$100,000 and provided the review team with documentation demonstrating the change.

Based on its current level of insurance coverage, OILS is in compliance with 45 CFR Part 1629 and the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § A(6).

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 31: A limited review of the recipient's accounting records revealed that it is in compliance with the requirements of 45 CFR Part 1630 (Cost standards and procedures).

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

A limited review of the recipient's accounting records evidenced that OILS maintains all of its supporting funds as either restricted or unrestricted, with LSC funds properly identified and maintained with its restricted funds, as required by 45 CFR Part 1630. Interviews with the Bookkeeper also indicated compliance with Part 1630.

Based on the materials reviewed and interviews with the Bookkeeper, OILS evidenced compliance with 45 CFR Part 1630.

In response to the Draft Report and this finding, OILS offered no individualized comments.

Finding 32: A limited review of the recipient's internal control policies and procedures evidenced weaknesses that are inconsistent with 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, the small size of the recipient's staff may preclude it from achieving the most stringent internal controls.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended, any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, the 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 put in place, managed and maintained by the recipient's board of directors and management which is designed to provide reasonable assurance of achieving the following objectives: (1) safeguarding of assets against unauthorized use or disposition; (2) reliability of financial information and reporting; and (3) compliance with regulations and laws that have a direct and material effect on the program. *See* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Ed.).

Bank Account Reconciliations

OILS' bank statements are accessed on the internet by the OILS Bookkeeper, who prepares the bank reconciliations, and provides them to the Executive Director for review. The bank statements should, however, be obtained by the Executive Director directly. *See* the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § I(8). The Draft Report required that OILS take corrective action to ensure that the Executive Director obtains the bank statements directly.

Additionally, a review of bank account reconciliations disclosed several outstanding checks more than six (6) months old, some dating back as far as calendar year 2000. All outstanding checks were found to be for immaterial amounts; however, the Draft Report required that OILS take corrective action by investigating all outstanding checks more than six (6) months old and resolving them accordingly. *See* the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § I(7).

Accounting Manual

OILS' Accounting Manual is outdated and must be updated to reflect current policies and procedures within its financial operations and to be compliant with the recommendations contained within the Accounting Guide for LSC Recipients (2010 Ed.). OILS indicated during and subsequent to the review that it was drafting a new accounting manual and would provide LSC

with a copy of the new manual upon its completion. Via email on February 22, 2013, OILS reported that the drafting of its new accounting manual is underway and is scheduled to be completed the first week in April, in time for the OILS regularly scheduled financial audit in order for the auditors to review the manual. The Draft Report required that OILS continue to take corrective action to ensure that its Accounting Manual is updated, reflects its current policies and procedures, and supports OILS financial operations.

Financial Oversight Committee

Based on a review of sample Board materials (OILS' September 2012 Board package), the Board is provided financial statements, cash on hand schedules, and budget compared to actual variance statements by the Executive Director. Additionally, the Board reviews the Audited Financial Statements, management letter, and recommendations for changes and improvements submitted by its external auditor. Such practices are consistent with the requirements of the Accounting Guide for LSC Recipients (2010 Ed.), Chapter 1-7.

Property, Plant, and Equipment

A review of OILS' property, plant, and equipment ("PP&E") area disclosed that physical inventories of the PP&E had not been conducted every two (2) years and that identification tags were not attached to the furniture and equipment referenced to the PP&E ledger. Physical inventories should be taken every two (2) years and the results should be compared to the fixed asset records. See the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § C(4). Upon being informed of these deficiencies, OILS began and nearly completed, a physical inventory, including attachment of identification tags, while the review team was on-site. Via email on February 22, 2013, OILS' Executive Director indicated that it had completed its inventory and on February 25, 2013, OCE was provided a "Master Property Inventory List, As of January 13, 2013." Based on a review of this documentation, OILS is currently in compliance with the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § C(4).

Company Expense Reports and Credit Card Internal Controls

A limited review of disbursements further revealed that the Executive Director approves her own expense reports and VISA credit card statements, with no additional review or approval of the expenses. Proper internal controls require a segregation of duties. See the Accounting Guide for LSC Recipients (2010 Ed.), Chapter 3, §§ 3-4(3) and 3-4(4). The Draft Report required that OILS take corrective action to ensure that these items are approved by the Executive Director's supervisor, which is the OILS Board of Directors. The Draft Report further indicated that reviews/approvals can be conducted after payments are made in order to prevent delays or late fees.

Segregation of Duties and Internal Controls

A review of an LSC worksheet completed by the OILS Bookkeeper evidenced areas where a proper segregation of duties has not been achieved. For example, the Office Manager is responsible for the purchasing, receiving, and maintaining of office supplies. Each of these

duties performed by the Office Manager should be performed by an employee independent of their other duties. *See* the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § D(8). Additionally, the Bookkeeper posts receipts to the General Ledger and also performs the bank reconciliations, duties which should also be performed by independent employees. *See* the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § J(4)(a).

Due to OILS' overall small size, and that the only fiscal employee is its part time Bookkeeper, proper internal controls such as a strong segregation of duties cannot always be achieved. OILS does have mitigating controls due to the hands-on involvement of the Executive Director as follows: all checks must be signed by two (2) employees (one (1) of which is the Executive Director); all invoices are reviewed by the Executive Director; and the Executive Director reviews all purchases. The Draft Report required that OILS evaluate the risk it is willing to accept due to having only one (1) fiscal employee and a small staff. The Draft Report further required that the benefit of sharing certain duties among other staff, or of employing additional fiscal employees to obtain a stronger segregation of duties, be assessed by management based upon a cost versus benefit analysis. With its comments to the Draft Report, OILS was required to inform LSC of the outcome of this assessment and to report any procedural changes that have been made, or are being contemplated, as a result.

In response to the Draft Report and this finding, OILS submitted to OCE, on August 9, 2013, a copy of its updated Accounting Manual (revised 5/24/13) as required by this finding and Required Corrective Action 7. OILS' updated Accounting Manual was reviewed and found to be adequate considering the needs of OILS' small office size and was also found to be consistent with the Accounting Guide for LSC Recipients (2010 Ed.). Based on the updated Accounting Manual submitted by OILS, OCE finds that the actions taken satisfy this finding, in part, and that no further action is needed with respect to Required Corrective Action 7; however, OILS offered no individualized comments with respect to the parts of this finding which correspond to Required Corrective Actions 11, 12, 13, and 14, and, as such, the aforementioned Required Corrective Actions remain open.

OILS is required to provide comments and/or documents demonstrating its compliance with the parts of this finding which correspond to Required Corrective Actions 11, 12, 13, and 14 within 60 days of the issuance of this Final Report.

IV. RECOMMENDATIONS¹⁴

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

1. Continue to work towards removing the outdated case closure categories from its ACMS intake printout;

In response to the Draft Report and this Recommendation, OILS indicated that it has been unable to modify the ACMS with respect to the outdated case closure categories appearing on its ACMS application printout. OILS further indicated that it is currently considering upgrades to its ACMS by updating its current ACMS, transitioning to a new ACMS, or moving to cloud technology. OILS additionally noted that it would be open to technical assistance from LSC.

2. Avoid future confusion and potential errors in applicant income eligibility calculations by removing food stamps as a selection on its ACMS “income” drop-down menu and from its paper intake forms;

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

3. Establish a procedure that facilitates the screening of income prospects and ensures that applicant responses are recorded in the ACMS or case files, as well as on paper intake forms, such as adding this question to an ACMS intake screen and on its paper intake form. *See* 45 CFR § 1611.7(a)(1);

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

4. Remind staff attorneys accepting court appointments in tribal courts of the requirements of § 1611.9 regarding retainers and ensure that staff is collecting the necessary documentation when in the field, as the few cases found lacking this documentation resulted from tribal court appointments;

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

5. Conduct periodic reviews of case management reports on open and recently closed cases, particularly those files that remain open for extended periods of time, in order

¹⁴ 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.

to ensure the timely closing of cases. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3;

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

6. Update the outdated language in its statement of priorities that still reflects its method of appraising client need for the year 2000; and

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

7. Review 45 CFR Part 1609 and its own corresponding policy to evaluate whether changes should be made to incorporate additional permissible exceptions and/or to detail procedures to be used by staff when accepting a case pursuant to this Part.

In response to the Draft Report and this Recommendation, OILS offered no individualized comments.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the findings of this report, OILS is required to take the following corrective actions:

1. Modify its ACMS to remove the impermissible default "\$0.00" found in the "Total Income," "Total Assets," and "Total Expenses" fields in order to prevent inadequate data collection and to bring OILS' ACMS into compliance with Program Letter 02-6, "Limitation of Defaults in Case Management Software" (June 6, 2002) and CSR Handbook (2008 Ed., as amended 2011), § 3.6. Program Letter 02-6 includes "income" and "assets" fields among those ACMS fields that should "never have a default value." *See* Program Letter 02-6, ¶ 7;

In response to the Draft Report and this Required Corrective Action, OILS offered no individualized comments and, as such, Required Corrective Action 1 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 90 days of the issuance of this Final Report.

2. Ensure that all cases with clients whose income exceeds OILS' LSC income eligibility guidelines are not LSC funded, indicated as CSR eligible, or reported to LSC in its CSRs. *See* CSR Handbook (2008 Ed., as amended 2011), Chapter IV;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to prevent the future reporting of non-LSC eligible cases in its CSRs. In response, OILS indicated that all cases "staffed for acceptance" that are between 125 and 200% of the FPG will be reviewed by the Executive Director during the case staffing meeting and "stamped with the reason for acceptance and signed by the Executive Director prior to case opening." OILS further indicated that a review of its open cases was conducted by the Office Manager and it was found that the files of all clients whose income was between 125 and 200% of the FPG contained "proper documentation of the reason for acceptance." Finally, OILS indicated that a monthly review of closed cases has been implemented and will be conducted by the Office Manager as part of case closing procedures in order to "ensure proper coding of funding source[s] and CSR eligibility."

