



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

**Puerto Rico Legal Services, Inc.**  
Case Service Report/Case Management System Review  
Oct. 17 – 29, 2010

Recipient No. 253010

## **I. EXECUTIVE SUMMARY**

**Finding 1:** At the time of the on-site visit, PRLS' newly installed ACMS did not appear to be sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

**Finding 2:** Except as noted in Finding 1, PRLS' intake procedures supports most compliance related requirements.

**Finding 3:** PRLS' financial eligibility policy is not consistent with the requirements of 45 CFR Part 1611.

**Finding 4:** PRLS is in compliance with LSC's income documentation requirements.

**Finding 5:** PRLS is in compliance with LSC's asset documentation requirements.

**Finding 6:** PRLS' citizenship/alien eligibility documentation forms are insufficient to maintain a record of it's compliance with Part 1626. Additionally, four (4) of the files that were reviewed during the visit lacked the citizenship/alien eligibility documentation required by LSC regulations and the CSR Handbook.

**Finding 7:** PRLS is in substantial compliance with the requirements of 45 CFR § 1611.9 "Retainer agreements".

**Finding 8:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of 45 CFR Part 1636 Client Identity and Statement of Facts.

**Finding 9:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

**Finding 10:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001 Ed.), § 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Legal Assistance Documentation Requirements).

**Finding 11:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of Section VIII, CSR Handbook (2001 Ed.), and CSR Handbook (2008 Ed.), Chapter VIII: Case Definitions and Closure Categories

**Finding 12:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 (Timely Closing of Cases).

**Finding 13:** The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001.Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate reporting.

**Finding 14:** The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

**Finding 15:** PRLS provided legal assistance in fee-generating cases in violation of 45 CFR § 1609.3.

**Finding 16:** PRLS is in compliance with the requirements of 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

**Finding 17:** PRLS has not accurately identified and accounted for the costs related to its PAI effort as required by 45 CFR Part 1614.

**Finding 18:** PRLS is in substantial compliance with the requirements of 45 CFR Part 1627 (Subgrants and membership fees and dues).

**Finding 19:** PRLS is in substantial compliance with 45 CFR Part 1635 (Timekeeping requirements).

**Finding 20:** Several corrective actions are required in order to bring PRLS into compliance with the requirements of LSC's Accounting Guide for LSC Recipients.

**Finding 21:** The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

**Finding 22:** The files and documents that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

**Finding 23:** The files that were reviewed during the on-site visit demonstrated 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 24:** The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1617 (Class actions).

**Finding 25:** The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1632 (Redistricting).

**Finding 26:** The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

**Finding 27: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).**

**Finding 28: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).**

**Finding 29: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).**

**Finding 30: The files that were reviewed during the on-site visit demonstrated 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)).**

## II. BACKGROUND OF REVIEW

On October 17 thru 29, 2010, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site review at Puerto Rico Legal Services, Inc. ("PRLS"). The visit was conducted by a team of seven (7) OCE program counsel, two (2) OCE program analysts, and one (1) fiscal consultant.

PRLS is a non-profit legal services organization that provides free legal services to low-income residents of the Commonwealth of Puerto Rico. PRLS receives annual grants from LSC for the purpose of providing legal assistance to persons eligible for legal assistance under the LSC Act in LSC service areas PR-1 and MPR, consisting of all of Puerto Rico except Hato Rey. In 2008, PRLS received an LSC basic field award in the amount of \$16,017,912.00 and an LSC migrant award in the amount of \$281,703.00. In 2009, it received an LSC basic field award in the amount of \$17,627,944.00 and an LSC migrant award in the amount of \$310,018.00. In 2010, its basic field award was \$18,638,972.00 and its migrant award was \$334,739.00.<sup>1</sup> Upon receipt of its LSC grant, PRLS agreed, in writing, to comply with the requirements of the LSC Act, applicable appropriations acts and other applicable laws, the regulations promulgated by LSC, and such other rules, policies, guidelines, instructions and directives issued by LSC.

PRLS is headquartered in San Juan and maintains direct service centers ("DSC") in Aguadilla, Aibonito, Arecibo, Bayamon, Caguas, Carolina, Cayey, Corozal, Fajardo, Guayama, Humaçao, Manati, Mayaguez, Ponce, Rio Piedras, Sabana Grande, and Utuado.<sup>2</sup> It is staffed by 320 employees, including its Executive Director, a Controller, the Director of Administration, the Director of Litigation, the Director of Office Information Statistics, the Director of Information Systems, the Director of Practica Privada Compensada, a compliance manager, a manager of mediation, a manager of special projects, a manager of special communities and collaborative agreements, a manager of training, a communications official, a directing or supervising attorney in each of the 17 direct service centers, approximately 100 staff attorneys, and various other administrative, secretarial, and clerical employees.

According to information provided by PRLS prior to the visit, its 2010 priorities were environmental law, consumer law, human and civil rights, community development, education, employment law, family law, immigration, income maintenance, rights of the elderly, housing, health, and minors/juvenile. The Migrant Farm Worker Division priorities are employment, housing, health, consumer, and taxes.

For 2008, PRLS reported 59,872 closed cases, including 13,405 private attorney involvement ("PAI") cases. Housing accounted for approximately 36% of all closed cases; family law, 28%; miscellaneous, 9%; juvenile, 6%; consumer/finance, 5%; employment, 4%; education, 3%; health, 4%; income maintenance, 3%; and individual rights, 2%. Approximately 83% of all closed cases were closed after counsel and advice or limited action; 11% were court decision;

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<sup>1</sup> PRLS also received grant and contract support from non-LSC sources. According to LSC's Recipient Information Network, in 2008, PRLS received non-LSC grant support totaling \$3,507,128.00; in 2009, it received \$3,680,952.00 in non-LSC grant support. See [www.rin.lsc.gov](http://www.rin.lsc.gov).

<sup>2</sup> A satellite office is located in San Germán.

.5% were agency decisions; and 4% were settled. Extensive service and other accounted for some 4% of all closed cases. In that same year, PRLS reported an error rate of .75%. Exceptions were noted with respect to CSR Handbook (2008 Ed.), §§ 5.5, and 5.6.

For 2009, PRLS reported 52,207 closed cases, including 15,185 PAI cases. Family law accounted for approximately 31% of all closed cases; housing, 31%; miscellaneous, 9%; consumer/finance, 6%; juvenile, 6%; employment 4.5%; education, 4%; health, 3%; income maintenance, 3%; and individual rights, 2%. Approximately 82% of all closed cases were closed after counsel and advice or limited action; 11% were court decision; .5% were agency decisions; and 4% were settled. Extensive service and other accounted for some 3% of all closed cases. In that same year, PRLS reported an error rate of 2.6%. Exceptions were noted with respect to CSR Handbook (2008 Ed.) § 5.5.

The on-site visit was designed and executed to assess PRLS' compliance with LSC statutory, regulatory and reporting requirements during the period January 1, 2008 through September 1, 2010. The review team assessed PRLS' compliance with certain regulatory requirements, including 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 1611 (Financial eligibility); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 (Restrictions on legal assistance with respect to criminal proceedings); 45 CFR Part 1614 (Private attorney involvement) ("PAI"); 45 CFR Part 1615 (Restrictions on action collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1620 (Priorities in use of Resources); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR Part 1627 (Sub-grants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1642 (Attorneys' fees); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing); and Section 1007(b)(8) – (10) of the LSC Act, 42 USC §§ 2996f(b)(8) – (10) (Abortion, school desegregation litigation, Military Selective Service Act or desertion).

In preparation for the visit, OCE requested that PRLS provide, among other things, a list of all cases reported to LSC in its 2008 CSR data submission ("closed '08 cases"), a list of all cases reported to LSC in its 2009 CSR data submission ("closed '09 cases"), a list of all cases closed between January 1 and September 1, 2010 ("closed '10 cases"), and a list of all cases which remained open as of September 1, 2010 ("open cases"). OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. PRLS was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11 and 12, and the LSC *Access to Records* protocol (January 4, 2005). PRLS was instructed to promptly notify OCE, in writing, if it believed that providing the requested

material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

PRLS advised OCE that it would afford OCE access through the use of staff intermediaries. Thereafter, PRLS provided the requested materials. OCE then selected a sample of 1,593 case files to be reviewed during the visit. An effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was distributed proportionately among open and closed cases, as well as among PRLS' various office locations. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, application of the CSR case closing categories, and duplicate reporting.

During the visit, PRLS cooperated fully. It provided all requested materials in a timely manner. PRLS afforded access to information in the case files through the use of intermediaries. PRLS disclosed financial eligibility information, the problem code, and the general nature of the legal assistance provided to the client. Additionally, PRLS displayed client signatures as they appeared on citizenship/alien eligibility documentation, retainer agreements, and Part 1636 statements. OCE also interviewed members of PRLS' upper and middle management, fiscal personnel, staff attorneys, and support staff. The visit also included an assessment of PRLS' case intake, case acceptance, case management, and case closure practices and policies.

OCE visited each of PRLS' 17 direct service centers, as well the six (6) subrecipient regional offices. During the visit, OCE interviewed PRLS' Executive Director, the Controller, the Director of Information Systems, the Director of Practica Privada Compensada, its managers of compliance and special communities, several of the directing attorneys in the direct service centers, the six (6) directing attorneys of the subrecipient regional offices, and several support staff. A review of pertinent program files and documentation was also conducted in order to gain an understanding and explanation of program operations, policies and procedures sufficient to assess facts and circumstances regarding the fiscal operation of PRLS during the period January 1, 2008 through September 1, 2010. OCE also reviewed 1,451 files, including 350 open files, 436 closed '10 files, 460 closed '09 files, and 205 closed '08 files.<sup>3</sup>

An attempt was made to advise PRLS of any compliance issues during the course of the visit. This was accomplished by notifying intermediaries and managing attorneys of any compliance issues identified during the case reviews. At the conclusion of the visit, OCE held a brief exit conference during which OCE advised PRLS of its preliminary findings. OCE advised PRLS that while no patterns of non-compliance were detected, there were instances of non-compliance with certain regulatory and reporting requirements, including PRLS' financial eligibility policy, citizenship/alien eligibility documentation, documentation of the legal assistance provided to the client, timely closing of cases, and incomplete retainer agreements. PRLS was instructed that such findings were merely preliminary and that OCE might well make further and more detailed findings in this report.

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<sup>3</sup> PRLS was unable to locate one (1) of the files contained in the sample. See Fajardo closed '08 File No. 1300 2007 04 0056. Consequently, OCE was unable to determine whether the file conformed to LSC's regulatory and reporting requirements.

By letter dated January 31, 2011, OCE issued a Draft Report (“DR”) detailing its findings, recommendations, and required corrective actions. PRLS was afforded 30 days to review the DR and submit written comments. On March 2, 2011, PRLS requested an extension of time and OCE granted PRLS until March 28, 2011. On March 28, 2011, PRLS requested until March 29, 2011 to submit its comments and OCE agreed. By letter dated March 29, 2011, PRLS submitted its comments to the DR. OCE has carefully considered PRLS’ comments and has made such revisions as it deems appropriate. PRLS’ comments and corrections are reflected in this Final Report and have been attached as an appendix hereto.

### III. FINDINGS

**Finding 1: At the time of the on-site visit, PRLS’ newly installed ACMS did not appear to be sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.**

Recipients are required to utilize ACMS and procedures which will ensure that information necessary for the effective management of cases is accurately and timely recorded in a case management system. At a minimum, such systems and procedures must ensure that management has timely access to accurate information on cases and the capacity to meet funding source reporting requirements. *See* CSR Handbook (2001 Ed.), ¶ 3.1 and CSR Handbook (2008 Ed.), § 3.1.

Typically, in the course of CSR/CMS visits, OCE will conduct a test of the recipient’s ACMS and intake processes – computerized and manual - to determine the range of information obtained and to ensure that such systems and processes facilitate compliance with all necessary regulatory and reporting requirements, *i.e.*, that program management has timely access to accurate client and case information and the capacity to meet funding sources’ documentation and reporting requirements, that cases involving the same and specific legal problem are not reported to LSC more than once, and that the timely closing of cases is tracked by generating case management reports.

Prior to the on-site visit, PRLS notified OCE that it installed a new ACMS, “PROMAC”, on September 20, 2010, and that in doing so, it experienced a loss of certain case information. Several persons in different DSCs that were interviewed during the on-site visit confirmed problems with the new ACMS. The problems that were reported included complaints by PRLS staff that the system was slow and that the new system lost information in the conversion process from APLICA to PROMAC. *See, e.g.*, Pro Bono Abog Vol San Juan closed ’09 File No. 8801 2009 07 0062 (basis for financial eligibility determination lost in conversion). One (1) DSC reported that PROMAC often fails to record, and even alters, information. Another DSC stated PROMAC automatically assigns a case closure category to the case, even before the case is actually closed. In Arecibo, the ACMS was unable to fully complete a mock intake demonstration. As such, the intake assessment in Arecibo relied exclusively on staff interviews. In Sabana Grande, PROMAC was able to retrieve financial eligibility information entered in APLICA, but only after several attempts to do so. The staff in Sabana Grande explained that



there have been problems using PROMAC to retrieve information entered into the old ACMS. Staff in other DSCs indicated that the new “firewall” feature in the software is malfunctioning and has blocked access to data, *e.g.*, case histories and attorney case inventories, within and between DSCs. As a result, some DSCs are unable to conduct a program-wide conflicts and/or duplicate checks, or to adequately supervise cases and perform compliance duties.

OCE received comments that perhaps the problems arose because PRLS had not sufficiently migrated the data in APPLICA to PROMAC. Others suggested that PRLS had not adequately trained staff on the use of PROMAC. Another DSC reported that it was unable to access PROMAC because it did not have the correct internet browser.

PRLS staff reported significant issues with the PROMAC system. At the time of the on-site visit, OCE was unable to conclude that PROMAC system was sufficient to ensure that information necessary for the effective management of cases is accurately and time recorded as required by CSR Handbook (2008 Ed.). As transition issues are normal for several months during the full implementation of a new ACMS, the timing of the visit did have the advantage that LSC was able to review the system and to note issues that PRLS could improve while the system was still new. Staff did report that PRLS was working to resolve the transitional issues. Accordingly, PRLS was instructed to take immediate action to resolve the PROMAC issues to ensure that the case management system has the technological capacity to ensure cost effective and efficient management of data and workflow. PRLS was further instructed that corrective action must include a program-wide review of network performance.

Notwithstanding PRLS’ difficulties with PROMAC, the review period encompassed a time prior to its installation. Based on a comparison of the information yielded by the ACMS in place as of September 2010 to information contained in the case files, the old ACMS, APPLICA, was also insufficient to ensure that information necessary for the effective management of cases is recorded accurately and timely. Specifically, OCE noted that in some instances the file numbers were different from the case numbers contained in the case lists provided by PRLS prior to the visit. For example, the list of Conflicto Etico-PPC open cases provided by PRLS contained case numbers beginning with “8003”. However, in reviewing the Conflicto Etico-PPC open files, it was noted that the cases all began with “8005”. The list of Aibonito-PPC open and closed ‘09 cases provided by PRLS contained case numbers beginning with “0301”. However, in reviewing the Aibonito-PPC files, it was noted that all these cases began with “0305”. As well, the list of Tele-Envejeciente-PPC closed ‘09 cases provided by PRLS contained case numbers beginning with “0103”. However, in reviewing the Tele-Envejeciente-PPC closed ‘09, it was noted that the cases all began with “0105”. Also, the list of Aguadilla-PPC closed ‘09 provided by PRLS contained case numbers beginning with “0201”, but in reviewing these cases, PRLS disclosed that the cases all began with “0205”. Similar anomalies were noted with respect to the Sabana Grande-PPC closed ‘09, Manati-PPC closed ‘09, Caguas-PPC closed ‘09, and Humaçao-PPC closed ‘09 lists. It was not clear whether any of these inconsistencies were a function of the newly installed ACMS.

*See also*, Rio Piedras open File No. 4101 2006 05 199 000, Educacion Especial open File Nos. 4400 2010 05 03 000 and 4400 2007 11 12 000, Corozal-PPC closed ‘09 File No. 1701 2009 080 0003, and Carolina-PPC closed ‘09 File No. 1001 2009 07 0011 (open dates in files different

from open dates in case lists provided by PRLS prior to the visit); San Juan Pro Bono Reg open File No. 8881 2007 06 66 000 and Corozal open File No. 1700 2006 08 135 000 (file documents indicate case was closed 2007); Aguadilla-PPC open File No. 0201 2009 10 05 (file documents indicate case was closed 2009); Sabana Grande-PPC closed '10 File No. 2505 2009 6 07 (file documents indicate case closed August 9, 2009, but due to computer error it remained open in ACMS until closed by staff on May 13, 2010); and Manati-PPC open File No. 2201 2010 04 02 (file documents indicate case assigned to staff, not PAI, attorney).

PRLS should take such measures as necessary to ensure that information necessary for the effective management of cases is accurately and timely recorded in its ACMS.

In its response to the DR, PRLS stated that several of the observations noted in Finding 1 could have been answered by the Director of the System of Information Office, or by the Manager of the Statistics Office, but neither was interviewed during the visit. PRLS added that the PROMAC had only recently been installed and that it was making adjustments at the same time its personnel were learning how to use the system. Since the visit, all of the PRLS computers used by case handlers and several others – approximately 140 – have been upgraded. The new computers use Windows 7 operating system, which, together with the enhanced memory, greatly improves PROMAC's performance.

PRLS further commented that there was never a loss of information. The completion of the data conversion from APLICA to PROMAC was validated and all information was migrated. The problem was that the personnel did not know how to use the newly installed program and had difficulty in retrieving information. PRLS states that this has been corrected. PRLS explained that the Director of the System of Information Office and/or the Manager of the Statistics Office visited all of the DSCs and provided technical support. In addition, an e-mail account was created to respond to users' questions. PRLS stated that over time the number of questions posted to the e-mail account have diminished, indicating a greater understanding of PROMAC by PRLS staff

Regarding the observation in this Finding that PROMAC often fails to record, and even alters, information, PRLS stated the problem was identifying some of the abbreviations and language the users entered. PRLS stated that the necessary adjustment has been made so that PROMAC records all of the information entered into the system.

PRLS also stated that the problem observed by OCE, namely that PROMAC automatically – and prematurely - assigned case closure categories, arose when Tele-Abogado transferred case files to the DSCs and closed the file prior to the transfer. Instructions have been given by the director of the Centralized Intake System, or Sistema de Entrevista Centralizado ("SEC") to transfer the file to the DSC as an open file. In this way, PROMAC will not assign a case closure category to an open file.

As to the Sabana Grande DSC's inability to retrieve financial eligibility information entered in APLICA, PRLS stated that the database was reviewed and the financial eligibility information was saved. Once the computers in that DSC were changed, the problem was solved.

Whereas staff in other DSCs indicated that the new “firewall” was not functioning properly, PRLS stated that the “firewall” is functioning well and attorneys are able to review case histories and case inventories. PRLS stated that, as a control mechanism, it intentionally established a “firewall” that impedes DSCs and projects from having access to other DSCs or projects’ data. Conflict checks are conducted by the SEC, rather than the DSCs.

PRLS stated that it has trained its staff on PROMAC. PRLS also provided a copy of an attendance sheet at such training and a copy training materials.

PRLS also stated that PROMAC is able to function using almost any internet browser. In the case of Microsoft Explorer, it will run on Microsoft 7 or above. Before installing PROMAC, all browsers on all PRLS computers were upgraded. Since PROMAC began operating, some 140 computers have been upgraded with new models, all of which have at least two browsers – Explorer and Firefox – capable of running PROMAC. According to PRLS this problem has been solved.

According to PRLS’ response, the initial problems presented by PROMAC have been resolved, and, indeed, the system is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

Regarding the inconsistencies in the case files cited in the Finding, PRLS responded that the differences in the file numbers were because the information had to be retrieved from the APLICA program. Due to problems in the data conversion, in order to generate the lists requested by OCE, PRLS kept the DSC identifying numbers in the original APLICA program. For example, the Arecibo-PPC identifying number in APLICA was “401”, but now is “4054”. With PROMAC, reports are being integrated to prevent this from occurring again.

Regarding the differences in open dates, PRLS responded that PROMAC uses the date the case was accepted as opposed to the intake date. As to those case files that were listed as open, but were actually closed, PRLS explained they are because the DSC did not perform the login when requested by the Office of Information Systems. In any event, PRLS stated that the necessary adjustments have been made to PROMAC to guarantee that this will not happen again.

Upon consideration of PRLS’ comments, OCE has revised the DR as reflected herein.

**Finding 2: Except as noted in Finding 1, PRLS’ intake procedures supports most compliance related requirements.**

In determining financial eligibility, recipients must make reasonable inquiry regarding sources of income, income prospects and assets. Recipients are required to adopt simple forms and procedures to obtain information from individuals and groups to be used in making its financial eligibility determination, and are required to record such information in the manner specified by LSC regulations. *See* 45 CFR § 1611.7(a).

Except for walk-in and emergency applicants, PRLS' intake and eligibility screening is centralized in the Centralized Intake System, or Sistema de Entrevista Centralizado ("SEC"). According to PRLS, SEC does not provide legal assistance. Rather, it screens for eligibility and case acceptance and directs the applicant to the appropriate DSC. All of the DSCs are integrated into the SEC, which is located in San Juan, Corozal and Ponce. Each of the three locations is staffed by an intake supervisor and intake specialist. Corozal and Ponce intake supervisors report to the Supervisor of Intake and the Director of Centralized intake located in San Juan.

According to staff in the various DSCs, all intake information is documented electronically in PROMAC, which is designed to capture all of the information necessary to an eligibility determination, *i.e.*, household size, household income, assets, citizenship/alien eligibility. However, OCE observed that PRLS' screened for prospective income only if no income value was entered into the ACMS. As part of its financial eligibility screening, LSC regulations require that recipients make a reasonable inquiry into the income prospects of *each* applicant for LSC-funded legal assistance. *See* LSC Office of Legal Affairs Advisory Opinion AO 2009-1006 (September 3, 2009). Accordingly, PRLS is instructed to make reasonable inquiry into the income prospects of each applicant for LSC-funded legal assistance and to keep such records or documentation as may be necessary to inform LSC of its compliance with 45 CFR § 1611.7(a)(1).

OCE also observed that contrary to LSC Program Letter 02-6 (June 6, 2002), PRLS' ACMS defaults to "0" for income and assets. As previously noted, OCE tested PRLS' computerized intake system by conducting a mock intake. In doing so, OCE noted that the income and asset fields already contained a default value of "0". PRLS explained that to ensure that assets are screened, the ACMS contains a certification box which must be checked by the intake worker. If the box is not checked, the intake screener cannot proceed and cannot save the information entered. Nevertheless, LSC Program Letter 02-6 (June 6, 2002) instructs that income, asset, household size and citizenship eligibility fields should be blank when starting an intake; they should never have a default value. Accordingly, PRLS must take such measures as to remove all asset and income defaults.

In at least one (1) DSC, OCE observed that the value of food stamps was included in the calculation of household income. PRLS is reminded that the value of food stamps is not income and may not be considered as such. *See* 45 CFR § 1611.2(i) and 7 USC § 2017(b).

Except for the DSC in Fajardo, all of the DSCs conduct intake for walk-in, emergency applicants. In Fajardo, all walk-ins are afforded an opportunity to contact SEC. In the remaining DSCs, non-emergency, walk-in requests are afforded a telephone line and directed to contact the SEC. Intake within the DSCs other than Fajardo is limited to emergency walk-ins. The walk-in emergency practices and procedures were substantially identical in all of the DSCs. Such walk-in applicants are questioned to determine whether they reside, or have a legal issue, within the area served by the DSC. Thereafter, information is collected regarding the applicant's legal issue, household size, household income, the total value of the household assets, citizenship/alien eligibility information, and adverse party. All information collected is entered into the ACMS and a conflicts check is performed, usually through SEC. The ACMS in the DSCs visited

contained drop-down boxes to document PRLS' consideration of its authorized exceptions. It also contained PRLS' annual income ceiling and asset ceiling.

Once eligibility is established and it is determined that there are no ethical conflicts, additional information regarding the applicant's legal issue is obtained. If the issue is within PRLS' priorities, it is usually assigned to an advocate. In several DSCs, walk-in emergencies are referred to PRLS' "Practica Privada Compensada" (Compensated Private Practice) ("PPC"). Whether assigned to PPC or staff, once the case is accepted the client is scheduled to meet with an advocate. Documents, *e.g.*, retainer, citizenship/alien eligibility documentation, Part 1636, etc., not previously obtained are obtained at this first meeting. Additionally, at this first meeting staff typically reviews the eligibility information with the client and review the facts and circumstances relevant to the client's legal issue. DSC directors review intakes daily and monitor staff case loads.

In response to the DR, PRLS stated that currently PROMAC will automatically require the intake worker to inquire as to income prospect, but only when no value in current income is entered or when none of the public benefits program, *e.g.*, food stamps, is checked. Until the ACMS is re-programmed, PRLS stated that it will instruct the DSCs to conduct a manual income prospect inquiry and document the response in the files. Once re-programmed, the SEC personnel will routinely screen all applicants for income prospects.

Regarding the observation that the ACMS contained defaults PRLS explained that APLICA WEB was designed in such a way that PRLS was unable to eliminate the pre-set "0" value. With that system, the attorneys screening for financial eligibility were required to certify in a check box that the applicant had been properly screened for asset eligibility. If the certification box was not checked, the user was unable to proceed. At present, PROMAC operates in the same manners. However, PROMAC is being re-programmed to bring it into compliance with LSC Program Letter 02-6 (June 6, 2002) and the required corrective action..

PRLS stated that neither APLICA WEB nor PROMAC contain defaults as to household size or citizenship eligibility. Although the available choices for citizenship/alien eligibility are pre-set, the users is obligated to make appropriate inquiry and select from among the alternatives in order to continue. PRLS stated that its ACMS will be re-programmed in conjunction with its revisions to its financial eligibility policies.

PRLS stated that the one DSC in which the value of food stamps were included in the calculation of household income is an isolated instance. The norm is that food stamps have never been considered as income.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

**Finding 3: PRLS' financial eligibility policy is not consistent with the requirements of 45 CFR Part 1611.**

LSC regulations require that the governing body of a recipient adopt policies consistent with 45 CFR Part 1611 for determining the financial eligibility of applicants and groups. At a minimum, each recipient's financial eligibility policy must: (1) specify that only individuals and groups determined to be financially eligible under the recipient's financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds; (2) establish an annual income ceiling not to exceed 125% of the Federal Poverty Guidelines; (3) establish asset ceilings; and (4) specify that, notwithstanding any other provisions of the regulation or the recipient's financial eligibility policies, in assessing the financial eligibility of an individual known to be a victim of domestic violence, the recipient shall consider only the income and assets of the applicant and shall not consider any assets jointly held with the abuser. *See* 45 CFR § 1611.3; *see also*, 70 *Federal Register* 45545, at 45550 (August 8, 2005).

As part of its financial eligibility policy, recipients may adopt authorized exceptions to its annual income ceiling consistent with 45 CFR § 1611.5. *See* 45 CFR § 1611.3(b)(2). The policy may also authorize a waiver of the recipient's asset ceilings for specific applicants under unusual circumstances and when approved by the Executive Director, or his/her designee. However, when the asset ceiling is waived, recipient is required to document the reasons for the waiver and maintain such records as are necessary to inform LSC of the reasons for such waiver. *See* 45 CFR § 1611.3(d)(2). Additionally, the policy may permit financial eligibility to be determined by reference to an applicant's receipt of benefits from a governmental program for low-income individuals or families, provided that the recipient has determined that the income standards of the governmental program are at or below 125% of the Federal Poverty Guideline and that the governmental program has eligibility standards which include an asset test. *See* 45 CFR §§ 1611.3(f) and 1611.4(c); *see also*, 70 *Federal Register* at 45553.

PRLS provided an English translation of its financial eligibility policy. *See* PRLS "Guidelines for Financial Eligibility Assessment of Applicants". In reviewing the policy, OCE notes that the policy establishes an annual income ceiling that does not exceed 125% of the Federal Poverty Guideline and establishes asset ceilings. The policy also authorizes a waiver of PRLS' asset ceilings in unusual circumstance, and permits an asset eligibility determination by reference to the applicant's receipt of benefits from a governmental program for low-income individuals or families.

The policy does not, however, specify that only individuals and groups determined to be financially eligible under the PRLS' financial eligibility policies and LSC regulations may receive LSC supported legal assistance. Instead, the policy states:

If the family unit's annual gross income exceeds the Index of Maximum Annual Income, the applicant will not be eligible to receive services, unless rendering said services is authorized under any of the exceptions outlined in Section VI of these guidelines.

The statement contained in PRLS' policy fails to address groups and is not limited to LSC funded legal assistance. Accordingly, PRLS must revise the language of its policy. In doing so, PRLS may wish to consider the following language:

Only individuals and groups determined to be financially eligible under this policy and LSC regulations may receive legal assistance supported with LSC funds.

Nor does the policy specify that, in assessing the financial eligibility of an individual who is a victim of domestic violence, the recipient shall consider only the income and assets of the applicant and shall not consider any assets jointly held with the abuser. The policy does contain the following statement:

Annual gross income is to be considered as the primary support for the family unit, except that such income shall not include any income received by a family unit member who is an adverse party or who has a serious conflict with the applicant regarding the problem which motivates the application for legal assistance, for example, victims of domestic violence.

To the extent that the foregoing statement could reasonably be interpreted to exclude the income of family unit members in situations other than domestic violence, it has broader application than was intended by Section 506, Pub.L. 105-119, 111 Stat. 2440 (1998) and is inconsistent with 45 CFR § 1611.3(b) and (e).