Based on the comments provided by OILS, including the remedial actions and newly implemented procedures described, OCE finds that the actions taken sufficiently satisfy Required Corrective Action 2 and that no further action is needed.

3. Ensure that staff attorneys accepting court appointments in tribal courts have a sufficient understanding of the documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens) and are collecting the necessary documentation when in the field, as all cases found lacking this documentation resulted from tribal court appointments;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that staff collects required Part 1626 documentation when in the field. In response, OILS indicated that it contacted tribal court clerks and judges to inform them of LSC's 45 CFR Part 1626 requirements with regard to minor children. OILS indicated that it informed the tribal court clerks and judges that it could not accept court appointments "without first having the verification of the citizenship of the child in the file." OILS further indicated that it amended the citizenship verification form it uses for child appointments to allow tribal social workers with access to a child's birth certificate to sign the citizenship verification or to request a copy of the child's birth certificate as proof of citizenship.

Based on the comments provided by OILS, including the remedial actions and newly implemented procedures described, OCE finds that the actions taken sufficiently satisfy Required Corrective Action 3 and that no further action is needed.

4. Ensure that all necessary staff are aware of the following requirements and are applying them appropriately:
 - a. "Food Stamps" should not be included in an applicant's income calculation, as 45 CFR § 1611.2(i) indicates that the value of food is not an income source;
 - b. Inquiry into and the recording of an applicant's income prospects is required by 45 CFR § 1611.7(a)(1);
 - c. The income and assets of an alleged perpetrator of domestic violence should not be considered when assessing the eligibility of a domestic violence victim, pursuant to 45 CFR § 1611.3(e);
 - d. When providing advice in writing to an applicant while, at the same time, informing the applicant that their case has not been accepted for extended representation:
 - i. The "advice" letter must not be both a rejection and an advice letter, as the CSR Handbook (2008 Ed., as amended 2011), §§ 2.1(c) and 2.4(b), makes clear that in order for there to be a CSR reportable case there must be an "accepted" client. *See also* CSR Frequently Asked Questions (July 2007), Chapter II-Key Definitions, § 2.1, Question 1; and
 - ii. To be included in CSR data, any "advice" letter must contain legal advice consistent with the CSR Handbook (2008 Ed., as amended 2011) and the ABA Standards for the Provision of Civil Legal Aid (2006), Standard 3.6 on the Provision of Legal Information and Standard 3.4-1 on Representation Limited to Legal Advice.
 - e. Cases lacking a description of the legal assistance provided to the client are not CSR reportable. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.6. Section 2.1(d) and Footnote 5 of the CSR Handbook (2008 Ed., as amended 2011) indicate that, in order for a case to be CSR reportable, the legal assistance provided to the client must meet the criteria of one (1) of the CSR Handbook Chapter VIII case closure categories and the legal assistance must have actually been *provided* to the client, as opposed to having simply been *prepared*;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that all necessary staff are aware of the above requirements. In response, OILS offered no individualized comments and, as such, Required Corrective Action 4, including subsections (a), (b), (c), (d)(i) and (ii), and (e), remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 30 days of the issuance of this Final Report.

5. Ensure that cases are closed with the CSR case closure category that best reflects the highest level of service provided to a client. *See* CSR Handbook (2008 Ed., as amended 2011), Chapter VIII (Case Definitions and Closure Categories);

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that staff conducting case closure understand these requirements and are applying them appropriately. In response, OILS reiterated its previously provided information regarding the staff meeting it held on February 6, 2013, where case closure issues identified during the CSR/CMS review were discussed. OILS offered new information indicating that copies of the CSR Handbook (2008 Ed., as amended 2011) were distributed to attendees, that staff attorneys were counseled to utilize the CSR case closure category reflecting the highest level of service provided to the client when closing a case, and that staff was instructed to direct any questions regarding CSR case closure categories to the Office Manager.

Based on the comments provided by OILS, including additional details regarding the information discussed at its February 6, 2013, staff meeting, OCE finds that the actions taken appear to sufficiently satisfy Required Corrective Action 5; however, OCE reserves a definitive conclusion to Required Corrective Action 5 as one (1) inquiry remains regarding staff present at the meeting. The attendance list provided to OCE for the February 6, 2013, meeting indicates that just one (1) of three (3) OILS paralegals were present. OCE inquires whether the Administrative Paralegal responsible for applying CSR case closure categories at case closure was present for the aforementioned staff meeting.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 30 days of the issuance of this Final Report.

6. Ensure that cases pertaining to clients receiving two (2) types of limited service relating to the same legal problem in the same calendar year are reported as only one (1) case, and at the highest level of service. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.2. OILS should further provide an effective methodology to eliminate duplicate files from its CSR;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that staff understands these requirements and to ensure that duplicate files are not reported to LSC in its CSRs. In response, OILS offered no individualized comments and, as such, Required Corrective Action 6 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 30 days of the issuance of this Final Report.

7. Ensure that the update of its Accounting Manual is completed, that it reflects the current policies and procedures within OILS' financial operations, and that it complies with the recommendations contained in the Accounting Guide for LSC Recipients (2010 Ed.);

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to provide LSC with a copy of its updated Accounting Manual. In response, OILS submitted to OCE, on August 9, 2013, a copy of its updated Accounting Manual (revised 5/24/13). OILS' updated Accounting Manual was reviewed and found to be adequate considering the needs of OILS' small office size and was also found to be consistent with the Accounting Guide for LSC Recipients (2010 Ed.).

Based on the updated Accounting Manual submitted by OILS, OCE finds that the actions taken sufficiently satisfy Required Corrective Action 7 and that no further action is needed.

8. Ensure that its procedures provide for proper 45 CFR § 1610.5(a) donor notification. OILS must provide written notification to all donors of funds in the amount of \$250 or greater of the prohibitions and conditions which apply to those funds, as well as written notification to its non-LSC funding sources, as required by 45 CFR § 1610.5(a);

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that proper 45 CFR § 1610.5(a) funding source notification is occurring. In response, OILS indicated that it "will modify its fundraising letters and donor thank you letters to include the disclaimer on the use of non-LSC funds." OILS further indicated that, donations "in excess of \$250" will be sent a funding source letter containing the "required disclosure language." Finally, OILS indicated that all non-LSC funding sources will be sent a "letter of disclosure" annually.

Based on the comments provided by OILS, OCE finds that the actions taken do not sufficiently satisfy Required Corrective Action 8 and, as such, Required Corrective Action 8 remains open. In particular, OILS indicates the notification requirement contained in 45 CFR § 1610.5(a) incorrectly, as applying to donations "in excess of \$250." LSC Regulations, at 45 CFR § 1610.5(b), indicate that notification is not required to funders of "less than \$250" – in other words, donors of \$250 or more do require notification. Furthermore, OCE requests specific information regarding the procedures implemented to ensure that proper funding source notification is occurring and also asks that OILS provide OCE with a copy of its updated and compliant notification letter.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 30 days of the issuance of this Final Report.

9. Institute a procedure that ensures that employees' timekeeping records are reviewed for accuracy and which guarantees contemporaneous entry of employee time records into its timekeeping system. See 45 CFR § 1635.3;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to ensure that employee time records are kept pursuant to 45 CFR § 1635.3. In response, OILS indicated that its current procedure requires that staff attach a Kemp's Case Management time-keeping report to their signed timesheet when submitting it for payroll processing. OILS further indicated that timekeeping will be checked "at the end of the pay period for compliance."

Based on the comments provided by OILS, including its newly implemented payroll procedure, OCE finds that the actions taken satisfy Required Corrective Action 9 and that no further action is necessary.

10. Evaluate whether its paralegals meet Oklahoma's legal definition of a "paralegal" and, thus, determine whether the staff members' job titles should be amended or whether they should engage in timekeeping as required by 45 CFR § 1635.3(b). If OILS determines that the duties of its paralegals that have not been entering time worked in the timekeeping system meet Oklahoma's legal definition of a paralegal, OILS must ensure that their time records are kept contemporaneously in OILS' timekeeping system;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the outcome of this analysis and detail its methods to ensure proper timekeeping, as applicable. In response, OILS offered no individualized comments and, as such, Required Corrective Action 10 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 90 days of the issuance of this Final Report.

11. Ensure that bank statements are accessed directly by the Executive Director prior to reviewing the bank reconciliations. *See* the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § I(8);

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to confirm that this procedural adjustment has been made. In response, OILS offered no individualized comments and, as such, Required Corrective Action 11 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 60 days of the issuance of this Final Report.

12. Develop a written policy and corresponding procedure which require that stale checks (over six (6) months old) be researched and resolved, and also investigate all currently outstanding stale checks and resolve consistent with the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, Accounting Procedures and Internal Control Checklist, I-7;

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the actions it has taken to resolve its current outstanding checks more than six (6)

months old and to provide LSC with a copy of its new policy and procedure. In response, OILS offered no individualized comments and, as such, Required Corrective Action 12 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 60 days of the issuance of this Final Report.

13. Ensure that the Executive Director's expense reports and credit card statements are reviewed and approved by OILS' Board of Directors. *See the Accounting Guide for LSC Recipients (2010 Ed.), Chapter 3, §§ 3-4(3) and 3-4(4).* Reviews and approvals can be conducted after payments are made in order to prevent delays or late fees; and

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to confirm that this procedural adjustment has been made. In response, OILS offered no individualized comments and, as such, Required Corrective Action 13 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 60 days of the issuance of this Final Report.

14. The below listed financial duties performed by OILS' Office Manager and Bookkeeper must be reviewed in an attempt to obtain more stringent internal controls. Correspondingly, the benefit of sharing certain duties among other staff or of employing additional fiscal employees to obtain a stronger segregation of duties must be assessed by management based upon a cost versus benefit analysis.
 - a. OILS' Office Manager has the responsibility of purchasing, receiving, and maintaining office supplies. Each of these duties should be performed by an employee independent of their other duties. *See the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § D(8); and*
 - b. OILS' Bookkeeper posts receipts to the General Ledger and also performs the bank reconciliations, duties which should also be performed by independent employees. *See the Accounting Guide for LSC Recipients (2010 Ed.), Appendix VII, § J(4)(a).*

With its comments to the Draft Report and this Required Corrective Action, OILS was asked to inform LSC of the outcome of this assessment and to report any procedural changes that have been made as a result. In response, OILS offered no individualized comments and, as such, Required Corrective Action 14 remains open.