The language of Section 506, which was later incorporated into Part 1611, *see 70 Federal Register 45545* (August 8, 2005), is limited in its application to establishing the income and asset eligibility of an individual who is a victim of domestic violence. The language was included in an effort to address concerns regarding access to the legal system for victims of domestic violence. *See 70 Federal Register 45545, 45552* (August 8, 2005). There is nothing in the appropriations language, or the language incorporating it into Part 1611, that would suggest an application beyond victims of domestic violence. Unless the family unit member is an adverse party in a domestic violence case, PRLS may not disregard the income or assets of the family unit member. Accordingly, PRLS is required to revise its financial eligibility guidelines consistent with 45 CFR § 1611.3(e).

Regarding assets, the policy continues to distinguish between liquid and non-liquid assets. This distinction was abandoned by LSC in favor of language that focuses more on the availability of the asset and the ease of converting the asset to cash. The language of the regulation is intended to require that recipients consider all assets upon which an applicant might draw in obtaining private legal counsel. In revising Part 1611, it was determined that "liquid" and "non-liquid" characterizations obscured this understanding. Accordingly, the terms were eliminated, *see 70 Federal Register 45545, 45547* (August 8, 2005), and PRLS is instructed to do likewise.

As noted previously, the policy contains asset ceilings and certain exclusions. Consistent with 45 CFR § 1611.3(d)(1), PRLS' policy excludes the "home occupied by the family unit and

surrounding property”, “one motor vehicle used for transportation of the applicant’s family members”, and “any non-liquid asset used to generate income for the applicant’s family unit”. However, as to the remaining exclusions, PRLS is advised that the list of excludable assets set forth at 45 CFR § 1611.3(d) is exhaustive. *See 70 Federal Register*. 45545, at 45550 - 45551 (August 8, 2005). Accordingly, PRLS’ asset policy is consistent with LSC regulations only to the extent that “funds for the acquisition of permanent housing”, “government aid for reconstruction, repair or remodeling of housing”, “contributions to non-IRA retirement plans”, “cash value of assets destined to replace lost, stolen or damaged property”, “funds for education or medical expense”, “IRA”, “property intended for the construction of the family’s permanent home, including any structures under construction or partially constructed”, “home furnishings and appliances, personal effects including burial plot”, “irrevocable trusts”, “security deposits”, “property for sale”, “funds held in trust, transferred to a trust or income from such funds”, community property and/or property which cannot be liquidated without judicial or governmental authorization”, “community property, including conjugal partnership property of persons residing in a shelter, home or refuge for women or juveniles who are victims of violence or mistreatment or those who have had to abandon their home to avoid violence and reside with family or friends”, and “recreational property” are assets exempt from attachment under state or federal law. In response to this Draft Report, OCE requests that PRLS provide a citation to the federal or state law exempting these assets from attachment.

PRLS has also adopted exceptions to its annual income ceiling. They are consistent with 45 CFR § 1611.5(a)(4), except that it appears that PRLS treats “payment for utilities, registration, books, transportation, uniforms, and meals for students” as fixed debts and obligations. The term “fixed debt and obligation” means debts fixed as to both time and amount. Examples include mortgage payments, rent, child support, alimony, and unpaid taxes. It does not include food costs, utilities, credit card debt, or other types of debt or obligation, such as “registration, books, transportation, uniforms, and meals for students”, that are not fixed as to both time and amount.<sup>4</sup> *See 70 Federal Register* at 45555. Accordingly, PRLS is required to revise its financial eligibility guidelines consistent with 45 CFR § 1611.5.

Additionally, OCE notes that in applying the authorized exceptions, PRLS deducts the expenses from the applicant’s income. Moreover, according to PRLS’ policy, actual expenses will be deducted from income only if they are greater than the amounts stated in the “*Factores que envuelven deducciones por tamaño del núcleo familiar*”. OCE also observed that PROMAC automatically deducts a pre-determined amount of non-medical expenses associated with age and infirmity for households containing persons 60 years of age or over.

While the practice of deducting expenses from an applicant’s income does not violate LSC regulations, it is not required. In determining the financial eligibility of an applicant whose income exceeds the recipient’s annual income ceiling but does not exceed 200% of the Federal Poverty Guideline, LSC regulations permit recipients to consider one or more of the factors listed at 45 CFR § 1611.5(a)(4) and requires the recipient to document the basis for its determination. *See 45 CFR §§ 1611.5(a)(4) and 1611.5(b); see also, 70 Federal Register* at 45555 and LSC Office of Legal Affairs Opinion EX-2001-1015 (October 22, 2001). There is,

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<sup>4</sup> However, transportation and uniform expenses necessary for employment may be considered pursuant to 45 CFR § 1611.5(a)(4)(iv).



however, no authority for consideration of pre-determined expenses. PRLS may only consider actual expenses. Accordingly, PRLS is required to revise its financial eligibility guidelines consistent herewith.

In reviewing PRLS' financial eligibility policy OCE also notes that it continues to contain "Disqualifying Factors". These factors roughly correspond to the factors previously enumerated at 45 CFR § 1611.5(b)(2). However, LSC abandoned these factors when it revised Part 1611 in 2005. PRLS is instructed to do likewise.

During the exit conference, PRLS was further instructed to revise the confidentiality section of its policy consistent with Section 509(h), Pub.L 104-134, 110 Stat. 1321 (1996). As well, it was suggested that PRLS revise its group eligibility policy consistent with 45 CFR § 1611.6. PRLS' financial eligibility policy permits legal assistance to groups, associations, or corporations, provided the group, association, or corporation can demonstrate that it is primarily composed of persons financially eligible for LSC funded legal assistance, and that it lacks, and has no practical means of obtaining, funds to retain private counsel.<sup>5</sup> The policy then instructs staff to determine the eligibility of each member of the group, association, or corporation.

PRLS was advised that in determining whether the group, association or corporation is primarily composed of persons financially eligible for LSC funded legal assistance, LSC regulations do not require individual financial eligibility determinations for each member of the group, association or corporation. Rather, LSC regulations require that recipients consider the resources available to the *group*, such as the *group's* income and income prospects, assets and obligations. Additionally, for groups, associations or corporations primarily composed of persons financially eligible for LSC funded legal assistance, the recipient may consider the financial eligibility of the individual members, or it may consider other socio-economic characteristics of the persons comprising the group. *See* 45 CFR § 1611.6(b)(1); *see also*, 70 *Federal Register* at 45556 - 45559. The regulation requires that recipients collect and maintain information that reasonably demonstrates that the group, corporation, association or other entity lacks, and has no practical means of obtaining, funds to retain private counsel and either that the group, corporation, association or other entity is primarily composed of persons financially eligible for LSC funded legal assistance, or has as a have as a principal activity the delivery of services persons who would be financially eligible for LSC funded legal assistance and the legal assistance sought relates to such activity meets the regulatory eligibility criteria. *See* 45 CFR § 1611.6(b)(2).

In its response to the DR, PRLS stated that it began the revision of its financial eligibility policy and has completed its final draft, which will be forwarded to OCE for review before being submitted to its Board of Directors for final approval. The review of PRLS' financial eligibility policies, which is being performed, will address all of the observations set out in the DR.

After due consideration of PRLS' comment, pending receipt of PRLS' revised financial eligibility policy, OCE does not deem revision of the DR to be warranted.

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<sup>5</sup> Although permitted by LSC regulations, the policy makes no provision for legal assistance to groups that have as a principal activity the delivery of services persons who would be financially eligible for LSC funded legal assistance and the legal assistance sought relates to such activity.

**Finding 4: PRLS is in compliance with LSC’s income documentation requirements.**

For each case reported to LSC, recipients are required to record the number of members in the applicant’s household and the total income received by all members of the applicant’s household. *See* CSR Handbook (2008 Ed.), § 5.3. The documentation of eligibility shall be recorded electronically in a case management system record, or in a simple form as provided by 45 CFR § 1611.7(b) and shall be preserved for audit purposes for a period of five years. *See* CSR Handbook (2008 Ed.), § 5.2.

Without exception, the LSC-funded files that were reviewed during the visit contained the income documentation required by LSC. However, Arecibo-PPC open File Nos. 0401 2010 07 21 and 0401 2010 07 20 involved the same client. The cases were opened one day after the other, but the household income recorded in the first case was considerably greater than the household income recorded in the second case. While the client was income eligible in both instances, such inconsistencies might well prompt PRLS to make appropriate inquiry to verify the information. *See* 45 CFR § 1611.7(c).

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 5: PRLS is in compliance with LSC’s asset documentation requirements.**

As noted above, for each case reported to LSC, recipients are required to document the total value of assets held by all members of the applicant’s household. *See* CSR Handbook (2008 Ed.), § 5.4.

Without exception, the LSC-funded files that were reviewed during the visit contained the asset determination required by LSC. As noted above, PRLS’ financial eligibility policy permits an asset eligibility determination by reference to the applicant’s receipt of benefits from the Nutritional Assistance Program (“NAP”),<sup>6</sup> Temporary Assistance for Needy Families (“TANF”), and/or Medicaid. A considerable number of the files that were reviewed during the visit documented the client’s receipt of benefits from PAN, TANF and/or Medicaid in lieu of an asset determination.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

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<sup>6</sup> In Spanish, the acronym is “PAN”.

**Finding 6: PRLS’ citizenship/alien eligibility documentation forms are insufficient to maintain a record of it’s compliance with Part 1626. Additionally, four (4) of the files that were reviewed during the visit lacked the citizenship/alien eligibility documentation required by LSC regulations and the CSR Handbook.**

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 instance 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 (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse’s or parent’s family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.<sup>7</sup> Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient’s CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-02, “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.

PRLS has adopted written policies and procedures to guide its staff in complying with Part 1626. The policy has been updated to reflect the guidance provided by LSC Program Letter 06-2 (February 21, 2006). *See* PRLS *Políticas*, Tab 9, Circular Num. 2006-02, “Política del Programa de Servicios Legales de Puerto Rico Respecto a la Representación de Extranjeros” (May 2, 2006).

During the visit, OCE observed different citizenship/alien eligibility forms used by PRLS at various times. Two (2) forms in particular, lacked separate signature lines dedicated to the citizenship attestation. Both forms appear to have been in use in 2007. One form was attached to the “Contrato de Servicios” (retainer agreement). Translated, the form read:

**C. REQUEST FOR SERVICES AND CASE ACCEPTANCE**

I, \_\_\_\_\_ certify that:

<sup>7</sup> *See* Kennedy Amendment at 45 CFR § 1626.4.

I have received the PRLS grievance procedure and that

a) I am a citizen of the United States of America, or

b) I am a legal alien and have presented documents acceptable to verify my status as such.

Thereafter, the form contains checkboxes describing the services to be provided and the nature of the client's legal issue. The form contains a single signature line that is not dedicated to the citizenship attestation.

A second form was part of the PRLS "Planilla de Informacion" (intake form) and, translated, read:

I, \_\_\_\_\_ certify that:

a) I am a citizen of the United States of America, or

b) I am a legal alien and have presented documents acceptable to verify such status.

Again, this language is followed by language used to describe the nature of the client's legal issue and a statement that the client has been informed of PRLS' grievance procedure. As with the retainer, the form contains a single signature line that is not dedicated to the citizenship attestation.

According to the CSR Handbook (2008 Ed.), § 5.5, as of January 1, 2009 all reported cases must comply fully with the 2008 CSR Handbook, regardless of when they were opened. In response thereto, PRLS has developed a citizenship/alien eligibility form that contains a signature line dedicated to the citizenship attestation and a separate signature line dedicated to the statement of alien eligibility. Nonetheless, during the visit, several files were reviewed that contained non-compliant citizenship/alien eligibility documentation. *See* Carolina open File No. 1000 2003 10 209, San Juan closed '10 File Nos. 4201 2006 06 118, 4201 2007 11 103, and 4201 2008 02 51, Carolina closed '10 File No. 1000 2010 03 217, Fajardo closed '10 File Nos. 1300 2009 05 72, 1300 2009 10 70, 1300 2009 12 72, and 1300 2010 04 33, San Juan closed '09 File Nos. 4201 2007 10 0119, 4201 2007 09 0072, and 4201 2007 10 0100, San Juan-PPC closed '09 File No. 4205 2008 02 0003, Carolina closed '09 File No. 1000 2009 07 0002, Proy Trib Prot Menores SJ closed '09 File No. 4500 2007 12 0002, and Fajardo closed '09 File Nos. 1300 2009 04 0018, 1300 2008 09 0068, and 1300 2009 04 0018.

Additionally, PRLS is cautioned that LSC regulations do not permit self-verification of alien eligibility. *See* 48 *Federal Register* 28089, at 28090 (June 20, 1983). As such, without some record of the documents presented, *e.g.*, a copy of the documents submitted to verify eligibility, the registration number assigned to such documents, etc., the statement, "I am a legal alien and

have presented documents acceptable to verify such status”, signed by the client, does not create the record of compliance required by 45 CFR § 1626.12.<sup>8</sup>

With four (4) exceptions, the files that were reviewed during the visit contained the citizenship/alien eligibility documentation required by LSC regulations and the CSR Handbook. Three (3) of the exceptions were Conflictio Etico closed '10 File No. 8005 2007 3 11, Manati PPC closed '10 File No. 2201 2004 11 99, and Rio Piedras closed 2009 File No. 4101 2008 09 0043 (each of which lacked a citizenship attestation or alien eligibility verification).<sup>9</sup> In Guayama closed '09 File No. 1400 2009 02 0046, the only service provided was brief advice and consultation by telephone, but there was no written notation or computer entry to reflect the applicant's oral response to PRLS' citizenship/alien eligibility inquiry. Absent the requisite Part 1626 documentation, these files may not be included in PRLS' CSR data submission to LSC.

OCE also noted four (4) files that contained citizenship attestations that were dated after the representation had begun. *See* Humaçao Pro Bono Reg open File No. 8883 2003 01 3029 (citizenship attestation dated five (5) years after case was opened); Aibonito open File No. 0300 2007 10 79 and Pro Bono Abog Vol San Juan closed '09 File No. 8801 2009 02 0116 (citizenship attestations dated two (2) years after case was opened); and Arecibo closed '09 File No. 0400 2008 02 0167 (citizenship attestation dated after case was closed). Failure to obtain citizenship/alien eligibility documentation in a timely manner makes it difficult to discern whether the documentation was obtained at a time when the person was still an applicant, or whether it was obtained after the commencement of legal assistance.

In response to the DR, PRLS stated that since the adoption of the CSR Handbook (2008 Ed.), it has had only one form for citizenship attestations. The form is included in its Client Service Manual. Those DSCs mentioned in Finding 6 did not use the corrected and official form. PRLS stated that written instructions will be issued in order to ensure compliance with LSC regulations and the corrective actions.

Regarding the cautionary statement in the DR that LSC regulations do not permit self-verification of alien eligibility, PRLS commented that it has always verified alien eligibility. However, new guidance will be provided to the SEC and DSCs to document the alien eligibility verification. PRLS stated that it will also re-program PROMAC to make this verification process a required field.

Regarding the files cited in the DR, PRLS commented that while some of the DSCs were not in compliance, it verified that one of the files, indeed, contained a timely executed citizenship attestation. PRLS commented that closer supervision will be undertaken to avoid lapses in compliance.

After due consideration of PRLS' comments, OCE has revised the DR as reflected herein.

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<sup>8</sup> LSC regulations do not require photocopies of alien eligibility documentation. The reference to copies of the documents submitted to verify eligibility is illustrative only.

<sup>9</sup> Rio Piedras open File No. 4101 2006 05 199 000 also lacked a citizenship attestation or alien eligibility verification, but did contain a document signed by the client, under oath, that he/she was born in the United States. Although the document does not comport with the Part 1626 documentation requirements, it is sufficient for purposes of 45 CFR § 1626.3.

**Finding 7: PRLS is in substantial compliance with the requirements of 45 CFR § 1611.9 “Retainer agreements”.**

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.<sup>10</sup> Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

While most of the files that were reviewed during the visit contained retainer agreements, there were four (4) exceptions. *See* Rio Piedras open File No. 4101 2006 05 199, Rio Piedras closed ‘09 File No. 4101 2008 09 0043, Rio Piedras 4101 2007 03 0163, and Educacion Especial closed ‘08 File No. 4400 2004 03 001.<sup>11</sup>

In response to the DR, PRLS stated the DSCs will receive guidance once more on the proper way to comply with the requirements of 45 CFR § 1611.9 and that the DSCs will be instructed to review all opened files to ensure compliance with LSC’s retainer agreement requirement.

After due consideration of PRLS’ comment, OCE does not deem revision of the DR to be warranted.

**Finding 8: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of 45 CFR Part 1636 Client Identity and Statement of Facts.**

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

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<sup>10</sup> However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient’s risk management.

<sup>11</sup> Arecibo closed ‘090 File No. 0400 2008 02 0167 contained a retainer agreement that was dated approximately one year after the case was closed.

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).

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1636. *See* PRLS “*Políticas*”, Tab 11, “*Política y Procedimiento Para la Identificación de Clientes y la Preparación de la Declaración de Hechos*”, page 19. OCE has reviewed the policy and has determined that it is consistent with Part 1636.

With four (4) exceptions, the files that were reviewed during the visit that required a Part 1636 statement of facts contained one. *See* Carolina open File No. 1001 2009 07 13 000, Carolina closed '09 File Nos. 1001 2009 03 0010 and 1001 2009 07 0011, and Arcibo closed '09 File No. 0305 2009 03 0002.

In response to the DR, PRLS commented that the DSCs will be instructed to review all open files to ensure that they have the form for client identity and statement of facts correct, complete and on file.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

**Finding 9: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).**

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

As noted *supra*, PRLS priorities are community development, consumer, education, elderly, employment, family law, health, housing, immigration, income maintenance, individual rights, and minors/juvenile.

With the exception of the files noted in Finding 15, the files that were reviewed during the visit revealed that the cases were within PRLS' priorities. However, OCE encountered several migrant cases that involved legal issues that albeit consistent with PRLS' basic field priorities, did not appear to be within the priorities of the Migrant Farm Worker Division priorities. *See* Migrant open File No. 1600 2007 09 04, Migrant closed '09 File Nos. 16002009 05 0008 and 1600 2009 05 0018, and Migrant closed '08 File Nos. 1600 2007 08 0008 and 1600 2007 07 0001; *cf.* Letters from PRLS to Danilo A. Cardona, Director, OCE dated December 31, 2009, December 31, 2008, and December 21, 2007.

In response to the DR, PRLS commented that it has instructed the Migrant Division not to accept cases outside of the approved priorities. The Division Manager was instructed to review the open cases cited in Finding 9 to determine whether they can be transferred to basic field or must be closed. All such cases have been transferred to a basic field DSC.

PRLS stated that prior to the commencement of their employment at PRLS, attorneys must sign a document agreeing to comply with the requirements of Part 1620.

After due consideration of PRLS' comments, OCE does not deem revision of the DR to be warranted.

**Finding 10: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001 Ed.), § 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Legal Assistance Documentation Requirements).**

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

If the applicant's legal problem is outside the recipient's priorities, or if the recipient has not provided any type of legal assistance, it should not report the activity in its CSR. For example, recipients may not report the mere referral of an eligible client as a case when the referral is the only form of assistance that the applicant receives from the recipient. *See* CSR Handbook (2001 Ed.), ¶ 7.2 and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

With 15 exceptions, the files that were reviewed during the visit contained a description of the legal assistance provided to the client. Seven (7) of the exceptions were Guayama-PPC closed '10 File No. 1405 2009 7 02, Utuado closed '10 File Nos. 2800 2010 03 0084 and 2800 2009 11 58, Guayama-PPC closed '09 File No. 1401 2009 05 0003, Utuado closed '09 File Nos. 2800 2009 10-0020 and 2800 2009 20 0010, and Cayey-PPC closed '09 File No. 1201 2009 05 0005. None of these files contained a description of the legal assistance provided to the client. Another exception, Aibonito closed '09 File No. 0300 2010 04 91, contained legal information, rather than legal assistance. Additionally, no legal assistance was documented in Aguadilla open File No. 0200 2006 05 39, Arecibo Pro Bono open File Nos. 8806 2009 09 103 and 8806 2009 09 115, Mayaguez open File Nos. 2300 2010 08 113 and 2300 2010 08 79, Caguas Pro Bono open File No. 8882 2009 09 106, or Corozal-PPC open File Nos. 1701 2010 03 19 and 1701 2009 06 30.



Although PRLS identified Arecibo Pro Bono open File Nos. 8806 2009 09 103 and 8806 2009 09 115, Caguas Pro Bono open File No. 8882 2009 09 106, and Utuado closed '10 File No. 2800 2010 03 0084 for exclusion from its CSR data submission to LSC, for the reasons stated herein, none of the files are reportable to LSC.<sup>12</sup>

In response to the DR, PRLS commented that this Finding is correct. The files cited in Finding 10 did not have notations of the legal assistance provided. Closer supervision will be undertaken to avoid lapses in compliance. Instruction will be provided to DSC Directors and PAI Coordinators to review files periodically to ensure compliance with the requirements of CSR Handbook (2008 Ed.), § 5.6.

Based on PRLS' comment, revision of the DR is not warranted.

**Finding 11: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of Section VIII, CSR Handbook (2001 Ed.), and CSR Handbook (2008 Ed.), Chapter VIII: Case Definitions and Closure Categories**

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the closing codes in particular situations. Recipients are instructed to report each case according to the type of case service that best reflects the level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.1 and CSR Handbook (2008 Ed.), § 6.1.

With thirteen exceptions, the files that were reviewed demonstrated that PRLS' application of the CSR case closing categories is consistent with Chapter VIII, CSR Handbook (2008 Ed.). One exception was Rio Piedras open File No. 4101 2006 05 199 000. The case was closed as "court decision", but the file indicated entry of an order of withdrawal. Accordingly, this file should have been closed as "extensive service". The second exception was Rio Piedras-PPC closed '10 File No. 4105 2010 3 36 000 was closed as "negotiated settlement without litigation", but documents in the file indicated that the attorney in this case filed pleadings on behalf of the client after which point the case was settled. As such, the case should have been closed as "negotiated settlement with litigation". Bayamon closed '10 File No. 0600 2009 08 150 000 was closed as "extensive service", but according to the file, the advocate notarized a document for the client. Consequently, "limited action" is the applicable closing code. According to the case handler, the policy in the office is to close cases in which documents are notarized as "limited action" only if the case is opened and closed on the same day, otherwise, the case is closed as extensive service".

As noted in the CSR Handbook (2008 Ed.), fn. 54, "extensive service" should be reserved for cases in which the assistance provided clearly exceeds the amount of work that would be performed for a case appropriately closed as "limited action". Factors that favor selection of

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<sup>12</sup> Regarding the Utuado files, PRLS explained that these files involved requests for affidavits that, at the time, were required by the housing department. However, before PRLS could complete the affidavits, the housing department changed its practice and no longer required them. In early 2010, PRLS informed the DSCs that these files should no longer be included in CSR data submissions. The Utuado directing attorney stated that computer scans are being conducted to identify any of these cases closed in early 2011 for deselection.

CSR Case Closure Category “extensive service” include a high level of factual complexity, a highly sophisticated legal analysis, significant legal research, and drafting non-routine original pleadings or legal documents. The mere passage of time between when a case is opened and when it is closed is not a controlling factor. Rather, it is the level of legal assistance that is the controlling factor. *See LSC’s CSR Frequently Asked Questions* (September 2010), page 29.

Several files were reviewed that contained information indicating that PRLS reached a resolution after conferring with the opposing party prior to entering the courtroom. These files were, however, closed as “contested court decision”. *See* Fajardo closed ’10 File No. 1300 2009 05 72, Fajardo closed ’09 File No. 1300 2009 02 0018, Manati PPC closed ’09 closed File No. 2201 2008 05 0009, and Migrant closed ’09 File No. 1600 2007 12 0005. PRLS explained that case closure category “court decision” is used whenever an attorney appears before a judge, regardless of whether a settlement has been previously reached.

CSR Handbook (2008 Ed.), § 8.3 instructs recipients that cases closed after the recipient negotiated and reached a settlement while a court or administrative action was pending should be closed as “negotiated settlement with litigation”. The section clearly states that the category is reserved for cases in which the recipient conferred with another party so as to reach a resolution of the client’s legal problem. Settlements of pending court or administrative actions should be closed as “negotiated settlement with litigation” even if the court or agency issues an order memorializing the settlement. Consequently, the four files cited above are more appropriately closed as “negotiated settlement with litigation”.

Other exceptions included Bayamon PPC closed ’09 File No. 0601 2009 05 0013 (closed as “court decision”, but file indicated a level of legal assistance more consistent with “negotiated settlement with litigation”); Violencia Domestica-PPC closed ’09 File No. 8004 2008 10 0002 (closed as “court decision”, but file indicated a level of legal assistance more consistent with “extensive service”); Corozal-PPC closed ’09 File No. 1701 2008 02 0003 (closed as “contested court decision”, but file indicated a level of legal assistance more consistent with “uncontested court decision”); Aibonito closed ’09 File No. 0300 2009 02 0010 and Cayey open File No. 1201 2010 06 01 (closed as “extensive service”, but files indicated level of legal assistance more consistent with “counsel and advice”); and Caguas PPC closed ’09 File No. 0801 2009 05 0002 (closed as “negotiated settlement without litigation”, but file indicated a level of legal assistance more consistent with “negotiated settlement with litigation”).

In response to the DR, PRLS commented that it will design training to refresh all of its personnel and PAI attorneys on the proper application of the CSR Case Closure Categories.

After due consideration of PRLS’ comment, OCE does not deem revision of the DR to be warranted.

**Finding 12: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 (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, brief service, or a referral after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).<sup>13</sup> There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3.(b) and CSR Handbook (2008 Ed.), § 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).

While most of the files that were reviewed during the visit were timely closed, there were thirteen exceptions. The exception was Arecibo Pro Bono Inc. PAI open File No. 8806 2009 06 69. The file was opened June 2009, but notes in the file indicated that the attorney lost contact with the client in November 2009. The only other activity in the file was a September 2010 letter to the client indicating PRLS' intent to close the case. Consistent with CSR Handbook (2008 Ed.), § 3.5, PRLS has identified the case for exclusion from its CSR data submission to LSC.

Aibonito-PPC closed '09 File Nos. 0305 2008 09 0004 was opened in September 2008 and closed in October 2009 as "extensive service". However, there was no activity indicated in the file following the September 2008 interview with the client. Aibonito-PPC closed '09 File No. 0305 2008 09 0006 was opened in September 2008 and closed in September 2009 as "extensive service". Again, there was no activity indicated in the file following the September 2008 interview with the client. Neither file contained a memo or other entry stating why the files should have been held open into the next year. Accordingly, both files should have been excluded from PRLS' 2009 CSR data submission.

San Juan closed '10 File No. 4201 2007 10 41 was opened in October 2007 and closed June 23, 2010. However, the last activity noted in the file was September 30, 2008. *See also*, San Juan closed '10 File No. 4201 2007 08 41 (opened August 2007 and closed June 23, 2010; last activity noted in file was November 13, 2008); San Juan closed '10 File No. 4201 2006 06 118

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<sup>13</sup> 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.), § 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).

(opened June 2006 and closed June 23, 2010; last activity noted in file was September 3, 2008); and San Juan closed '10 File No. 4201 2007 11 103 (opened November 2007 and closed June 23, 2010; last activity noted in file was June 5, 2008). PRLS stated that each of these files was from an office that was closed in 2008 and the cases had been overlooked in the process of the move.

In Proy Trib-Prot Menores closed '10 File Nos. 4500 2006 01 04 and 4500 2007 04 01 there was no recorded activity in the files for approximately two years. In each file, a court decision was issued approximately two years before the case was closed. Both of these files should be excluded from future CSR data submissions.

*See also*, Educacion Especial open File No. 4400 2006 01 12 (last activity noted in file was June 2007); Educacion Especial closed '10 File No. 4400 2006 02 27 (opened February 2006 and closed March 2010; last activity noted in file was June 2007); and San Juan closed '10 File No. 4201 2008 02 51 (opened March 2008 and closed on June 23, 2010; last activity noted in file was April 28, 2008).

PRLS should ensure that all cases are timely closed by conducting periodic reviews of case management reports on closed cases, particularly those limited service files that remained open for an extended period of time. Additionally, PRLS should review its list of open cases and mark for rejection and exclude from the CSR data submission all dormant, inactive, and files involving ineligible applicants.

In response to the DR, PRLS commented that instructions will be given to DSC Directors and PAI Coordinators to check case inventories and review files to ensure timely closure, especially those that appear to be inactive or dormant.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

**Finding 13: The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001.Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate reporting.**

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 (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed to report related legal problems of an eligible client as single case when the recipient attempts to resolve the related legal problems simultaneously through a single legal process. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

While PRLS was generally compliant with these requirements, duplicate files were identified during the visit. Rio Piedras closed 2010 File Nos. 4101 2009 04 161 and 4101 2009 04 195 which involved the same client with related legal problems. Although the files were opened on different dates, they were both closed on the same date by court order under a single civil action number.

The CSR Handbook contains a “one civil action number” test that applies to related legal problems and a recipient’s attempts to resolve those problems simultaneously through a single legal process. The test is intended a clear rule of decisions which, in the vast majority of cases, will easily determine the issue of how many cases to report. Essentially, the test is if, as here, the legal problems are resolved under one civil action number, only one case may be reported. *See* CSR Handbook (2008 Ed.), § 6.4(b); *see also* LSC *CSR Frequently Asked Questions* (September 2010), pp 20- 25. Accordingly, PRLS is advised to identify one (1) of the two (2) files for exclusion from future CSR data submissions to LSC.