OILS is required to provide comments and/or documents demonstrating its compliance with this Required Corrective Action within 60 days of the issuance of this Final Report.

OKLAHOMA « INDIAN « LEGAL « SERVICES, INC.

July 21, 2013

Lora M. Rath
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW 3rd Floor
Washington, DC 20007
rathl@lsc.gov

Dear Ms. Rath:

Thank you for your consideration in granting us additional time to respond to the Draft Report for the on-site Case Service/ Case Management System Review, which took place during the week of January 7, 2013. We appreciate the professionalism of the staff that conducted the review. The feedback we received on our program has been very helpful in improving our program.

The following is a summary of the corrective action we have taken in response to the Draft Report:

LSC Finding #3: Proper documentation for cases accepted over 125% but less than 200%

All cases that are staffed for acceptance which are over 125% of poverty guidelines but less than 200% will be brought to the attention of the Executive Director during the staff meeting. Cases which are accepted that are over 125% but less than 200% will be and stamped with the reason for acceptance and signed by the Executive Director prior to case opening. A review of currently open cases has been conducted by the Office Manager and all cases which have been accepted that are between 125% and 200% of eligibility guidelines have proper documentation of the reasons for acceptance.

An end of month self-review of closed cases will be done to ensure proper coding of funding source and CSR eligibility. This will be conducted by the Office Manager as a part of the case closing procedure.

LSC Finding #5: Proper documentation requirement per evidence of citizenship or alien eligibility.

The cases that were found lacking proper documentation were in cases where OILS is Court appointed as guardian ad litem for children in the custody of one the Tribal Courts. Since these cases all involve minor children, the tribal court judges sign the verification of citizenship. The

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LSC

three cases that were identified during the visit as lacking property documentation have been corrected and the tribal court judges' verification of citizenship has been placed in the file. To correct potential oversights of citizenship verification, we have contacted the tribal court clerks and judges to inform them that we cannot accept court appointments without first having the verification of the citizenship of the child in the file. We have also amended the citizenship verification of children to allow tribal social workers with access to the child's' birth certificate to sign the citizenship verification or to provide us with the child's' birth certificate as proof of citizenship.

LSC Finding #10: Case Closure Categories

An in-house training for all staff at the regular Wednesday staff meeting was conducted on February 6, 2013. We used the Case Service Report Handbook, as amended 2011, and specifically went over closure code issues which were review team. The following staff members were at the meeting:

Colline Keely
Carol Henderson
Lisa Noley
Stephanie Hudson
Mark Widell
Josie Stanley
Norma Barnes

Lisa Noley, who worked closely with Mr. Irizarry-Castro during the site visit, explained the closure issues he raised during the visit. Copies of the updated CSR handbook were handed out to staff at staff meeting. Staff attorneys were counseled to review the codes when closing cases and to use the code that reflects the highest level of service provided to client. If there are any questions determining which closure code to use, the staff member is to speak with Lisa Noley.

One of our challenges has been the closure codes that appear on the printed intake form are obsolete. We have been unable to modify the case management system to change the printed "Reason Closed Codes" to reflect the correct codes. Technical support for the case management system is not easily available. The correct closure codes appear in the drop down box within the system and they are used at the closing of the case. We are currently considering upgrades to our case management system through either updating the current system to cloud technology, or a completely new case management system. Any technical assistance we could get from your office would be greatly appreciated.

LSC Finding #16: Updated donor letter and notification

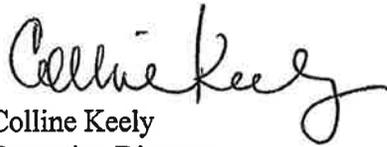
OILS will modify its fundraising letters and donor thank you letters to include the disclaimer on the use of non-LSC funds. Upon receipt of donations in excess of \$250 an updated donor letter containing required disclosure language will be sent. Annually all non-LSC funders will be sent a letter of disclosure as well.

LSC Finding #18: Review of Timekeeping & other Fiscal Records

It is the policy at this time to attach a copy of a Kemp's Case Management time-keeping report to the employees signed timesheet, which is turned in with payroll. Time will be checked at end of pay period for compliance.

I hope these corrective actions will address the issues raised in the report. Again, I want to thank Julia Kramer and her team for their feedback and support. If you need further information, please call.

Sincerely,

A handwritten signature in cursive script that reads "Colline Keely". The signature is written in black ink and is positioned above the printed name and title.

Colline Keely
Executive Director

Lora Rath

From: Julia Kramer
Sent: Monday, August 12, 2013 11:23 AM
To: Lora Rath
Cc: M. Megan Smith
Subject: FW: Oklahoma Indian Legal Services - Accounting Manual
Attachments: ACCOUNTING MANUAL 2013.doc

FYI

From: Colline Keely [mailto:keely@oilsonline.org]
Sent: Friday, August 09, 2013 5:13 PM
To: Julia Kramer
Subject: Oklahoma Indian Legal Services - Accounting Manual

Julia,

Attached is the Accounting Manual adopted by the Board of Directors for Oklahoma Indian Legal Services.

I will get you the other items as soon as possible.

Colline Wahkinney Keely
Executive Director
Oklahoma Indian Legal Services
4200 Perimeter Center, Suite 222
Oklahoma City, OK 73112
Ph: 405 943-6457 Fax: 405 917-7060
keely@oilsonline.org

**OKLAHOMA INDIAN LEGAL SERVICES (OILS)
ACCOUNTING MANUAL**

INTRODUCTION

~~This manual, prepared in compliance with the *LSC Accounting Guide For Recipients*, is intended to comply with~~
LSC Regulations at Section 45 CFR Part 1600 et. seq., and will be updated from time to time. It is the policy of OILS to abide by these regulations at all times. Regardless of the stated policy, if a conflict arises the position stated in the *LSC Accounting Guide for Recipients* will prevail.

All OILS employees are bound by these policies and any deviation from established policy (with the exception noted above) is prohibited. In the event an item is not specifically covered in this manual, please refer to Section 45 CFR Part 1600 et. seq.

Revised 5/24/2013

OKLAHOMA INDIAN LEGAL SERVICES (OILS)
ACCOUNTING MANUAL

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I. PRINCIPLES

A. ACCOUNTING PHILOSOPHY

The accounting philosophy of OILS is to provide standards to allow program personnel to evaluate performance in the financial area in accordance with consistent criteria, and to make improvements as needed in order to safeguard assets against unauthorized use or disposition, to provide reliability of financial information and reporting, and to maintain compliance with regulations and laws that have a direct and material effect on the program.

B. RESPONSIBILITIES

1. Board of Directors

The ultimate responsibility for the Program financial statements rests with the Board of Directors, who define appropriate parameters for fundamental financial decisions. All financial decisions within those parameters will be recorded in the minutes. *The Audit and Finance Committee*¹ is appointed by the Board.

The Board of Directors reviews and approves the annual budget, authorizes all bank accounts and approves all signatures. (III C 1 s)

The Board of Directors is responsible for entering into appropriate contractual agreements on behalf of the Program, including, but not limited to, funding grants, leases and purchases of property and/or equipment in excess of \$10,000. Such actions will be recorded in the minutes.

The Board reviews the Program's financial reports which compare actual expenses against projected expenditures at least quarterly.

2. The Audit and Finance Committee

The Audit and Finance Committee, consisting of the elected Board officers and chaired by the Treasurer, guides the process of selecting the Program's auditor and recommends the selection of the particular auditor to the full Board, which appointment is recorded in the minutes. In addition, this committee meets with the auditor for an exit conference at the completion of each audit.

3. Executive Director:

The Executive Director, hired by the Board, is responsible for hiring competent staff and overseeing that appropriate procedures for establishment of records which ensure the integrity of accounting, reporting and financial systems

are maintained. The Executive Director functions as the Business Manager.

The Executive Director keeps the Board informed of the financial position of the Program.

The Executive Director is also responsible for establishing procedures to properly document, record, and report financial transactions.

C. JOB DESCRIPTIONS:

1. EXECUTIVE DIRECTOR/BUSINESS MANAGER (I B 3)

Overview: The Executive Director has overall responsibility to the OILS Board of Directors for the operation of the program, including general administration of the Program and its fiscal affairs, the securing of funds and maintenance of funding levels sufficient to meet programmatic needs, the hiring, evaluation and dismissal of staff, and the implementation of programmatic policies.

a. PLANNING

1. Develop short and long-range plans and projections for delivery of service involving Board, staff, clients, and appropriate interest groups.
2. Research and identify alternative methods of meeting client needs as resources and priorities change
3. Develop and manage alternative methods of meeting client need in conjunction with the private bar.
4. Monitor developments which may influence program operations by attending state, regional, and national meetings, as well as reviewing other professional sources of information.
5. Facilitate the development of clear objectives and standards of performance for staff units which are consistent with the resources of the program and existing priorities.
6. Develop resources (funding, equipment, systems) which support the staff in performance of objectives.
7. Facilitate problem solving through information gathering, development of options, and ensuring that effected parties are provided input to decisions.

b. MANAGING ORGANIZATIONAL SYSTEMS

1. Ultimately is responsible for the development of policies (including manuals) which support smooth functioning of the program.
2. Monitor maintenance and improvement of record keeping ensuring information on cases, personnel, etc. is current and accessible.
3. Develop policies and procedures to ensure Affirmative Action and Equal Opportunities are implemented.