Tele-Abogado closed ’10 File Nos. 0140 2010 01 424 and 0140 2010 01 431 involved a client who in one case, sought advice regarding their obligation to pay child support and in the second, the effect of emancipation on that obligation. To the extent that the files involve related legal problems presented by clients who share a common interest, and PRLS’ effort to resolve the related legal problems simultaneously through a single legal process, it is one case. Accordingly, PRLS is advised to identify one of the two files for exclusion from future CSR data submissions to LSC.

Humaçao Pro Bono closed ’10 File Nos. 8883 2010 05 84 and 8883 2010 05 85 were duplicates identified by PRLS. At the time of the visit, PRLS has already de-selected one (1) of the files.

In response to the DR, PRLS commented that the duplicate cases have been eliminated.

Based on PRLS’ comment, revision of the DR is not warranted.

**Finding 14: The files that were reviewed during the on-site visit demonstrated 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.

From the limited review of accounting records and documentation for the period January 1, 2008 through April 30, 2010, it was determined that PRLS does not expend grant funds, personnel or equipment in prohibited political activities in violation of 45 CFR § 1608.3(b). Furthermore according to the compliance officer the appropriate personnel received training on the regulation.

From interviews with the Comptroller it was disclosed that PRLS employees have not intentionally identified the Corporation or a recipient with any partisan or nonpartisan political activity, or with the campaign of any candidate for public or party office.

In addition, no indications were found where, while engaged in legal assistance activities supported under the act, PRLS attorneys engaged in any political activity, any activity to provide voters with transportation to the polls, or to provide similar assistance in connection with an election, or voter registration activity.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 15: PRLS provided legal assistance in fee-generating cases in violation of 45 CFR § 1609.3.**

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b). LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. *See* LSC Memorandum to All Program Directors (December 8, 1997).

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1609. *See* PRLS "*Políticas*", Tab 11, "*Política Sobre Casos Que Generan Honorarios*", page 2. OCE has reviewed the policy and has determined that it is consistent with Part 1609.

Two (2) of the files that were reviewed during the visit involved legal assistance with respect to a fee-generating case. Tele-Abogado-PPC closed '10 File No. 0145 2010 6 221 involved a caller who suffered personal injury. PRLS advised the caller to consider accepting the opposing party's offer. The second file, Tele-Abogado-PPC closed '09 File No. 0141 2009 07 0337, involved a potential workers' compensation claim in which PRLS advised the caller to seek medical attention and declare a medical condition. According to PRLS, Tele-Abogado was established to assist callers with most issues whether the case was within PRLS' priorities or not, since only counsel and advice was being provided to the client.

The CSR Handbook (2008 Ed.), § 2.1 clearly states that recipients may report the provision of legal assistance as a case *only* if the case is within the recipient's priorities and the type of legal assistance provided is not prohibited by the LSC Act, regulations, or other applicable law. To the extent that these files appear to involve issues outside PRLS' priorities, they are not reportable to LSC. Moreover, to the extent that these files involve legal assistance provided in fee-generating cases, the legal assistance provided is inconsistent with 45 CFR §1609.3(a).<sup>14</sup>

In response to the DR, PRLS stated that it does not agree with this Finding, but until further discussion with LSC on this issue it has instructed Tele-Abogado not to accept tort cases for legal advice. The remaining fee-generating cases that fall under PRLS' priorities will be referred to the DSC in order to comply with Part 1609.

PRLS stated that, in its opinion, it would be onerous for it and its applicants who are only seeking advice, to be referred to a DSC to then be referred to two private attorneys in order to obtain a rejection letter for a consultation without a payment fee. PRLS stated that it understands that Part 1609 applies only to extended services since a mere consultation does not generate statutory fees.

Shortly after receipt of PRLS' comments to the DR, OCE contacted by PRLS by telephone. Regarding this Finding. PRLS again stated that consultations do not generate fees and that it did not understand Part 1609 to prohibit recipients from providing general advice. PRLS stated that some of the applicants are defendants. PRLS stated that there were others within PRLS who could likely argue the position better and requested the opportunity to contact OCE to clarify its position. OCE agreed, but after approximately one week, PRLS had yet to contact OCE.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted. Part 1609 restricts recipients' ability to provide legal assistance in fee-generating cases. LSC regulations define "legal assistance" rather broadly as the provision of *any* legal services. *See* 45 CFR 1600.1. As such, Part 1609 applies to all levels of legal assistance.<sup>15</sup>

PRLS is further advised that it may obviate the necessity of referring applicants to its DSCs by making either of the determinations described at 45 CFR §§ 1609.3(b)(2) or (3). However, as noted in Finding 9, the case must, nonetheless, be within PRLS' priorities.

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<sup>14</sup> Similarly, to the extent that PRLS only provided legal information, the files are not reportable to LSC. *See* CSR Handbook (2008 Ed.), §§ 2.1(e) and 2.3.

<sup>15</sup> Arguably, a recipient might be able to provide "legal information", *see* CSR Handbook (2008 Ed.), § 2.3, but the files cited in this Finding went beyond "legal information".

**Finding 16: PRLS is in compliance with the requirements of 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).**

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

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

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

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

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

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

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



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

Based on a limited review of accounting records and documentation for the period January 1, 2008 through April 30, 2010, it appears that PRLS received funding from LSC and non-LSC sources. PRLS provided written notification for fiscal years '08 through '10 to all funders who contributed \$250 or more of the prohibitions and conditions which apply to the funds.

Available documentation, including case files, observation of the various DSCs, and interviews with PRLS management, indicates that PRLS has not used non-LSC funds for any purpose prohibited by the LSC Act or for any activity prohibited by or inconsistent with Section 504. PRLS uses MS Great Plains accounting software which has the capability of providing fund based accounting. The chart of accounts has been developed so that non-LSC funds received by PRLS are accounted for as separate and distinct receipts and disbursements in the manner directed by 45 CFR § 1610.9. A review of samples of cash receipts and disbursement journals for the review period identified no improper transfers or expenditures.

As discussed in Finding 18, PRLS transferred LSC funds to the Puerto Rico Bar Association's PBI for the purpose of funding private attorney involvement activities. A review of the activities conducted by PBI with such funds indicates that they are used consistent with the prohibitions and requirements of Part 1610.

It also appears that PRLS has maintained objective integrity and independence from organizations that engage in restricted activities and its governing body has so certified.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 17: PRLS has not accurately identified and accounted for the costs related to its PAI effort as required by 45 CFR Part 1614.**

LSC regulations require LSC recipients to devote an amount of LSC and/or non-LSC funds equal to 12½% of its LSC annualized basic field award for the involvement of private attorneys in the delivery of legal assistance to eligible clients. This requirement is referred to as the "PAI (private attorney involvement) requirement". *See* 45 CFR §§1614.1(a) and (b).

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney

involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a),(b),(c) and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

Compliance is demonstrated by employing financial systems and procedures and maintaining supporting documentation to identify and account separately for costs related to the PAI effort. Such systems and procedures must meet the requirements of the LSC audit and accounting guides, and must accurately identify and account for the recipient's administrative, overhead, staff, and support costs related to PAI activities; payments to private attorneys for support or direct client services rendered; contractual payments to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipients; and other actual costs as may be incurred by the recipient. *See* 45 CFR § 1614.3(e)(1).<sup>16</sup> Support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. *See* 45 CFR § 1614.3(e)(2)

Recipients are required to develop a plan and budget to meet the requirements of the LSC regulation. In developing a plan, recipients are required to consult with significant segments of its client community, and must consider the legal needs of eligible clients in the area served by the recipient and the delivery mechanisms potentially available to provide opportunity for participation by private attorneys. *See* 45 CFR § 1614.4.

PRLS has developed a plan and budget to meet the requirements of Part 1614. The two (2) activities undertaken by PRLS to involve private attorneys in the delivery of legal assistance to eligible clients are the Practica Privada Compensada ("PPC") - a compensated private attorney model in which attorneys accept referrals from the various DSCs at a reduced fee - and PRLS' sub-grant with the Puerto Rico Bar Association's (Colegio de Abogados de Puerto Rico) Pro Bono, Inc. (Servicios Voluntarios del Colegio de Abogados).

Consistent with LSC regulations, PRLS' audited financial statement for fiscal year ending December 31, 2009 accounted separately for support and expenses related to its PAI effort. The audited financial statement reported PAI expenditures totaling \$2,157,955.00, or 12½% of

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<sup>16</sup> Except for staff attorneys and paralegals, personnel and non-personnel costs are to be allocated on the basis of reasonable operating data. All methods of allocating common costs must be clearly documented. If any direct or indirect time of staff attorneys or paralegals is to be allocated as a cost to PAI, such costs must be documented by time sheets accounting for time spent on PAI activities. *See* 45 CFR § 1614.3(e)(1)(i).

Recipients are required to maintain contracts on file, which set forth payment systems, hourly rates, and maximum allowable fees. Payments to private attorneys must be supported by bills or invoices submitted prior to payment. *See* 45 CFR § 1614.3(e)(1)(ii). Fees paid may not exceed 50% of the local prevailing market rate for that type of service. *See* 45 CFR § 1614.3(e)(3).

Contracts involving transfers of LSC funds for PAI activities must require that such funds be accounted for by the recipients in accordance with LSC guidelines, including the LSC audit and accounting guides and 45 CFR Part 1627. *See* 45 CFR § 1614.3(e)(1)(iii).

PRLS' basic field award. The review of the spread sheet and costs on the General Ledger disclosed non-personnel costs are being allocated on the basis of reasonable operating data.

Although the direct and indirect time of attorneys and paralegals employed by PRLS is allocated as a cost to PAI on the basis of total workable hours, supported by time records, OCE learned that the attorney and paralegal time used to calculate PAI costs were preliminary. When compared with the final report of the attorneys' and paralegals' time there was a difference of 498.75 more hours when adjustments were made. These adjustments, and the corresponding costs, were made in 2010. As such, the attorney and paralegal time allocated as a cost to PAI for '09 should have been greater than that reported in the audited financial statement for the year ending December 31, 2009. As such, it does not appear that PRLS has accurately identified and accounted for staff costs related to its PAI activities.

Accordingly, PRLS is required to take corrective action to accurately identify and account for staff costs related to its PAI activities. Necessary adjustments should be made in the same year that the costs were incurred. PRLS is further directed that the '09 adjustments of PAI hours should not be charged as a PAI cost for '10.

During the visit, OCE also learned that PRLS may not be allocating non-LSC funded administrative, overhead, staff, and support costs related to its PAI activities. OCE advised PRLS that Part 1614 does not require that recipients devote 12½% of their LSC annualized basic field award, rather it requires that they devote an amount equal to at least 12½% of the recipient's LSC annualized basic field award. In other words, a recipient may use non-LSC funds to meet its 12½% spending requirement. Accordingly, to the extent that PRLS has incurred non-LSC funded administrative, overhead, staff, support, or contract costs related to its PAI effort that have not been allocated, it has not accurately identified and accounted for its PAI costs as required by LSC regulations.

All clients referred to either of PRLS' PAI components are screened for eligibility either through PRLS' SEC, or through the previously described walk-in intake procedure. Consistent with 45 CFR § 1614.3(d), intake and case acceptance for all cases referred to PRLS' PAI components are consistent with PRLS' established priorities. Cases are referred according to the nature of the legal problem involved and the skills and expertise of the participating attorneys, and, with few exceptions, procedures for oversight and follow-up ensure the timely disposition of the cases referred. *But see*, Finding 12.

Within the Central office, located in San Juan, there is a PAI Director and a PAI Supervisor. Within each DSC, there is a person designated as PAI coordinator. The PAI Supervisor is responsible for the referral of the special project PPC cases and periodically visits each of the DSCs to review PPC files to ensure that standardized procedures and forms are employed.

Each of the DSCs refers PPC cases to participating private attorneys in its area. Additionally, PRLS operates special project PPCs such as domestic violence, ethical conflicts, notary services, appeals, and community co-litigation. Consistent with LSC regulations, PRLS has developed a schedule detailing the maximum compensation for different types of cases. Consistent with LSC regulations, contracts are maintained on file which set forth payment systems, hourly rates, and

maximum allowable fees. A review of 20 payments to private contract attorneys disclosed that they were well documented and with the corresponding approvals. According to PRLS, the fees paid are well below 50% of the local prevailing rates.

PRLS has a subgrant agreement with the Puerto Rico Bar Association's (Colegio de Abogados de Puerto Rico) Pro Bono, Inc. (Servicios Voluntarios del Colegio de Abogados) ("PBI"). For the period January 1, 2010 through December 31, 2010, the amount of the subgrant was \$690,500.00. The purpose of the subgrant is to facilitate PBI's efforts to involve the private bar in the delivery of pro bono legal assistance to eligible clients. According to the subgrant agreement, PBI will refer not less than 3,000 cases during the term of the subgrant.

Although the subgrant agreement states that, as a general rule, the personnel of PBI do not provide legal assistance to eligible clients, but rather focus their efforts on conducting interviews, making referrals, and conducting follow-up on the cases referred to its panel of private volunteer attorneys, PBI employs a contingent of attorneys who, indeed, provide direct legal assistance to eligible clients. PRLS advised OCE that as per LSC Office of Legal Affairs ("OLA") Advisory Opinion #AO-2009-1004 (June 19, 2009), the legal assistance provided by such PBI attorneys is not reported to LSC as a PAI activity. However, OCE learned that PRLS allocates the entire amount of the subgrant to its 12½% requirement.

In OLA Advisory Opinion #AO-2009-1004 (June 19, 2009), LSC determined that for purposes of PAI, where a staff-model legal services provider receives funds from an LSC recipient to perform programmatic activities, an attorney who receives more than one half of his/her professional income from the staff-model legal services provider is not a "private attorney" as defined at 45 CFR § 1614.1(d). Consequently, direct legal assistance provided by such attorneys cannot qualify as PAI activity and a recipient may not report such cases as PAI in its CSR data submission.

However, the opinion also concluded that recipients may not generally allocate towards its 12½% requirement funds provided as a subgrant to a staff-model legal services provider used to provide direct legal assistance by attorneys employed by the subrecipient. Specifically, the opinion stated

Taking the definitions of "staff attorney" and "subrecipient" together, [sic] the term staff attorney includes any attorney, more than one half of whose professional income is received from a staff-model entity which accepts LSC funds from a recipient to perform programmatic activities. Thus, such attorneys could not qualify as "private attorneys" under Part 1614 and the programmatic activities carried out by such attorneys could not generally be considered to be PAI activities (*and the funds spent on such subgrants could not be considered toward a recipient's PAI spending requirement*).

[Emphasis added.]

According to PRLS, the total salaries of all 10 of the attorneys employed by PBI are allocated toward its 12½% requirement. Although not determinative of whether they derive more than one

half of their annual professional income from the subgrant, documentation provided by PRLS indicated that six (6) of the 10 attorneys employed by PBI derive more than one half of their salary from the subgrant.<sup>17</sup> To the extent that any of the attorneys employed by PBI derive more than one half of their annual professional income from the proceeds of the PRLS subgrant, the costs associated with the direct legal assistance provided by such attorneys may not be allocated toward PRLS' 12½% requirement. Accordingly, contrary to 45 CFR § 1614.3(e)(1)(i), PRLS has not accurately identified or accounted for staff costs related to PAI activities.