4. Monitor (subsequent to development) staff training consistent with identified needs and resources. (VII B)
5. Monitor adherence to priorities and eligibility guidelines in the acceptance of cases.
6. Ensure office space is supportive to staff functioning. Including equipment, library, and surroundings.
7. ~~Oversee development and implementation of systems which~~ provide staff performance reviews, evaluations, and development of individual development plans.
8. Develop and maintain system for client complaints, including feedback system for former clients.
9. Monitor staff adherence to organizational policies.
10. Develop clear lines of authority and responsibility with program.
11. Maintain personnel files.
12. Oversee the development of mechanisms which will provide new staff with understanding of program policies, including a historical perspective of the Legal Services movement.
13. Ensure compliance with LSC (and other funding bodies) regulations.
14. Monitor development of job descriptions that specify expectations and which become base for overview and appraisal of performance.

c. **MANAGING FISCAL AFFAIRS**

1. Ensure that fiscal matters (financial, audits, internal controls, etc.) are conducted in an efficient and timely manner consistent with sound accounting practice and other regulations.
2. Coordinate, for submission to the Board, funding applications.
3. Review all bills for payment.
4. Review all matters relating to unemployment compensation.
5. Pursuant to Board resolution, oversee the investment of program funds.
6. Inspects semi-monthly payroll for accuracy and consistency before distribution.
7. Ensures that semi-monthly payroll is prepared. Inspects all payroll reports prepared by the Bookkeeper for accuracy and completeness, including monthly, quarterly, year-end and W-2 forms.
8. Inspects all bank statements before reconciliation and approves reconciliation by initialing and dating upon completion.
9. Maintains bank resolutions and signature cards for all bank

accounts.

11. Prepares annual budgets for LSC and various other funding applications, and ensures that financial and statistical reports promulgated thereunder are prepared and submitted timely.

12. Prepares the annual OILS operating budget.

13. Ensures that all reporting requirements for funding grants are submitted timely and accurately.

13. Reviews monthly all entries to the general ledger.

14. Conducts or oversees a physical inventory at least semi-annually.

15. Supervise maintenance of fixed asset schedule for various recurring journal entries, such as prepaid insurance, memberships and dues and large expendable purchases.

16. Prepares "Corrective Action Plan" response to management letter supplied with the annual audit report within thirty (30) days of receipt of the audit report.

17. Attends all Board Meetings. Responds to requests for information and communications from individual Board members and funding sources.

18. Prepares Board resolutions to change signatures on savings and checking accounts.

19. Attends Grant presentation and/or site visits as requested by various funders. Attends community events as a representative of OILS.

d. **POLICY ADMINISTRATION**

1. Educates new staff about existing personnel and program policies.

2. Endeavors to ensure commitment of staff to program's policies, goals and objectives.

3. Monitors existing policies. Suggests new policies or changes in policy as circumstances and experience dictates

4. Develop and maintain an Accounting Manual which describes specific procedures to be followed by OILS in complying with Fundamental Criteria.

5. Establishes and implements a policy for all Program records retention and disposal.

e. **MANAGING OFFICES**

1. Coordinate negotiations on office leases.

2. Provide for appropriate insurance coverage, including bonding, professional, liability, etc. Periodically review insurance coverage with insurance professional.

3. Monitor establishment and maintenance of efficient office procedures.
4. Ensure offices are maintained in good state of repair.
5. Review and approve all contracts, subject to Board parameters.

f. **MANAGING PERSONNEL**

1. Ultimate responsibility for hiring, evaluation and termination of all personnel.
2. Ultimate responsibility for the review and implementation of periodic salary increments in consultation with other management staff and Board.
3. Establish and revise when necessary, personnel policies which facilitate resolution of staff concerns.
4. Respond to unemployment compensation claims, supplying necessary information to unemployment insurance carrier.
5. Coordinates work assignments to accommodate variations of day to day fluctuations in workloads.
6. Maintains vacation schedule to ensure that reasonable staffing is consistent with Program needs.
7. Coordinates training of Support Staff.
8. Meets with Support Staff periodically to identify Program problem areas and resolves issues as needed.

g. **INFORMATION AND DECISION-MAKING**

1. Coordinate the development of systems which enhance the information flow and decision making.

h. **QUANTITY AND QUALITY OF WORK PRODUCT**

Coordinate the development of systems which provide accurate and timely reports reflecting the quantity and quality of the program's work, including all time keeping requirements with the assistance of the Director of Litigation.

i. **EXTERNAL RELATIONS**

1. Represent Program before external groups, including Board.
2. Establish and maintain relationships with those individuals and groups which impact on the political processes effecting legal services, within the parameters of LSC regulations.
3. Resolve conflicts occurring between OILS and external groups and individuals.

2. **DIRECTOR OF LITIGATION**

- a. Approve Client Representation, Trial litigation and Appellate litigation per LSC/Board policy.
- b. Conduct six month case review reviewing attorney work

product.

c. Ensure that Programs litigation has adequate backup and support.

d. Assist the Executive Director in coordinating the development of systems which provide accurate and timely reports reflecting the quantity and quality of the program's work, including all time keeping requirements

e. Maintain an active case-load.

3. ADMINISTRATIVE ASSISTANT/OFFICE MANAGER

Overview: The Administrative Assistant/Office Manager, under the supervision of the Executive Director, assists in the day to day administration of the Program in administrative duties, accounting, and personnel duties.

a. FISCAL

1. Maintains all property records

2. Follows OILS policy for receiving invoices.

3. Ensures that Program's tax exempt status is communicated to all vendors, and that the program is not subject to payment of inappropriate taxes.

4. Follows OILS policies for receiving incoming funds, including maintaining the Program Cash Receipts Log.

5. Resolves disputed invoices and payments.

6. Reviews all bills for appropriateness and accuracy, stamps with OILS payable stamp, and gives to bookkeeper for payment.

7. Follows OILS policies for receiving incoming funds, including maintaining the Program Cash Receipts Log .

8. Maintains individual records when appropriate to track systematic receipt of funds, such as individual COBRA receipts.

9. Maintains cash receipt log to ensure that all incoming funds are properly recorded and secured.

10. Notes date received all incoming invoices.

b. PERSONNEL MANAGEMENT

1. Administers all benefits, provides information to personnel.

2. Investigates and when possible, improves the fringe benefit package for personnel.

3. Coordinates work assignments to accommodate variations of day to day fluctuations in workloads, including preparing schedules for rotating duties such as taking mail or covering receptionist duties.

4. Assist in establishing efficient office procedures.

5. Secures temporary help as requested.
6. Coordinates and makes recommendations for training of Support Staff.
7. Talks with Support Staff periodically to identify Program problem areas and make recommendations for solutions.
8. Respond to and supply necessary information for worker's compensation claims.
- ~~9. Conducts clerical tests for Support Staff applicants, if needed.~~
10. Maintain objectivity and consistency when dealing with Support Staff, without regard for personal preferences or philosophical differences.
11. Prepare and maintain Board rosters and personnel lists.

c. **GENERAL ADMINISTRATION**

1. Ensures that general day to day office supplies are adequately maintained.
2. Develops and maintains system for requesting urgent or unusual requests.
3. Takes advantage of price reductions or sales when ordering supplies and orders quantities sufficient for all offices whenever possible.
4. Checks deliveries against orders to ensure accuracy.
5. From time to time (but at least every three (3) years) puts out bids on routine office items to various vendors to ensure the best price, quality and service.
6. Records and maintains minutes and records of Board meetings, and ensures their distribution to the board.
7. Takes reasonable steps to obtain resources needed to facilitate the smooth running of the offices.
8. Acts as a resource person for outside special activities, such as special requests from funding sources.
9. Serves as contact person for minor physical facility problems with landlords.

d. **ADMINISTRATIVE SUPPORT**

1. Attends administrative staff meetings and makes recommendations for improving work schedules, staff morale and general office policies.
2. Assists Executive Director with preparation of grant requests or other special projects as requested.
3. Makes recommendations with regard to lines of authority or administrative duties to facilitate the smooth operation of the Program, including staff assignments.
4. Assists the Executive Director to ensure compliance with

Program policies, and endeavors to ensure commitment of Support Staff to Program goals.

5. Evaluates and monitors office systems such as file maintenance and record retention to ensure efficiency and compliance. Make recommendations for improvements.

6. Maintain Board membership lists and ensure that a quorum will be present by contacting all Board members by phone prior to the meeting.

7. Coordinate food requests for Board meetings and communicate Board meeting dates with building personnel to ensure access to the building.

8. Maintain Board books to be distributed to new Board members.

9. Assists the Executive Director in grant management, compliance and reporting.

e. Electronic Data Control

1. Establish control levels for access to various programs and data by issuing of passwords. List of passwords will be kept in the locked file cabinet (which is also used for received but not deposited cash). Change passwords yearly.
2. Develop system for complete daily backups of the network server including designating tape rotation and responsibility, as well as ensure current copies of backup are kept off site.
3. Maintain system for virus scan of all disks which have been used on computers not owned by OILS.

4. BOOKKEEPER

a. The Bookkeeper, under the supervision of the Executive Director, is responsible for assisting the Executive Director in the overall administration of the Program as well as implementation of accounting policies and procedures, which ensure the safeguarding of assets and provide reliability of financial information, including:

1. Establishing procedures to properly document, record, and report financial transactions.
2. Assigning tasks which, to the extent possible, segregate duties to ensure that no individual can initiate, execute and record a transaction without a second independent individual being involved in the process.
3. Supervising and evaluating the accounting or internal control duties of all staff. Establishing independent checks and proofs consisting of regular internal verification of the recording of transactions.
4. Preparation of financial and management reports, and to provide the

Executive Director and Board of Directors with timely and reasonable financial information.