Non-personnel costs and non-attorney or non-paralegal personnel costs incurred by PBI may be allocated to PRLS' 12½% requirement in accordance with 45 CFR § 1614.3(e)(1)(i). However, direct and indirect costs associated with intake, referral, follow-up, or oversight by staff attorneys employed by Pro Bono Inc. who derive more than one half of their annual professional income from the proceeds of the subgrant may be allocated as a cost to PAI, but only on the basis of time spent. *See* 45 CFR § 1610.7(b)(2)<sup>18</sup>; *see also*, OLA Advisory Opinion #AO-2009-1004 (June 19, 2009), fn 6.

PRLS should determine which attorneys employed by PBI derive more than one half of their annual professional income from the proceeds of the subgrant. Thereafter, on the basis of time maintained in accordance with 45 CFR § 1610.7(b)(2), it can accurately identify and account for staff costs related to PAI activities.

In addition, PBI does not describe the methodology on how common administrative and general expenditures are distributed and/or allocated between funding sources (LSC and Puerto Rico State Funds). PRLS must ensure that PBI has a reasonable, and clearly documented, methodology on allocating its common cost. *See* 45 CFR § 1627.3(c). OCE also noted that PBI's audited financial statement does not separately report the basic field and PAI revenue and expenses on the Statement of Support, Revenues and Expenses and Changes in Net Assets. PRLS should ensure that Pro Bono, Inc's audited financial statement separately reports the basic field and PAI revenue and expenses.

In its response to the DR, PRLS stated that it is developing and will establish a policy and procedure to properly distribute PAI costs. This will include adjustments in the amount of the subgrant to PBI and the funds committed to its PPC program, that are charged to PAI, but should not be, as well as an assignment of funds from non-LSC which are invested in its PAI effort and had not been properly credited. PRLS stated that this revised allocation scheme will be applied retroactively to 2010, but prospectively in 2011 and beyond, so that adjustments are made in the same year the costs were incurred. Based on the new policy to be developed to properly distribute PAI costs, staff and other costs will be timely identified and recorded. PRLS will review the allocation of non-LSC costs associated to PAI and correct any deficiencies identified.

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<sup>17</sup> Three (3) other PBI attorneys derive 100% of their salaries from a state administered grant. The fourth attorney derives 45% of his salary from the subgrant and 55% from the state grant.

<sup>18</sup> Persons or entities receiving a transfer of LSC funds are not required to keep time in accordance with Part 1635. *See* 62 *Federal Register* 27695, 27696 (May 21, 1997). *See also*, OLA External Opinion # EX 2002-1010 (July 9, 2002). However, 45 CFR § 1610.7(b)(2) does require such persons or entities to maintain records of time spent on each case or matter undertaken with the funds transferred.

PRLS also stated that it is already working with PBI to identify those attorneys employed by the subrecipient who receive more than one half of his/her professional income from non-LSC sources, so as to document them as “private attorneys” for purposes of correctly allocating the LSC funds assigned to their salaries as PAI expenses, and conversely, to exclude as “private attorneys” those PBI attorneys who receive more than half of their professional income from LSC funds, for purposes of reporting the cases in which these attorneys provide legal assistance as non-PAI cases.

PRLS stated that it will work with PBI to have the subrecipient adopt specific written methodology on how common and administrative and general expenditures are distributed and/or allocated between funding sources (LSC and Puerto Rico State funds).

PRLS stated that this Finding will be communicated to PBI for future audits.

After due consideration of PRLS’ comments, OCE does not deem revision of the DR to be warranted.

**Finding 18: PRLS is in substantial compliance with the requirements of 45 CFR Part 1627 (Subgrants and membership fees and dues).**

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient’s programmatic activities.<sup>19</sup> Except that the definition does not include transfers related to contracts for services rendered directly to the recipient, *e.g.*, accounting services, general counsel, management consultants, computer services, etc., or contracts with private attorneys and law firms involving \$25,000.00 or less for the direct provision of legal assistance to eligible clients. *See* 45 CFR §§ 1627.2(b)(1) and (b)(2); *see also*, 48 Federal Register 28485 (June 2, 1983) and 48 Federal Register 54207 (November 30, 1983).

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

Subgrants may not be for a period longer than one year, and all funds remaining at the end of the grant period are considered part of the recipient’s fund balance. All subgrants must provide for

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<sup>19</sup> Programmatic activities includes those that might otherwise be expected to be conducted directly by the recipient, such as representation of eligible clients, or which provides direct support to a recipient’s legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient’s clients on a contract or *judicare* basis, except that any such arrangement involving more than \$25,000.00 is included.

their orderly termination or suspension, and must provide for the same oversight rights for LSC with respect to subrecipients as apply to recipients. Recipients are responsible for ensuring that subrecipients comply with LSC's financial and audit requirements. It is also the responsibility of the recipient to ensure the proper expenditure of, accounting for, and audit of the transferred funds. *See* 45 CFR §§ 1627.3(b)(1), (b)(2), (c), and (e).

LSC funds may not be used to pay membership fees or dues to any private or nonprofit organization, except that payment of membership fees or dues mandated by a governmental organization to engage in a profession is permitted. *See* 45 CFR § 1627.4. Nor may recipients may make contributions or gifts of LSC funds. *See* 45 CFR § 1627.5. Recipients must have written policies and procedures to guide staff in complying with 45 CFR Part 1627 and shall maintain records sufficient to document the recipient's compliance with 45 CFR Part 1627. *See* 45 CFR § 1627.8.

PRLS' accounting records and detailed general ledger for the years '08, '09, and '10, disclosed that all non-mandatory dues and fees are being paid with non-LSC funds. PRLS paid NLADA dues with non-LSC funds and other non-mandatory dues for the years '08, '09 and '10, utilizing a bank account (Banco Popular) where non-LSC funds are deposited.

As noted previously, at Finding 17, PRLS has a subgrant agreement with PBI. For the period January 1, 2010 through December 31, 2010, the amount of the subgrant is \$690,500.00. According to the terms of the subgrant, the personnel of PBI do not provide service to eligible clients, but rather focus their efforts on conducting intake, making referrals, and conducting follow-up on the not less than 3,000 cases referred to its panel of private volunteer attorneys.

The subgrant is compliant with the requirements of 45 CFR §§ 1627.3(a)(1), (b)(1), (b)(2), (b)(3), (c), and (e). However, from a limited review of documents and interviews with staff it was determined that PRLS failed to inform LSC of minor changes made in funding to the original grant award amount(s). A review of PRLS' subgrants with PBI revealed changes of (\$8,390) (-1%) in '08, \$51,800 (+8%) in '09, and \$55,060 (+8%) in '10. There was no record that PRLS informed LSC of such changes.

Additionally, the review and interviews disclosed that PRLS failed to notify LSC of training and community/client education activities conducted by PBI, failed to pay the February 2010 subgrant installment in advance, and does not have an executed Spanish-language version of the '09 and '10 subgrant agreements.

The review of PBI's expenditures disclosed that it paid the public liability insurance for two (2) automobiles owned by PBI Board members with LSC funds between 2008 and 2010. The payments totaled \$1,601.00: \$348.00 in '10, \$583.00 in '09, and \$670.00 in '08. *See also* JAVA, CPA letter to PRLS dated October 21, 2010. PRLS is reminded that such expenditures by PBI are allowable only to the extent that the expenditure meets the standards governing the allowability of costs outlined at 45 CFR § 1630.3. PRLS is further reminded that recipients are responsible for repaying LSC for any disallowed expenditure by a subrecipient, regardless of whether the recipient is able to recover such expenditure from the subrecipient. *See* 45 CFR §

1627.3(d). Accordingly, in response to this Draft Report, PRLS is directed demonstrate that these expenditures by PBI conform to the criteria enumerated at 45 CFR § 1630.3(a).

A limited review of PBI's fiscal records and interviews with staff from January 1, 2008 through April 30, 2010, revealed that contrary to 45 CFR § 1628.5, PBI had a net asset balance of \$37,366.00 in its LSC fund as of December 31, 2008. As of December 31, 2009, the deficit balance is \$46,424.00.

As noted previously, recipients are responsible for ensuring that subrecipients comply with LSC's financial and audit requirements. The LSC Accounting Guide for LSC Recipients, at Section 2-2.8, states that should expenses during a period exceed support, LSC is not obligated to fund the deficit, and that such deficit should be charged to other available funds. Recipients may request LSC approval of the expenses associated with the liquidation of the deficit balance in its LSC fund.

By letter dated December 10, 2010, PRLS informed OCE that the Board of Directors of PBI held a special meeting on December 8, 2010 and unanimously approved a resolution to transfer \$46,424.00 from non-LSC funds to cover the deficit.

In its response to the DR, PRLS stated that it will ensure that LSC is notified, in writing, of changes in funding of less than 10% as required by 45 CFR § 1627.3(b)(3).

PRLS also stated that it has conducted internal audits as per the terms of its subgrant agreement. According to PRLS, the terms of the subgrant require it to conduct "up to" two (2) internal audits in a year. PRLS states that in 2010 one internal audit was conducted, which is within the number of audits contemplated by the terms of the subgrant agreement. PRLS stated that the audit was conducted for the first half of 2010. Although the final audit was not available at the time of the visit, it is now available and PRLS will forward a copy to OCE. As such, PRLS stated that it indeed complies with the requirement to audit the operations of PBI. Additionally, PRLS stated that it is taking measures to improve and better coordinate the exchange of information with PBI in an effort to provide LSC with timely notice of training and community/client education activities conducted by PBI, as per the terms of the subgrant.

PRLS agreed that it did not pay the February 2010 subgrant installment in advance, but stated that it has taken measures to avoid delays in payments so that in 2011, all payments to PBI will be made in the first five (5) days of each month Insofar as the DR stated that PRLS. PRLS also agreed that it did not have a Spanish-language version of the '09 and '10 subgrant agreements, but stated that, consistent with the terms of the agreement, they were both actually prepared in Spanish. PRLS has stated this oversight has been corrected.

Regarding PBI's purchase of public liability insurance for two (2) automobiles owned by PBI board members, PRLS stated that it has, in the past, questioned this expenditure and PBI has attempted to justify it by stating that it was authorized by its Board of Directors. But now, in light of this Finding, PRLS stated that it will request that PBI charge the expenditure to non-LSC funds or repay the amounts noted in the Finding.



In response to the discussion in this Finding concerning PBI's deficit balance, PRLS stated that in December 2010, PBI's board approved an interfund transfer to eliminate the deficit.

After due consideration of PRLS' comment, OCE has revised the DR as reflected herein and instructs PRLS that LSC regulations require that it take such measures as will ensure the proper expenditure, accounting for, and audit of PBI, including, but not limited to, ensuring that the costs of PBI's public liability insurance are not charged to its LSC funds *and* ensuring that PBI reimburse its LSC funds the costs of public liability insurance charged to PBI's LSC fund over the last five (5) years.

**Finding 19: PRLS is in substantial compliance with 45 CFR Part 1635 (Timekeeping requirements).**

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

Specifically, 45 CFR § 1635.3(a) requires that all expenditures of funds for recipient actions are, by definition, for cases, matters, or supporting activities. The allocation of all expenditures must satisfy the requirements of 45 CFR Part 1630. Time spent by attorneys and paralegals must be documented by time records which record the amount of time spent on each case, matter, or supporting activity. Time records must be created contemporaneously and account for time by date and in increments not greater than on-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, and 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.

During the on-site visit, OCE reviewed the timekeeping records of 24 advocates, selected from 16 of the DSCs for the pay period ending September 30, 2010. The review disclosed that the attorneys and paralegals time records are created contemporaneously and account for time by date and in increments not greater than one-quarter of an hour. The time spent on each case, or matter is recorded, and the timekeeping system is able to aggregate time record information on both closed and pending cases by legal problem type.

However, the review of timekeeping records and interviews with the Director of Statistics revealed that attorneys and paralegals do not record vacation or sick leave. PRLS is advised that time records must account for all of the efforts of attorneys and paralegals for which compensation is paid by the recipient. *See* 45 CFR § 1635.3(b)(1). Accordingly, PRLS should take corrective action and require attorneys and paralegal to report all time, including leave time, as required by LSC regulations.

Interviews with the Controller disclosed that there are no part-time case handlers working for an organization that engages in restricted activities.

In its response to the DR, PRLS stated it modified its timekeeping report program to include a new category of activities, namely “Licencias”, or “leave”, and attorneys and paralegals have been instructed to record use of their leave accordingly.

After due consideration of PRLS’ comment, OCE does not deem revision of the DR to be warranted.

**Finding 20: Several corrective actions are required in order to bring PRLS into compliance with the requirements of LSC’s Accounting Guide for LSC Recipients.**

The LSC Accounting Guide for LSC Recipients (the “Accounting Guide”) sets forth financial accounting and reporting standards for LSC recipients, and describes the accounting policies, records, and internal control procedures to be maintained by recipients to ensure the integrity of accounting, reporting and financial systems. The LSC Audit Guide for Recipients and Auditors (the “Audit Guide”) provides a uniform approach for audits of LSC recipients and describes recipients’ responsibilities with respect to the audit.

During the on-site visit OCE reviewed PRLS’ expenditures and noted that PRLS owns an automobile, purchased in September 2009 and financed through September 2013. The vehicle was located at the Central Office and is used to distribute supplies to the different centers from the warehouse. The cost of the vehicle is estimated to be \$22,000.00, which is in excess of the \$10,000.00 that requires LSC approval. However, PRLS advised that no LSC funds were used to purchase the automobile. OCE’s review of the general ledger confirmed that no LSC funds were used.

PRLS also purchased real property in ‘08, with the approval from LSC. The property is a building located at 1059 – 1061 Gonzalez Street. Santa Rita, Rio Piedras and houses the Rio Piedras DSC. It was acquired in March 2008. The purchase was approved by LSC on March 2008.

During the on-site visit, PRLS advised OCE that its Office of Administration is responsible for the maintenance of the insurance policies. OCE reviewed the files, which contained the different types of insurance in effect. The policies covered bonds, properties, general liability, crime, the boiler and other machinery, electronic equipment and other coverage. The review disclosed that the policies are active, were timely renewed and cover all of PRLS’ needs.

OCE also reviewed the job descriptions for PRLS' accounting personnel.<sup>20</sup> PRLS provided 14 job descriptions and informed OCE that 10 of the job descriptions are in final form and the remaining four (4) are in draft. OCE noted that the most recent job descriptions were dated in 2000 and some were hand written by the employee.

The delay in the implementation of job descriptions compromises a very important tool in the internal control structure. Job descriptions frequently define segregation of duties and are useful in establishing a system of independent checks and proofs. Accordingly, PRLS is required to take corrective action to finalize and distribute all job descriptions.

OCE also noted that the review, preparation, and reconciliation of PRLS' monthly bank statements are performed solely by its Comptroller creating an internal control deficiency. The internal control worksheet prepared by the Comptroller recognizes that he and no one else is involved in the bank reconciliations. Moreover, during the exit conference OCE learned that the Executive Director is not involved in the verification of the bank reconciliation.