5. To the extent possible, the Bookkeeper provides analysis and financial effect of management decisions before and after implementation.

b. FISCAL MANAGEMENT

1. Keeps abreast of and makes recommendations for improving procedures and policies.
2. Continually updates the Chart of Accounts.
3. Maintains schedule of monthly entries to the general ledger to ensure consistency.
4. Prepares the annual OILS operating budget with Executive Director.
5. Prepares monthly cash receipts journal.
6. Maintains individual records when appropriate to track systematic use of funds, such as individual Health Reimbursement Arrangement receipts, annual and sick leave.
7. Follows OILS policy for paying and recording invoices.
8. Maintains control of all check stock in locked cabinet.
9. Notes date received and appropriate accounting codes on all incoming invoices.
10. Pays all approved bills in a timely manner so as to avoid unnecessary late charges.
11. Keeps Office Manager advised if and when inappropriate and/or duplicate charges are suspected.
12. Maintains all paid invoices and keeps paid invoice files up to date.
13. Prepare semi-monthly payroll. Inspect time sheets for accuracy and completeness, including monthly, quarterly, year end and W-2 forms. Prepare monthly payroll journal entries.
14. Reviews all timesheets, loan repayment assistance and health care reimbursement requests for accuracy, documentation and availability of funds before issuing checks.
15. Maintains daily bank balance sheet for general operating cash account, along with copies of paid checks, as well as duplicate deposit slips.
16. Reconciles bank statements to the general ledger, using the automated accounting system.
17. Verify balances in general ledger balance sheet accounts monthly to ensure reasonableness and accuracy, including comparing cash account balances to reconciled bank statements. Make appropriate journal entries for corrections as needed

18. Posts all transactions to the general ledger and produces all financial reports, including a trial balance.
19. Maintains Fixed Asset schedules for various recurring journal entries, such as prepaid insurance, memberships, dues and consumables.
20. Prepare schedules and/or documentation for year end audit.
21. Maintains communication with CPA, and advises CPA of changes in program's changes in accounting procedures.
22. Maintains all property records.
23. Investigates and recommends improvements to internal control procedures, whether through changes in policy or purchase of software.
24. Makes deposits to employee's 401(k) accounts as authorized by the individual employee.

c. PERSONNEL MANAGEMENT

1. Maintains a list which includes dates of hire and salary adjustments for current and past employees. Ensure that salary adjustments are initialed by the Executive Director.
2. Maintains and checks attendance records for accuracy. Keeps Executive Director abreast of variances from Program policy or suspected fraud.
3. Keeps Support Staff informed as to policies with regard to attendance, client trust procedures and other general policies.
4. Maintains records for annual and sick leave for individual employees.

d. EDP CONTROLS

1. Accounting Records
 - i. At least quarterly, print complete copies of Trial Balance and General Ledger accounts. These copies are to be maintained until the audit report for the current year has been issued.
 - ii. Maintain pass word protection for all accounting records to discourage tampering with accounting data by unauthorized personnel.

SECTION II: FINANCIAL MANAGEMENT

A CASH AND INVESTMENTS

1. Investments Policy

- a. All funds held for immediate operating expenses will be maintained in federally insured bank accounts.
- b. Funds in excess of those needed for immediate operating expenses will be invested in federally-insured accounts or certificates, or invested in U.S. Treasury notes or bills or investment instruments, i.e., money market accounts and repurchase agreements, that invest in U.S. government securities.
- c. Any investment policies adopted outside these stated policies must be acknowledged by resolution of the divergence from LSC's authorized policy (stated above), and recorded in the minutes. In such cases, the Board accepts full responsibilities for the security of those investments.
- d. Investments are accounted for in accordance with Statement of Financial Accounting Standards # 124.

2. Authority

- a. The Executive Director (or his/her designee) makes all investment transaction decisions, subject to Board policy. The Business Manager is responsible for the physical transfer of investments.

B. CLIENT TRUST FUNDS

Client trust funds are funds received from or on behalf of a client: to cover necessary costs associated with their case, or to hold damage awards, rents, etc. A separate escrow (IOLTA) bank account is maintained and designated solely for these purposes.

Separate client trust records are maintained which document receipts and disbursements from client funds. The total escrow account records must equal the cash balance in the escrow bank account's balance and corresponding liability account.

Any funds remaining in the client account will be refunded to the client at the conclusion of the case. In the event the client cannot be located, the funds will be escheated pursuant to Oklahoma law.

C. PROPERTY

Property acquisitions of nonexpendable items with a value in excess of \$5,000.00 with a useful life of more than one year will be capitalize and depreciated.

Property inventories will be taken at least every two (2) years and more often when warranted for example when theft is suspected, or an office is moved. Results of the inventory will be reconciled to the property records and financial statements.

Property donations valued in excess of \$5,000, with a useful life of more than one year will be reported as unrestricted revenues, unless donor restrictions apply. If the

donation is initially reported as temporarily restricted, the restriction is deemed to expire ratably over the useful life of the item, i.e., in proportion to depreciation for a comparable depreciable asset.

D. COST ALLOCATION

1. Although OILS receives funds from non-LSC sources to serve specific demographic populations or to support services for specific types of litigation, we receive no funds to support work prohibited by LSC, its Act or Regulations.

a. Direct costs are allocated to a particular grant to the degree that the costs were incurred to achieve the objectives of the grant. Common expenses are pooled to cost centers (office locations) and allocated among funding sources on the basis agreed to by the applicable funding organization. In the absence of approved methods, the allocation will be fair, consistent and in an equitable manner to the individual cost centers and funds, most generally on the basis of full time professional staff equivalent and the percentage to total of funds received.

b. Similarly, Management and General expenses are allocated among funding sources as agreed by the applicable funding organization. In the event a particular funding source will not sustain the cost of Management and General expenses, allocation will be to LSC funds based on time spent by the Executive Director on administrative duties, Business Manager, and Administrative Assistant and appropriate overhead thereto.

c. Management and General expenses are deemed to be those expenses which are specifically relevant to management, such as travel and training costs for management personnel, professional services, Management Errors and Omissions Insurance, and audit costs. In addition, a portion of routine office expenses are allocated to Management and General on the basis of full time professional staff equivalent.

E. EMPLOYEE BENEFITS

Accounting for employee benefits will be on an accrual method of accounting. Therefore, expenses and corresponding liabilities associated with the vested benefits with the employee will be recorded currently. Earned but unused annual leave as well as pension benefits will be recorded in the financial statements.

F. ACCOUNTING RECORDS

Accounting records will consist of: cash receipts, cash disbursements, payroll, general journal, client trust records, general ledger and property records.

G. RECORD RETENTION

1. Accounting Records

General journal	PERMANENT
General ledger	PERMANENT
Cash receipts ledger	7 years
Cash disbursements records	7 years

Bank statements and canceled checks	7 years
Bank Reconciliations	7 years
Billings for services	7 years
Employees travel & expense reports	7 years
Petty Cash records	7 years
Financial statements - annual	PERMANENT
Financial statements - monthly	7 years
Audit Reports	PERMANENT
2. Fixed Assets	
Equipment in use	KEEP ON FILE
Equipment traded in on similar asset	3 years
Equipment disposed of (no trade-in)	3 years
3. Contracts	
Leases (after termination)	7 years
Grant agreements (after expiration of grant)	6 years
Restricted funds documentation (after use)	7 years
4. Tax Returns	
Federal Form 990 and working papers	PERMANENT
State information returns and working papers	PERMANENT
Payroll tax returns	4 years
Withholding tax statements (W-2)	4 years
5. Corporate Organization Records	
Corporate charter and certificate of incorporation	PERMANENT
Minutes of Board of Directors meetings	PERMANENT
Annual reports	PERMANENT
6. Personnel Records	
Individual employee records	PERMANENT
Payroll records	PERMANENT
Employee pension and insurance records	PERMANENT
7. General Correspondence	5 years

H. REVENUE RECOGNITION

1. Revenues and contributions made to OILS are recognized pursuant to FASB 116 pronouncement, and are recognized for the full amount of the contribution when the pledge is received as unrestricted revenue and expense, absent restrictions placed on the contribution by the donor.

2. Services donated to OILS are recognized at a fair market value of the service, so long as the Program would have had to purchase the service absent the donation. Recognition is at the time the service is provided as unrestricted revenues and expenses, absent restrictions placed on the service by the donor.

3. In the event the donation of either services or equipment carries restrictions from the donor, such will be recognized as Temporarily Restricted revenues and released

to Unrestricted revenues as restrictions are satisfied.

SECTION III: ACCOUNTING AND FINANCIAL REPORTING AND SYSTEM FOR INTERNAL CONTROL

GENERAL POLICY It is the intent of OILS to establish and maintain policies and procedures which include a system of internal controls that safeguard assets against unauthorized use or disposition. To that end, these policies and procedures have been developed and may change from time to time.

A ANNUAL FINANCIAL STATEMENTS AND AUDIT REPORT

1. Authority

a. The external auditors are retained by and report to the Board of Directors, through the Audit and Finance committee.

2 Method

a. The annual audit of the financial statements will be performed in accordance with LSC's Audit Guide and OMB Circular A -133, and will be presented consistent with FASB 117, within the allowable LSC guidelines (currently 120 days after the end of the year).

3. Supplements

- a. The audit report will be accompanied by a management letter which includes a discussion of significant weaknesses as well as suggestions for improved internal control.
- b. Management will prepare a "Corrective Action Plan" within thirty (30) days of the Audit report, detailing its responses to the findings in the management letter. Copies will be distributed to all Board Members and funding sources as requested.
- c. IRS form 990 will be prepared within the allowable timetable or within the time allowed by an extension.

B. CASH RECEIPTS

1. Cash Receipt Policies

- a. As checks are received, they are immediately restrictively endorsed by the Administrative Assistant/Office Manager, who notates the date of deposit and purpose of receipt.
- b. Deposits are made at least weekly and more often when appropriate. Cash deposits are taken to the bank the same day received.
- c. Duplicate deposit slips are retained by the Bookkeeper for comparison to bank statements.
- d. Funds are taken to the bank by someone other than the person preparing the deposit.
- e. All employees handling cash are bonded.
- f. Funds received but not deposited are retained in a locked, fire proof file

cabinet, access to which is limited to the Executive Director and Administrative Assistant/Office Manager.

g. To avoid overdrafts, bank balance sheets are maintained, by the Bookkeeper, for each individual bank account, on which all deposits are noted.

2. Cash Receipt Procedures

a. General Account

1. All funds are recorded upon receipt in the Incoming Mail Log as "checks received" by the Receptionist, who notes the date received, the payee, check number, and amount. The person recording the check (or cash) also initials the entry. In the absence of the Receptionist, this is performed by the Administrative Assistant/Office Manager.

2. All checks are scanned by the Administrative Assistant/Office Manager and sent to the Bookkeeper for entry into OILS accounting program (Peachtree). On the scan, he/she notates the date deposited and purpose of receipt.

3. The Administrative Assistant/Office Manager notates the checks on the bank deposit book in duplicate. The original is taken to the bank with the deposit; the copy is left in the bank deposit book for OILS records. When bank deposit book is full, it is locked in the office of the Bookkeeper.

4. Cash is receipted (in duplicate) in a generic receipt book. 1st copy is given to the payee, 2nd copy remains with the cash (which is placed in the locked fire proof file) until the deposit is made, at which time it is attached to other source documents (check stubs) and retained in monthly financial files, maintained by the Bookkeeper. Cash is deposited in bank the same day received.

5. As funds are deposited, the deposit date is entered in the cash receipts log.

3. Client Escrow Accounts

a. Overview: OILS maintains Client Trust accounts on Peachtree Accounting. Each client has an account number (which is his or her case #). Client name, address, case number, attorney, and purpose of case is notated.

b. Specific procedure:

1. After receipt of client funds is deposited into OILS Client Trust bank account, the Administrative Assistant/Office Manager gives the deposit information to the Bookkeeper, who then enters this information into Peachtree Accounting program.

2. The Client Trust accounts are balanced at the end of each month to the total amount in the Client Trust bank account.

C. CASH DISBURSEMENTS

1. Cash disbursement Policies

- a.** All check stocks will be kept in a locked file cabinet in the office of the Bookkeeper.
- b.** All OILS checks will be prenumbered and all numbers accounted for.
- c.** All payments, are to be made by check or credit card with authorization from the Executive Director.
- d.** No funds will be disbursed, regardless of the source, for any purpose specifically prohibited by the LSC Act or regulations.
- e.** No checks are to be made payable to employees, other than for expenses incurred by that employee, such as travel reimbursement, and reimbursements for allowable expenditures.
- f.** Issuance of checks made payable to employees for the purpose of purchasing supplies or equipment is prohibited, except for reimbursement of pre-authorized items, for which receipts have been submitted.
- g.** Signing blank checks, for any purpose, is prohibited.
- h.** Under no circumstances will any check be made payable to “cash” or “bearer”.
- i.** No payments will be made without written documentation specifying the purpose of the payment and appropriate approval.
- j.** Payments for supplies and services are made from invoices, rather than statements whenever possible.
- k.** Absent extenuating circumstances, vendor payments are made each week of each month, but in no event will payments be made past the date when a service charge would be assessed, or services be compromised.
- l.** Whenever reasonably possible, purchases of items in excess of \$1,000, require bids from three vendors.
- m.** Canceled or voided checks are defaced and retained by the Bookkeeper.
- n.** Uncashed checks are voided and added back to the cash balance after one year.
- o.** Prior approval for all expenditures other than routine library, litigation or general operating expenses is required from the Executive Director.
- p.** Purchases of equipment in excess of \$10,000 must be approved by the Board of Directors.
- q.** Packing slips received with supplies and/or equipment are initialed

by the person receiving the items to verify their receipt and forwarded to the Office Manager.

r. All check signers and all bank accounts are authorized by the Board of Directors and are removed from signature authorization when their employment is terminated.

s. In the event an immediate signature on a check is required and no authorized signer is available, a facsimile of the Executive Director's signature may be used, but under no circumstance will it be used by a) the person preparing the check or b) anyone with any other accounting duties.

t. The facsimile stamp remains in the possession of the Executive Director, who leaves it under the control of the Litigation Director in the event of her/his absence.

u. All bank accounts will be reconciled monthly, by someone having no other financial responsibilities, initialed by the Executive Director and balances compared to the General Ledger.

2. Cash Disbursement Procedures

a. Restricted Account Disbursements

1. As invoices are received by the Administrative Assistant/Office Manager, they are stamped showing the date received, verified for mathematical accuracy, and matched with any packing slip received. In addition, OILS's "Approved" stamp is applied and accounting codes are assigned.

2. Invoices are given to the Bookkeeper weekly, who verifies the arithmetic and approves the accounting code (as evidenced by initialing). Invoices are paid by the Bookkeeper who enters them into the accounts payable system.

3. Checks are issued in duplicate, generally by the Bookkeeper. In her/his, absence checks may be issued by the Executive Director and occasionally may be given to a secretary to type. A copy of the check is attached to the invoice and the check number entered in the appropriate area. Checks are presented to the Executive Director, along with the supporting documentation to which a copy of the check has been attached. After the checks have been signed, they are returned to the receptionist to be stuffed and mailed.

(In the event the Executive Director is unavailable to sign checks, the documentation is presented to another authorized signatory along with accompanying documentation. However, the documentation is presented to the Executive Director for

later inspection.)

4. Paid invoices (to which copies of the paid check are attached) are filed in numerical order by the Bookkeeper by month. The paid invoice file is located in the Bookkeeper's general filing area.

5. The second copy of the check is retained by the Bookkeeper. These copies are kept in ascending numerical order, which is later reconciled to the bank statement and general ledger.

6. Funds for routine service of process, filing fees and other incidental court costs are requested utilizing OILS's check request form, which is maintained by the Office Manager. As funds are requested, notation of the purpose, date, client name, case number and amount are recorded on the payment stub section, and the check given to an authorized signatory.

b. Employee Health Reimbursement Arrangement Disbursements

Employees are allowed to submit reimbursable expenses to the Executive Director as they are incurred. Health care reimbursements may only be made for expenses incurred in the current year and paid for by the employee. Requests must be accompanied by paid invoices/receipts, or Explanation of Benefits showing "amount owed by insured", (canceled checks are not acceptable) attached to the voucher requests. Payments are made weekly, and are only made payable to the employee.

1. The medical expense receipts along with the completed and signed voucher request forms are filed by check number in the monthly disbursement files.

2. Blank checks are maintained in a locked file cabinet by the Bookkeeper, who prepares the checks and presents with accompanying documentation to a person authorized to sign the check.

3. Health care reimbursements may be made in full up to the \$500.00 per year limit (or as determined by the Board).

4. A computerized spreadsheet is also maintained by the Bookkeeper both to verify current employees balances and general ledger balances.

c. Payroll Account Disbursements

1. Net pay is disbursed from the Restricted Account by direct deposit to the employee. In rare circumstances, checks are

issued by the Bookkeeper. Payroll checks are signed by authorized signatories.

2. Semi-Monthly payroll checks are prepared by the Bookkeeper from employee-prepared time sheets which are approved by the Executive Director.

d. Client Escrow Disbursements

Overview: OILS maintains an automated system (Peachtree Accounting) which allows both receipts and checks to be recorded in duplicate. Blank checks are retained in a locked file cabinet by the Bookkeeper. Checks are written generally by the Bookkeeper, but may also be given to a secretary to type in the event the Bookkeeper is unavailable.

1. To disburse client funds, an attorney or paralegal fills out a Client Trust Disbursement form with payer, client, case #, date, purpose and amount. This request is then approved by the Executive Director and given to the Bookkeeper to prepare the check. The checks are signed by two signatories.
2. As the client trust check is prepared in Peachtree, the Client Trust balances are automatically updated.
3. The Client Trust accounts are balanced at the end of each month to the total amount in the Client Trust bank account.

D. BANK RECONCILIATIONS

All OILS bank accounts are reconciled to the General Ledger monthly, by the Bookkeeper.

1. All OILS bank statements are delivered electronically to the Executive Director, who looks at the returned checks for unauthorized signatures, unusual endorsements and other such matters as may come to his or her attention. The statements are given to the Bookkeeper for reconciliation, after approval by the Executive Director.
2. The Bookkeeper is responsible for ensuring that the reconciled bank statements are in agreement with the General Ledger balances.
3. Old uncashed checks are voided and the balances added back into the bank balance after one year.

E. PAYROLL OILS employees are paid on the 1st and 16th of each month, according to the current salary scale. In the event a payday falls on a holiday or weekend, employees are paid on the preceding work day.

1. The Executive Director submits written documentation to the Bookkeeper annually, and as often thereafter as necessary to update rates of pay, withholding amounts and other relevant information.

2. The employee submits time sheets reflecting the current hours worked during the pay period. Employees that are required to maintain contemporary time records shall attach a copy of his or her "Time Balance for Period " from Kemp's and sign and date the time sheet. ~~The Executive Director verifies hours,~~ including any overtime, and approves the time sheets. The Executive Director then gives the time sheets to the Bookkeeper to prepare payroll using Peachtree payroll program.

3. Payroll is disbursed to the employees by direct deposit through OILS bank after approval by the Executive Director. A print-out of the check is given to each employee for his or her records.

4. The Bookkeeper prepares payroll tax deposits, and after approval by the Executive Director, pays the payroll tax deposits electronically and then records deductions for payroll withholding taxes from the general account bank balance.

5. Each employee shall have a personnel file which will include, among other things, salary information, evaluations, certification of employment eligibility, signed receipt for Personnel Policies, promotions and terminations. Such files are maintained by the Executive Director and kept in a locked file cabinet in the office of the Bookkeeper.

6. Any adjustments to payroll disbursements will be authorized by the Executive Director, who, in addition to completing a salary adjustment memo , which is then filed in the employee's personnel file.

F. GENERAL JOURNAL

1. There are no direct entries into the general ledger. Every entry to the general ledger not originating from the cash receipts, cash disbursements, payroll checks or any other subsidiary record of original entry must initially be posted to the general journal.

2. Typical entries recorded in the General Journal include non-computer generated cash transactions, such as receipts and disbursements for all Client Escrow and litigation accounts, online transfers between savings and checking accounts, purchase/disposal of Treasury Bills and other adjustments such as interest earned or service charges, canceled checks, etc.