This is inconsistent with the Accounting Guide, Section 3-4-3, which requires that accounting duties be segregated to ensure that no individual simultaneously has both the physical control and the record keeping responsibility for any asset, including, but not limited to, cash, client deposits, supplies and property. The aim is ensure that no individual can initiate, execute, and record a transaction without a second independent individual being involved in the process.

The reconciliation should be reviewed and approved by a responsible individual. Such review should be appropriately documented by signature and date. Accordingly, PRLS is required to take corrective action to ensure segregation of duties.

A review of PRLS' audited financial statement for the period ending December 31, 2009 disclosed that the property and equipment subsidiary ledger was not reconciled with the general ledger. A limited review of accounting records disclosed that preliminary adjustment was made as of September 30, 2010. According to PRLS, the final adjustment will be made in the near future.

A limited review of detailed records in the subsidiary ledger do not adequately support or reconcile with amounts reported in the financial statements. For year- end financial statement, extensive analysis and reconciliation has to be made in order to reconcile the amounts reported in the subsidiary ledger to those included in the accounting records.

PRLS responded by stating that although the property and equipment reconciliation ledger was not reconciled with the general ledger as of December 31, 2009, in fact the physical inventory was successfully completed in November, 2009 and this reconciliation has since been performed and is complete. However, the condition stated in the audited financial statement still existed at the time of the on-site visit.

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<sup>20</sup> In establishing an adequate internal control structure, the Accounting Guide instructs that the duties and responsibilities of all recipient personnel be detailed in written job descriptions. Job descriptions for accounting personnel must specify, at a minimum, those individuals who, for example, approve invoices for payment, prepare grant and contract reports, maintain accounting records, etc. *See* Accounting Guide, Section 3-4.

PRLS should take corrective action and reconcile the property and equipment subsidiary ledger with the general ledger account as required by the Accounting Guide.

The audited financial statement also disclosed that no depreciation expense was recorded on the subsidiary ledger during calendar years 2008 and 2009 and the condition still prevails. During the on-site visit, OCE obtained a copy of the depreciation expenses adjusted as of September 30, 2010, but the actual entries were made on October 26, 2010 to the general ledger. At the time of the visit, PRLS was working on the reconciliation of property between the subsidiary and the general ledger. According to the Comptroller the necessary adjustments will be made in the near future.

PRLS should take corrective action by making necessary adjustments to reconcile the subsidiary records with the general ledger as required by the Accounting Guide.

According to the audited financial statement, PRLS had a significant number of account balances that required extensive analysis and reconciliation in order to provide accurate accounting information. An adjustment amounting to \$162,000.00 reclassifying expenditures reported as LSC expenditures to non-LSC expenditure was adjusted on May 12, 2010.

It was noted by the auditor that significant account balances required extensive analysis and reconciliation in order to provide reliable and accurate financial information. These conditions caused significant delays in producing reliable financial statement at the year end. There is no systematic method of ensuring that timely and complete reconciliation and closing procedures take place. This situation lead to a continuing and growing backlog of transactions and journal entries that are not posted in the accounting system, which compromises the integrity of the accounting information in making well informed management decisions. This condition occurred because accounts balances reconciliation and related accounting procedures were not adequately performed and supervised during the year.

OCE also noted that according to finding in the audited financial statement, PRLS performed an adjustment of \$123,000.00 to remove fully depreciated fixed assets. The actual adjustment was made on May 12, 2010.

This adjustment was also the result of the continuing backlog of transactions and journal entries that are not entered timely in the accounting system. These conditions occurred because reconciliations and accounting procedures were not adequately performed and supervised during the year.

LSC recommends that PRLS establish more effective review and reconciliation policies in order to adequately reconcile account balances on a timely basis.

OCE's review of credit card statements for the years '08, '09, and '10 disclosed that two (2) credit cards are being used on a monthly basis: one by the Executive Director and the other by the bankruptcy lawyer. The review of the statements for these years did not disclose late charges, but the statement for January 2010 did disclose finance charges totaling \$55.37.

The use of the credit card by the bankruptcy lawyer is mandated by the Bankruptcy Court and the account carries no balance. Charges to the Executive Director's credit card were related to his PRLS related travel. At the time of the on-site visit, except for one (1) hotel bill in the amount of \$338.58 that was unsupported by a receipt, the majority of the credit card expenditures by the Executive Director were supported by adequate documentation.

PRLS requires that travelers submit receipts for reimbursement of travel related expenditures. Requests for reimbursement are processed by the Office of Finance. The Comptroller approves the requests. A limited review of travel expenses charged to PRLS' LSC fund for the period January 1 through April 30, 2010 demonstrated that travel expenses and corresponding approvals were properly supported. PRLS explained that the one (1) exception involved travel to a farmworker training in Atlanta, GA in 2010. PRLS stated that it would contact the hotel and obtain a copy of the receipt.<sup>21</sup>

PRLS' budget control reports for the six (6) months preceding the on-site visit showed the percentage of activity for each month of the grants and contracts total, versus total cost of operations as of September 30, 2010. The reports disclosed that the cost of operations is higher, with a possible future deficit. It is recommended that PRLS monitor the reports to reduce the possibility of a deficit.

In its response to the DR, PRLS stated that job descriptions have undergone extensive review and will be complete in the next month, at which time they will be distributed to all employees.

PRLS also stated that it will establish a procedure to provide for the proper segregation of duties in the preparation of monthly bank reconciliations. Such procedure will include review by the Executive Director or his designee after they are completed by the Comptroller.

PRLS agreed that the property and equipment subsidiary ledger had not been reconciled and stated that an adjustment of \$6,707.00 was recorded in September 2010 to adjust the '09 depreciation expense to \$166,703.00. PRLS' Finance Office has specific instructions to reconcile the subsidiary ledger with the audited financial statement at the end of the year.

Regarding the statement in the DR that the audited financial statements disclosed that no depreciation expense was recorded on the subsidiary ledger during calendar years 2008 and 2009, PRLS stated that depreciation expenses for those years were recorded in the subsidiary ledger. An estimated depreciation expense was recorded in the general ledger. After the year-end reconciliation was made between the general and the subsidiary ledger, the correct amount was recorded in the books of PRLS. PRLS stated that this year, measures are being taken to complete the reconciliation before the close of the year.

PRLS stated that in preparation for the '09 audit, it is correct that several account balances required reconciliation. With the departure of its Comptroller in February 2011, PRLS is taking

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<sup>21</sup> It was noted that PRLS' Office of Finance received a check in the amount of \$6.75 from the Executive Director as reimbursement for the consumption of an alcoholic beverage during a lunch with member of the Board of Directors. The limited review disclosed no other alcohol related charges.

steps to remedy the situation with structural changes in the management of accounts. These changes should be in place before the arrival of a new Comptroller in June 2011.

Regarding the missing credit card receipt, PRLS stated that the receipt has been located. PRLS also stated that it will adopt proper procedures to establish the annual budget distribution by account. It will also review, control and adjust the budget, if necessary, on a monthly basis to guarantee year-end financial results. PRLS will develop a policy to establish accountability within the organization for budget control. The budget will be restructured by responsible unit, so that each unit supervises the variances from month to month and, in coordination with the Executive Director, can make adjustments to avoid deficits at year-end.

After due consideration of PRLS' comments, OCE has revised the DR as reflected herein.

**Finding 21: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).**

Prior to December 16, 2009, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient, except as otherwise provided by LSC regulations. *See* 45 CFR § 1642.3.<sup>22</sup> However, with the enactment of LSC's FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys' fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys' fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys' fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter 10-1 (February 18, 2010); *see also*, 75 *Federal Register* 21506 (April 26, 2010).<sup>23</sup>

PRLS adopted a written policy to guide its staff in complying with 45 CFR Part 1642. *See* PRLS *Políticas*, Tab 11 "Política Sobre el Recobro de Honorarios de Abogados", page 15. The policy is consistent with the pre-December 2009 restriction on attorneys' fees. Consistent with LSC Program Letter 10-1 (February 18, 2010), PRLS has issued new instructions on attorneys' fees. *See* SPLR *Políticas*, Tab 15, Circular D.E. Num 2010-03, "Nueva Política Autorizando el Recobro de Honorarios de Abogado" (May 11, 2010).

Neither the files nor the financial records that were reviewed during the visit indicate any activity inconsistent with Part 1642.

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<sup>22</sup> The regulations defined "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

<sup>23</sup> Recipients are reminded that the regulatory provisions regarding fee-generating cases, accounting for and use of attorneys' fees, and acceptance of reimbursement remain in force and violation of these requirements, regardless of when they occur, may subject the recipient to compliance and enforcement action.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 22: The files and documents that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).**

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

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1612. *See PRLS Politicas*, Tab 11 “Politica Respecto a Prohibiciones en Realizer Cabildeo”, page 3. OCE has reviewed the policy and has determined that it is consistent with Part 1612.

PRLS maintains a file that documents, identifies, and tracks the various employees who have participated in legislative and rulemaking activities. It also maintains separate accounting records documenting the expenditures of non-LSC funds relating to these activities. Neither the files nor the financial records that were reviewed during the visit indicate any activity inconsistent with Part 1612.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 23: The files that were reviewed during the on-site visit demonstrated 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.

None of the files that were reviewed during the visit involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 24: The files that were reviewed during the on-site visit demonstrated 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).<sup>24</sup>

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1617. *See* PRLS *Políticas*, Tab 11 “Política con Relación a Trabajos en Pleitos de Clase”, page 8. OCE has reviewed the policy and has determined that it is consistent with Part 1617.

None of the files that were reviewed during the visit involved PRLS’ initiation of, or participation in a class action.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 25: The files that were reviewed during the on-site visit demonstrated 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.

PRLS has adopted a written policy to implement the requirements of 45 CFR Part 1632. *See* PRLS *Políticas*, Tab 11 “Política Sobre Representación en los Casos de Desahucio”, page 12. LSC Policy Manual, page 27. OCE has reviewed the policy and has determined that it is consistent with Part 1632.

Neither the files nor the financial records that were reviewed during the visit indicate PRLS’ involvement in such activity.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

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<sup>24</sup> It does not, however, include representation of an individual seeking to withdraw or opt out of the class or obtain the benefit of relief ordered by the court, or non-adversarial activities, including efforts to remain informed about, or to explain, clarify, educate, or advise others about the terms of an order granting relief. *See* 45 CFR § 1617.2(b)(2).



**Finding 26: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).**

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

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1633. *See* PRLS *Políticas*, Tab 11 “Política Sobre Representación en los Casos de Desahucio”, page 12. OCE has reviewed the policy and has determined that it is consistent with Part 1633.

None of the files that were reviewed involved defense of any such eviction proceeding.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 27: The files that were reviewed during the on-site visit demonstrated 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.

PRLS has adopted a written policy to implement the requirements of 45 CFR Part 1637. *See* PRLS *Políticas*, Tab 11 “Política Respecto a la Representación de Confinados”, page 14. OCE has reviewed the policy and has determined that it is consistent with Part 1637.

None of the files that were reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 28: The files that were reviewed during the on-site visit demonstrated 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.<sup>25</sup> This restriction has been contained in all subsequent appropriations acts.<sup>26</sup> This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1; “This part is designed to ensure that recipients and their employees do not solicit clients.”

Recipients and their employees are prohibited from representing, or referring to other recipients, individuals as a result of a face-to-face encounter, or personal encounter via other means of communication such as a personal letter or telephone call, in which the recipient or its employee advised the individual to obtain counsel or take legal action, where the individual did not seek the advice and with whom the recipient has no attorney-client relationship. *See* 45 CFR §§ 1638.2 and 1638.3.

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1638. *See* PRLS *Políticas*, Tab 11 “Política Sobre Prohibición de Procurar Clientes, ‘Solicitation’”, page 14. OCE has reviewed the policy and has determined that it is consistent with Part 1638.

None of the files that were reviewed during the visit indicate PRLS’ involvement in such activity.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

**Finding 29: The files that were reviewed during the on-site visit demonstrated 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. No 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.

PRLS has adopted a written policy to guide its staff in complying with 45 CFR Part 1643. *See* PRLS *Políticas*, Tab 11 “Política Sobre Suicidio Asistido, Eutanasia y Muerte Piadosa”, page 19. OCE has reviewed the policy and has determined that it is consistent with Part 1643. ))

Neither the files nor the financial records that were reviewed during the visit indicate PRLS’ involvement in such activity.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

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<sup>25</sup> *See* Section 504(a)(18).

<sup>26</sup> *See* Pub. L. 108-7, Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

**Finding 30: The files that were reviewed during the on-site visit demonstrated compliance with the requirements of certain other LSC statutory prohibitions (42 USC 2996f § 1007 (a) (8) (Abortion), 42 USC 2996f § 1007 (a) (9) (School desegregation litigation), and 42 USC 2996f § 1007 (a) (10) (Military selective service act or desertion)).**

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

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

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

All of the sampled files that were reviewed demonstrated PRLS' compliance with the above LSC statutory prohibitions.

PRLS offered no comments in response to this Finding. As such, revision of the DR is unwarranted.

#### **IV. RECOMMENDATIONS<sup>27</sup>**

In view of the foregoing, LSC recommends that PRLS:

1. Conduct periodic reviews of case management reports on closed cases, particularly those limited service files that have remained open for an extended period of time;
2. Establish more effective review and reconciliation policies in order to adequately reconcile account balances on a timely basis;
3. Monitor the budget control reports to reduce the possibility of a deficit; and
4. Establish more effective review and reconciliation policies in order to adequately reconcile account balances on a timely basis.

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<sup>27</sup> Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE’s experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

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

## V. REQUIRED CORRECTIVE ACTIONS

Consistent with the Findings of this Report, PRLS is required to take the following corrective actions:

1. Take such measures as necessary to ensure that information necessary for the effective management of cases is accurately and timely recorded in its ACMS, including, but not limited to:
  - a. ensuring that each staff member has access to a computer and case management system that has the technological capacity to ensure cost effective and efficient management of data and workflow; and
  - b. conducting a program-wide review of network performance, including a review of the implementation of PROMAC to determine whether it is producing errors and erroneous information, or is not allowing access to data, an assessment of the migration from APPLICA to PROMAC to ensure that functionality is retained and data is not lost or corrupted, an assessment of its firewall protection and whether there are denial of service issues, a review of desktop hard drives and operating systems to ensure there are adequate processors, memory and operating systems to run the PROMAC applications, and an assessment of PRLS servers to assess whether there is adequate memory, connectivity and up-to-date OS patches and updates.

According to PRLS' response to the DR, the initial problems presented by PROMAC have been resolved, and, indeed, the system is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. PRLS stated that since the visit, all of the computers used by case handlers and several others – approximately 140 – have been upgraded. The new computers use Windows 7 operating system, which, together with the enhanced memory, greatly improves PROMAC's performance. PRLS stated that it has trained its staff on PROMAC and is providing on-going technical support to each of the DSCs. As well, necessary adjustments have been made so that PROMAC records all of the information entered into the system.