3. All Journal Entries are accompanied by a thorough description of the transaction and approved by the Executive Director/Business Manager.

4. Description of quarterly standard Journal Entries:

a. J/E #1 TO RECORD SERVICE CHARGES IN GENERAL ACCOUNTS Record bank analysis fees per statements.

b. J/E #2 TO RECORD PAYROLL TAX PAYMENTS Record employer portion of FICA/Medicare taxes as needed to balance to

monthly payroll tax deposits.

c. J/E #3 TO RECORD QUARTERLY PORTION OF MALPRACTICE INSURANCE Record ¼ portion of malpractice insurance prepaid.

d. J/E #4 TO RECORD QUARTERLY PORTION OF GENERAL LIABILITY INSURANCE Record ¼ portion of general liability insurance prepaid.

e. J/E #5 TO RECORD QUARTERLY PORTION OF WORKERS COMP INSURANCE Record ¼ portion of workers comp insurance prepaid.

f. J/E #6 TO RECORD QUARTERLY PORTION OF DEPRECIATION EXPENSE Record quarterly depreciation expense entry.

g. J/E #7 TO RECORD % PORTION OF PAYROLL/BENEFITS TO SPECIFIC GRANT ON UNRESTRICTED BOOKS Record quarterly portion of payroll/benefits to Various Grants on unrestricted books.

h. J/E #8 TO RECORD % PORTION OF QUARTERLY EXPENSES TO GRANT ON UNRESTRICTED BOOKS Record quarterly of rent and telephone expense to Various Grants on unrestricted books.

G. CLIENT TRUST RECORDS

OILS maintains a separate checking account for all client escrows. Individual account records are maintained, and kept by the Bookkeeper. Tapes are run on the last day of the month by the Bookkeeper, and reconciled to the general ledger account as well as the bank. Client escrow transactions are recorded in the general ledger.

Pre numbered receipts and pre numbered checks are used for all client escrow deposits and disbursements.

H. GENERAL LEDGER

1. Policy

a. The general ledger will be posted monthly on a double-entry basis by the Bookkeeper. The design will accommodate fund accounting, cost center accounting, and functional accounting.

b. Complete hard copies of the general ledger will be printed from time to time by the Bookkeeper, but at least quarterly and retained until the audit report for that fiscal year is completed and the audit report issued. Retention of the hard copies is the responsibility of the Bookkeeper.

c. A Trial Balance of the General Ledger will also be run for the balance sheet items monthly, and a complete trial balance at least quarterly. Any out of balance condition will be identified and corrected immediately by the Bookkeeper.

2. Procedure:

a. (01-01-0101-thru-01-01-0106) CASH CHECKING ACCOUNTS

Ensure that reconciled bank statements match relevant year-to-date total

on the Trial Balance.

b. Interbank Restricted Account - 01-01-0204

This account represents restricted funds provided by the grant from LSC. Statements for Interbank are received monthly and interest earned thereon is recorded. Interbank Restricted account is compared to make sure the balance matches year-to-date total on Trial Balance.

c. Interbank Client Trust Account-

This account represents client trust funds. Statements for Interbank are received monthly. Interbank Client Trust account is compared to make sure the balance matches year-to-date total on Trial Balance. Monthly interest paid into the Client Trust account is paid out to the Oklahoma Bar Foundation.

d. A/R EMPLOYEES - 01-01-0351

A separate spreadsheet is maintained to record activity of employee receivables, including recording of advances and reimbursements made, individually by employee and also in total, by the Bookkeeper. The Bookkeeper checks and verifies all activity recorded in the General Ledger at the end of each month and adds activity to the previous month's worksheet to make sure the new spreadsheet balance matches year-to-date total on Trial Balance.

e. A/R OTHER - 01-01-0353

The Bookkeeper checks and verifies all activity recorded in General Ledger and updates the previous month's worksheet to make sure that the new balance matches the year-to-date total on the Trial Balance.

f. PPD INSURANCE - 01-01-0501

Lapse schedules are prepared yearly by the Bookkeeper, with prepaid (unexpended) insurance amounts carried forward from the preceding year. As various insurance payments are made, the following information is recorded on the lapse schedule: Term of coverage, cost, location (cost center), description of coverage, expense and prepaid accounts. A recurring journal entry is then entered by the Bookkeeper and posted each month.

g. The Bookkeeper checks the monthly activity in General Ledger, together with activity in the lapse schedule, then add to previous month's work sheet to see if new balance matches year-to-date total on Trial Balance.

h. CLIENT ESCROW - 01-01-0601

The Client Trust escrow reconciled bank statement, which should be accompanied by a tape of Client Escrow accounts showing the same balance is compared monthly to the Trial Balance by the Bookkeeper.

i. ACCRUED VACATION PAY - 02-01-0201

A spreadsheet is prepared yearly by the Bookkeeper to reflect the current value of earned but unused vacation. Adjusting Journal Entries are made by the Auditor yearly to appropriate salary expense accounts.

j. ACCRUED AUDIT - 02-01-0202

An amount equal one twelfth of the Board approved contracted amount with the external auditor for the current year is expensed each month. The Bookkeeper ensures that the Trial Balance is equal to that amount, divided by twelve, times number of months of year (already past), plus any unpaid monies for the previous year audit expense.

k. ACCRUED OTHER - 02-01-0203

This account accumulates contingent or anticipated expenses, such as projected pension and other payments expected to be made within the fiscal period. The Bookkeeper checks to make sure monthly pension has been added each month.

I. MANAGEMENT REPORTS

Monthly reports, including at a minimum, a Balance Sheet and a Statement of Revenues and Expenses, showing Funding Source, Budget, Actual and Variances, are to be submitted to the Executive Director on the 15th day following the end of the month, or as soon thereafter as reasonably possible. The responsibility for producing such reports lies with the Bookkeeper.

J. BONDING

OILS will maintain fidelity insurance coverage on all employees who handle cash, sign checks, and/or have purchasing or other financial responsibilities or access to financial records and assets.

K. EDP CONTROL

1. Full system backups are to be run daily. Full system backup tapes are to be systematically rotated and current copies kept off site.
2. All accounting software will be password protected and only authorized personnel (Executive Director, Litigation Director, Business Manager) will have access to the password.
3. Complete copies of the general ledger will be run at least quarterly and retained until after the audit is completed and the final audit report issued.
4. Employees are expressly prohibited from loading any unauthorized software on the network or any OILS owned computer. Unauthorized software is that which a license has not been purchased by OILS.
5. Any floppy disk which has been used off site, must be scanned for viruses every time before use on OILS owned computers. The scanning must be performed by the Business Manager or his or her designee.

SECTION IV: CHART OF ACCOUNTS

A. Assets:

1001	OILS Restricted Acct	Funds used for payment for all LSC expenses
1003	OILS Client Trust Acct	Client escrow funds.
1004	OILS Client Trust Interest	Interest paid into client trust account, due to Oklahoma Bar Foundation
1005	OILS Unrestricted Acct.	Funds used for payment for all unrestricted expenses
1009	Cash- Holding for Nov.	LSC grant funding for November of each year (received in January)
1011	Bank of the West- Ada Acct.	Funds used for payments made by Ada office
1200	A/R- Contracts	Accounts Receivable due from OK State Grant
1210	A/R- Unrestricted Acct.	Accounts Receivable due from unrestricted acct.
1240	A/R- BJA Grant	Accounts Receivable due from unrestricted acct. for BJA Grant
1260	A/R- LITC	Accounts Receivable due from unrestricted acct. for LITC grant
1270	A/R- IOLTA	Accounts Receivable due from IOLTA (for LITC)
1280	A/R- Tribal	Accounts Receivable due from unrestricted acct. for tribal expenses
1290	A/R- Quapaw Wills Clinic	Accounts Receivable due from unrestricted for Quapaw Wills Clinic

		expenses
1390	Employee Salary Advance	Employee Receivable
1500	Prepaid Insurance	Insurance paid for future coverage
1590	Deposits	Deposits on long-term rents
1710	Furniture & Fixtures	Value over \$1,000 and life greater than 1 year
1720	Equipment	Value over \$1,000 and life greater than 1 year
1800	Law Library	Volume sets valued over \$1,000
1890	Accum. Depreciation	Depr. on items purchased
	<u>B. Liabilities:</u>	
2010	Accounts Payable	Expenses incurred but not yet paid
2030	Accrued Salary	Value of earned but unused vacation pay
2050	Accrued Audit	Anticipated cost of annual audit
2110	Accrued Payroll Taxes	Payroll taxes incurred but not yet paid
2150	Payroll Deductions	Employee expenses incurred but not yet deducted
2300	Client Trust Deposits	Value of all funds held for client escrow
2400	Deferred Grant Revenue	Grant revenue received for future period
2410	Due to Restricted Acct.	Reimbursement due from unrestricted acct.
2440	Due to Restricted Acct.- BJA	Reimbursement due from unrestricted acct. for BJA expenses
2460	Due to Restricted Acct.- LITC	Reimbursement due from unrestricted acct. for LITC expenses

2480	Due to Restricted Acct.- Tribal	Reimbursement due from unrestricted acct. for tribal expenses
2490	Due to Restricted Acct.- Quapaw	Reimbursement due from unrestricted acct. for Quapaw Wills Clinics
2760	Deferred Revenue- LITC	Grant revenue received for future period
2770	Deferred Revenue- NARF/Quapaw	Grant revenue received for future period
<u>C. Restricted Net Assets:</u>		
3501	Fund Balance- LSC	Net Assets deemed to be restricted
3503	Fund Balance- Unrestricted	Net Assets deemed to be unrestricted
3505	Fund Balance- Property	Net value of property
3800	Retained Earnings	Curr yr variance of revenues & expenses
	IV = Unrestricted Revenue	
4001	LSC Basic Field	Restricted Grant Revenue
4510	LSC Interest	Interest earned on restricted LSC funds
4140	Income- BJA Grants	BJA Grant revenue- unrestricted funds
4160	Income- LITC Grant	LITC Grant revenue- unrestricted funds
4510	Income- OBF Grant/LITC	OBF Grant revenue- for LITC matching- unrestricted funds
4550	Income- ICWA Handbooks	Revenue from sale of ICWA Handbooks
4585	Income- Quapaw Wills Clinics	Revenue from Quapaw Tribal wills clinics
4595	Income- Tribal	Revenue from Tribes
4680	Income- Miscellaneous	Miscellaneous Revenue
4710	Interest Income- Restricted	Restricted Acct. Interest Income

4720 Interest Income- Client Trust	Client Trust Acct. Interest Income- interest payable to OBF
4720 Interest Income- Unrestricted	Unrestricted Acct. Interest Income
4800 OK Legal Services	OK State Legal Services Revolving Fund

D. Basic Expense Types

6001 Salary- Attorney	Attorney compensation, including wages, vacation and sick pay, and LRAP
6003 Salary & Wages- Support Staff	Paralegal & Staff compensation, including wages, vacation and sick pay
6050 Donated Services- Interns	Donated Services by Interns
6056 Donated Services- LITC	Donated services for LITC- unrestricted acct.
6100 Employee Benefits	Benefits for employees, including FICA/Med, group health & life insurances, medical reimbursements, unemployment insurance, and workers comp insurance
6300 Rent- Office	Cost of rent or lease of office, includes Ada space rent
6350 Rent- Equipment	Cost of office equipment rent or lease, such as postage machines and copy machines
6500 Office Expense	Cost of routine office supplies and services for day to day operations of the programs. Includes various office expenses- reproduction cost, postage & freight, software, water cooler expense, and bank charges
6590 Network Expense	Cost of computer networking, includes

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6600 Telephone Expense	Cost of telephones, including land lines, fax line and cell phones
6702 Travel Expense- Administrative	Mileage and parking costs for travel incurred conducting administrative business, includes per diem and wills clinics travel
6704 Travel Expense- Client Representation	Mileage and parking costs for travel incurred conducting business for clients, includes per diem
6720 Travel- Board of Directors	Cost of travel incurred by Board Members, including mileage, parking, and other incidental costs for Board related business
6800 Training	Cost of Staff training and related conferences, including per diem and travel costs, as well as registration and training materials.
6880 Library Maintenance	Cost of routine upkeep of law library with useful life of less than one year or valued at less than \$1,000. Includes updates for depreciable volumes as well as CD ROM's for computer-assisted legal research
6902 Insurance- Property & Liability	Premiums for general liability insurance, including cost of employee bonding, umbrella coverage, non-owned autos, etc. Office furniture and equipment is insured at replacement cost.
6904 Insurance- Liability	Premiums for cost of professional liability insurance for all staff case handlers and volunteers. Includes management errors insurance.
6950 Dues & Fees	Bar association dues and program related

6970 Audit Services	membership dues. Cost of annual audit
7000 Litigation Expense	Litigation costs incurred on behalf of clients, including service of process, filing fees, publication fees, cost of depositions and discovery, including expert and other witness fees and mileage.
7100 Contract Services	Contractual professional costs incurred by the Program, such as legal representation for the Program. Excludes audit costs and routine services offered by outside payroll services.
7400 Other Expenses	Miscellaneous expenses not included above.
7420 Depreciation Expense	Cost of depreciation of fixed assets with a useful life of more than one year and valued at over \$1,000

SECTION V: ACCOUNTING FOR PROPERTY

A. OVERVIEW

Property acquisitions of non expendable items with a value in excess of \$5,000, with a useful life of more than one year will be capitalized and depreciated.

Property inventories will be taken at least every two (2) years and more often when warranted for example when theft is suspected, or an office is moved. Results of the inventory will be reconciled to the property records and financial

Property donations valued in excess of \$5,000, with a useful life of more than one year will be reported as unrestricted revenues, unless donor restrictions apply. If the donation is initially reported as temporarily restricted, the restriction is deemed to expire ratably over the useful life of the item, i.e., in proportion to depreciation for a comparable depreciable asset.

As property valued in excess of \$5,000 is purchased the item is tagged with a OILS equipment inventory control tag and is added to depreciation records, including manufacturer, model number, serial number, cost, location and useful life. It is assumed unless otherwise indicated that all equipment items are purchased with LSC funds.

Property purchases in an amount over \$10,000 to be acquired with LSC funds require prior LSC approval pursuant to the LSC Regulations, Section 1630.5. Such decision will be documented in the Board Minutes. The prior approval will be requested by the Executive Director.

B. CAPITALIZATION

Items which are deemed to be capitalized will be recorded as an equipment acquisition (recorded as a debit) with the offsetting credit to cash. In addition, at year end the acquisition will be reported in the Changes in Net Assets.

For management reporting purposes, fixed asset purchases are treated as expenses during the year and closed to the appropriate fund balance as a fund transfer along with all support and expense account at year end.

C. DEPRECIATION

Depreciable items will be expensed using a straight line method as follows: Computers - 3 to 5 years, Furniture and fixtures - 5 to 10 years, Law Library - 3 to 10 years, Leasehold Improvements - Term of lease or life of improvement, whichever is shorter.

D. DISPOSALS

1. Net gains or losses from the disposal of property will be reported as revenue or expense in the property fund. Gain or loss is defined as the difference between the sales proceeds and the net book value.

2. Amounts required to be written off through abandonment or loss will be recognized as expense in the property fund and the equipment fund.

3. When an item of non expendable property or equipment becomes unserviceable

or no longer needed it shall be disposed of by one of the following methods:

a. Property with a fair market value of less than \$1,000 will be donated to another non profit corporation or sold to the highest bidder. Property with a fair market value of more than \$1,000 will be transferred to another non profit organization servicing the poor within our community. If another non profit organization cannot be located for the donation, the property will be advertised and sold to the highest bidder.

b. If no other avenues are available, the property will be sold to an employee or to a member of his or her family. When this situation occurs all employees shall be given an opportunity to bid on the property.

c. If an item is unusable, it will be disposed of.

SECTION VI: PROGRAM POLICIES

A. LOCAL TRAVEL:

Hourly employees will be reimbursed for mileage and parking costs incurred while performing within the scope of their duties at \$.50 per mile (or less but not more, depending upon the allowable rate set by the federal government standard). Parking costs will be reimbursed when the employee is charged for parking at their destination, and near the office if travel is required during the day which cannot reasonably be done before or after working hours. Salaried employees will be reimbursed for out of town mileage and not for in town mileage.

Parking receipts are required for such reimbursement, as well as mileage records which are recorded on OILS travel forms and signed by the employee.

Per Diem is paid where the trip is over ten hours or if an overnight stay is required.

B. CONFERENCES AND TRAINING:

1. Registration and related costs of approved conferences and trainings will be paid by the Program, so long as prior approval has been gained by the Executive Director.

Mileage and parking costs to and from the training will be paid by the Program at \$.50 per mile (or less, depending upon the allowable rate set by the federal government standard), so long as mileage records and parking receipts are maintained and submitted as detailed above, and the cost of travel is less than airline travel.

2. In the event that airline travel is the most economical, airline costs will be either paid for by the program, or reimbursed to the employee. Whenever possible, airline reservations should be made early enough to ensure the lowest fare.

3. If several staff attend the same conference or training, and travel costs would be minimized by driving together, whether in employee owned autos or leased vans, such arrangements should be made.

4. In the event an employee elects to stay longer than the conference or training, and the savings in travel costs would be significant to OILS (such as an over Saturday night rate for airline travel), per diem will be paid for the extended length of stay.

5. Per Diem will be paid at the federal per diem rate.

6. Travel advances for estimated mileage, parking and per diem rates are allowed, but upon completion of the travel, a reconciliation will be submitted to the Bookkeeper within 7 days. Adjustments to or from the employee will be made during the following cycle for paying bills.

C. MEMBERSHIP DUES

OILS pays for all Bar Dues which are required to practice. Local and specialty bar dues are paid at the discretion of the Executive Director and the availability of Program funds, however only dues which are required for the practice of law will be paid with

LSC funds.

D. LOCAL AND LONG DISTANCE PHONE CALLS:

OILS recognizes the need for occasional personal phone calls, whether local or long distance, however such calls should be held to a minimum.

Long distance personal calls which are recurring or more than 10 minutes in length should be reported to the Office Manager, and payment to OILS made when the cost of the call(s) is/are determined.

Abuse in making long distance calls (or extended local personal calls) will be considered as fraud and the employee treated accordingly.

E. SALARY ADVANCES:

Salary advances of up to \$500.00 are allowed for emergency needs, as articulated in OILS Personnel Policies. Requests for salary advances are to be approved by the Executive Director, approved solely at his or her discretion, and submitted in writing on OILS salary advance forms. In the event repayment is not made in the agreed terms, the entire advance will be withheld from the employee's next paycheck.

F. COMPENSATORY AND OVERTIME:

Professional Staff: No compensatory or overtime is paid for professional staff, although flexibility in working hours is generally allowed in unusual circumstances. Professional Staff is described as Attorneys, Paralegals, and Executive Director/Business Manager.

Support Staff: Overtime at a rate of 1 1/2 times the hourly rate will be paid to Support Staff, so long as the overtime has been pre-approved by the Executive Director or his or her designee. Prior approval shall be requested by the supervisor in writing stating the nature of as well as the reason the overtime is necessary.

Such approved extraordinary pay will be paid after 40 hours of regular pay for the work week beginning on Sunday and ending on Saturday. Support Staff is described as full time Legal Assistants, Receptionists and Office Clerks or hourly employee.

G. VACATION FOR ACCOUNTING PERSONNEL

Employees with significant accounting responsibility are required to take extended annual leave periodically, but at least annually. Extended annual leave is deemed to be at least one week in duration, during which time accounting duties to the extent reasonably possible will be performed by another person.

Persons having significant accounting responsibilities are identified as the Executive Director/Business Manager, Bookkeeper and any individual designated to reconcile any bank statements. Banks will be reconciled by an alternate designee at least once yearl

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