Upon consideration of PRLS' comments, OCE has revised the DR as reflected herein.

2. Make reasonable inquiry into the income prospects of each applicant for LSC-funded legal assistance and to keep such records or documentation as may be necessary to inform LSC of its compliance with 45 CFR § 1611.7(a)(1).

In response to the DR, PRLS stated that it will instruct the DSCs to conduct a manual income prospect inquiry and document the response in the files. Once re-programmed, the SEC personnel will routinely screen all applicants for income prospects.

Regarding the observation that the ACMS contained defaults, PRLS stated that PROMAC is being re-programmed to bring it into compliance with LSC Program Letter 02-6 (June 6, 2002) and the required corrective action..

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

3. Take such measures as necessary to remove all asset and income defaults from its computerized intake system as required by LSC Program Letter 02-6 (June 6, 2002).

In response to the DR, PRLS stated that its ACMS will be re-programmed in conjunction with its revisions to its financial eligibility policies.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

4. Revise its financial eligibility policy to specify that only individuals and groups determined to be financially eligible under the PRLS' financial eligibility policies and LSC regulations may receive LSC supported legal assistance as required by 45 CFR § 1611.3(b).

In its response to the DR, PRLS stated that it began the revision of its financial eligibility policy and has completed its final draft, which will be forwarded to OCE for review before being submitted to its Board of Directors for final approval. The review of PRLS financial eligibility policies, which is being performed, will address all of the observations set out in the DR.

After due consideration of PRLS' comment, pending receipt of PRLS' financial eligibility policy, revision of the DR is not warranted.

5. Revise its financial eligibility policy to specify that, in assessing the financial eligibility of an individual who is a victim of domestic violence, the recipient shall consider only the income and assets of the applicant and shall not consider any assets jointly held with the abuser as required by 45 CFR §1611.3(e).

*See PRLS' comments to Required Corrective Action #4.*

6. Eliminate the distinction in its financial eligibility policy between "liquid" and "non-liquid" asset.

*See PRLS' comments to Required Corrective Action #4.*

7. Revise its financial eligibility policy to conform its authorized exceptions to 45 CFR §1611.5 and ensure that consideration is limited to actual expenses and not pre-determined amounts.

*See PRLS' comments to Required Corrective Action #4.*

8. Eliminate the section within its financial eligibility policy entitled "Disqualifying Factors".

*See* PRLS' comments to Required Corrective Action #4.

9. Revise its group eligibility policy consistent with 45 CFR § 1611.6.

*See* PRLS' comments to Required Corrective Action #4.

10. Revise the confidentiality section of its financial eligibility policy consistent with Section 509(h), Pub.L 104-134, 110 Stat. 1321 (1996).

*See* PRLS' comments to Required Corrective Action #4.

11. After revising its financial eligibility policy, submit same to OCE for review prior to adoption by its governing body.

*See* PRLS' comments to Required Corrective Action #4.

12. Ensure compliance with 45 CFR §§ 1626.6 and 1626.7 and CSR Handbook (2008 Ed.), § 5.5.

In response to the DR, PRLS stated that written instructions will be issued in order to ensure compliance with LSC regulations and the corrective actions. PRLS also commented that new guidance will be provided to the SEC and DSCs to document the alien eligibility verification. PRLS stated that it will also re-program PROMAC to make this verification process a required field.

Regarding the four (4) files cited in the DR as lacking the citizenship/alien eligibility documentation required by LSC regulations and the CSR Handbook, PRLS commented that closer supervision will be undertaken to avoid lapses in compliance.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

13. Ensure compliance with 45 CFR § 1611.9(a).

In response to the DR, PRLS stated the DSCs will receive guidance once more on the proper way to comply with the requirements of 45 CFR § 1611.9 and that the DSCs will be instructed to review all opened files to ensure compliance with LSC's retainer agreement requirement.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

14. Ensure compliance with 45 CFR Part 1636.

In response to the DR, PRLS commented that the DSCs will be instructed to review all open files to ensure that they have the form for client identity and statement of facts correct, complete and on file.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

15. Ensure compliance with CSR Handbook (2008 Ed.), § 5.6.

In response to the DR, PRLS commented that closer supervision will be undertaken to avoid lapses in compliance. Instruction will be provided to DSC Directors and PAI Coordinators to review files periodically to ensure compliance with the requirements of CSR Handbook (2008 Ed.), § 5.6.

Based on PRLS' comment, revision of the DR is not warranted.

16. Ensure compliance with 45 CFR Part 1620.

In response to the DR, PRLS commented that it has instructed the Migrant Division not to accept cases outside of the approved priorities. The Division Manager was instructed to review the open cases cited in Finding 9 to determine whether they can be transferred to basic field or must be closed. All such cases have been transferred to a basic field DSC.

PRLS stated that prior to the commencement of their employment at PRLS, attorneys must sign a document agreeing to comply with the requirements of Part 1620.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

17. Ensure compliance with CSR Handbook (2008 Ed.), Chapter VIII.

In response to the DR, PRLS commented that it will design training to refresh all of its personnel and PAI attorneys on the proper application of the CSR Case Closure Categories.

After due consideration of PRLS' comments, OCE does not deem revision of the DR to be warranted.

18. Ensure compliance with CSR Handbook (2008 Ed.), § 3.3.

In response to the DR, PRLS commented that instructions will be given to DSC Directors and PAI Coordinators to check case inventories and review files to ensure timely closure, especially those that appear to be inactive or dormant.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.



19. Ensure compliance with CSR Handbook (2008 Ed.), Chapter VI.

In response to the DR, PRLS commented that the duplicate cases have been eliminated.

Based on PRLS' comment, revision of the DR is not warranted

20. Ensure compliance with 45 CFR Part 1609.

In response to the DR, PRLS stated that it has instructed Tele-Abogado not to accept tort cases for legal advice. The remaining fee-generating cases that fall under PRLS' priorities will be referred to the DSC in order to comply with Part 1609.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

21. Ensure compliance with 45 CFR § 1614.3(e).

In its response to the DR, PRLS stated that it is developing and will establish a policy and procedure to properly distribute PAI costs. This will include adjustments in the amount of the subgrant to PBI and the funds committed to its PPC program, that are charged to PAI, but should not be, as well as an assignment of funds from non-LSC which are invested in its PAI effort and had not been properly credited. PRLS stated that this revised allocation scheme will be applied retroactively to 2010, but prospectively in 2011 and beyond, so that adjustments are made in the same year the costs were incurred. Based on the new policy to be developed to properly distribute PAI costs, staff and other costs will be timely identified and recorded. PRLS will review the allocation of non-LSC costs associated to PAI and correct any deficiencies identified.

PRLS also stated that it is already working with PBI to identify those attorneys employed by the subrecipient who receive more than one half of his/her professional income from non-LSC sources, so as to document them as "private attorneys" for purposes of correctly allocating the LSC funds assigned to their salaries as PAI expenses, and conversely, to exclude as "private attorneys" those PBI attorneys who receive more than half of their professional income from LSC funds, for purposes of reporting the cases in which these attorneys provide legal assistance as non-PAI cases.

PRLS stated that it will work with PBI to have the subrecipient adopt specific written methodology on how common and administrative and general expenditures are distributed and/or allocated between funding sources (LSC and Puerto Rico State funds).

PRLS stated that this Finding will be communicated to PBI for future audits.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

22. Comply with the terms of the subgrant agreement with PBI and ensure compliance with 45 CFR § 1627.3(b)(3).

In its response to the DR, PRLS stated that it will ensure that LSC is notified, in writing, of changes in funding of less than 10% as required by 45 CFR § 1627.3(b)(3).

PRLS also stated that it is taking measures to improve and better coordinate the exchange of information with PBI in an effort to provide LSC with timely notice of training and community/client education activities conducted by PBI, as per the terms of the subgrant.

PRLS stated that it has taken measures to avoid delays in payments so that in 2011, all payments to PBI will be made in the first five (5) days of each month Insofar as the DR stated that PRLS. PRLS also stated that other oversights mentioned in the Finding 18 have been corrected.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

23. Take such measures as will ensure the proper expenditure, accounting for, and audit of PBI, including, but not limited to, ensuring that the costs of PBI's public liability insurance are not charged to its LSC funds *and* ensuring that PBI reimburse its LSC funds the costs of public liability insurance charged to PBI's LSC fund over the last five (5) years.

24. Ensure that expenditures of LSC funds by PBI conform to the criteria enumerated at 45 CFR § 1630.3(a).

In its response to the DR, PRLS stated that it will request that PBI charge the expenditure referenced in Finding 18 to non-LSC funds or repay the amounts noted in the Finding.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

25. Ensure that attorneys and paralegal to report all time, including leave time, as required by 45 CFR § 1635.3(b)(1).

In its response to the DR, PRLS stated it modified its timekeeping report program to include a new category of activities, namely "Licensias", or "leave", and attorneys and paralegals have been instructed to record use of their leave accordingly.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

26. Finalize and distribute all job descriptions.

In its response to the DR, PRLS stated that job descriptions have undergone extensive review and will be complete in the next month, at which time they will be distributed to all employees.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

27. Ensure segregation of accounting duties.

PRLS also stated that it will establish a procedure to provide for the proper segregation of duties in the preparation of monthly bank reconciliations. Such procedure will include review by the Executive Director or his designee after they are completed by the Comptroller.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

28. Make necessary adjustments to reconcile the subsidiary records with the general ledger as required by the Accounting Guide in a timely manner.

In response to the DR, PRLS stated that its Finance Office has specific instructions to reconcile the subsidiary ledger with the audited financial statement at the end of the year. PRLS also stated that measures are being taken to complete the reconciliation before the close of the year.

After due consideration of PRLS' comment, OCE does not deem revision of the DR to be warranted.

29. Reconcile the property and equipment subsidiary ledger with the general ledger account as required by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #27.*

30. Reconcile the property and subsidiary ledger with the General Ledger account as required by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #27.*

31. Make the necessary adjustments to reconcile the depreciation expenses of the subsidiary ledger with General Ledger as required by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #27.*

32. Properly code all expenditures, especially if it is a LSC or non-LSC expenditures as required by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #27.*

33. Provide supporting documentation for the \$338.58 of lodging expenses or LSC funds should be reimbursed as required by the Accounting Guide.

In response to the DR, PRLS stated that the missing credit card receipt has been located.

After due consideration of PRLS' comment, OCE has revised the DR as reflected herein.

34. Have an individual at the same level of the Executive Director or a Board Member review and approve his expenditures as require by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #26.*

35. Have the Office of Human Resources finalize and implement all staff job descriptions as required by the Accounting Guide.

*See PRLS' comments to Required Corrective Action #25.*

36. Monitor the Budget Control Reports to avoid the possibility of a deficit as required by the Accounting Guide.

PRLS also stated that it will adopt proper procedures to establish the annual budget distribution by account. It will also review, control and adjust the budget, if necessary, on a monthly basis to guarantee year-end financial results. PRLS will develop a policy to establish accountability within the organization for budget control. The budget will be restructured by responsible unit, so that each unit supervises the variances from month to month and, in coordination with the Executive Director, can make adjustments to avoid deficits at year-end.

PRLS also stated that it will adopt proper procedures to establish the annual budget distribution by account. It will also review, control and adjust the budget, if necessary, on a monthly basis to guarantee year-end financial results. PRLS will develop a policy to establish accountability within the organization for budget control. The budget will be restructured by responsible unit, so that each unit supervises the variances from month to month and, in coordination with the Executive Director, can make adjustments to avoid deficits at year-end.

PRLS stated that although several account balances required reconciliation, it is taking steps to remedy the situation with structural changes in the management of accounts. These changes should be in place before the arrival of a new Comptroller in June 2011.

37. Have a responsible individual with no accounting duties review and approve bank reconciliations, and sign and dated for better internal controls as required by Accounting Guide.

*See* PRLS' comments to Required Corrective Action #35.



Original li Bol

DIRECTOR EJECUTIVO

OFFICE OF COMPLIANCE AND ENFORCEMENT

March 29, 2011  
Via electronic mail and Priority Mail

2011 MAR 35 A 11: 27

LEGAL SERVICES CORP  
RECEIVED

Mr. Danilo Cardona  
Director, Office of Compliance and Enforcement  
Legal Services Corporation  
3333 K Street, NW, 3<sup>rd</sup> Floor  
Washington, DC 20007

**RE: CSR/CMS Visit, Recipient No. 253010**

Dear Mr. Cardona:

Enclosed you will find the comments of Puerto Rico Legal Services, Inc. (PRLS), to the Draft Report of LSC's Office of Compliance and Enforcement Draft Report regarding the above-captioned visit, which we received on February 3, 2011

In order to facilitate this exercise, we have organized our reaction in table format, with four columns entitled: "Finding", "Suggested Corrective Actions", "Finding Indications" and, finally, "PRLS Comments". We hope you will find this format useful and responsive. You will note that we have sought to cover the Draft Report in its entirety and that the bulk of our responses include corrective actions already taken or to be enacted in the future. Our comments do include, however, a few areas in which we have varying degrees of disagreement with the findings. If at all possible, we would like to discuss our differences regarding findings 15 and 18 before your final report is completed.

Thank you for the extensions of time granted. We have found the OCE visit and the Draft Report to be very useful tools for fine-tuning and improving our Program and trust that your will be able to consider and incorporate our comments in the final report.

Thank you for your consideration of this matter.

Sincerely,

CHARLES S. HEY MAESTRE  
Executive Director

Enclosures.



**PRLS COMMENTS TO OFFICE OF COMPLIANCE AND ENFORCEMENT DRAFT REPORT ON 2010 VISIT**

| FINDING  | SUGGESTED CORRECTIVE ACTIONS   | FINDING INDICATIONS  | PRLS COMMENTS   |
|--|--|--|---|
| <p><b>1 - PRLS" newly installed ACMS may not be sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.</b></p> | <p>A. Take such measure as necessary to ensure that information necessary for the effective management of cases is accurately and timely recorded in its ACMS, including, but not limited to:</p> <p>(a) Ensuring that each staff member has access to a computer and case management system that has the technology capacity to ensure cost effective management of data and Workflow; and:</p> <p>(b) Conducting a program-wide review of network performance, including a review of the implementation of PROMAC to determine whether it is producing errors and erroneous information, or is not allowing access to data, an assessment of the migration from APPLICA to PROMAC to ensure that functionality is retained and data is not lost or corrupted, an to data, an assessment of the migration from APPLICA to PROMAC to ensure that functionality is retained and data is not lost or corrupted, an assessment of its firewall protection</p> | <p>1. Loss of certain case information in the conversion process from APPLICA to PROMAC.</p> | <p>PRLS must point out that several of the indications contained in finding 1., of this draft report, could have been answered by the Director of the System of Information Office, or by the Manager of the Statistics Office, if either had been interviewed during the on-site visit. Also, please keep in mind that PRLS had just recently, installed PROMAC and that we were making adjustments at the same time our personnel was learning how to use it. Furthermore, since the OCE visit all the PRLS' computers used by case handlers (and a handful of others) were upgraded – approximately 140. The new computers use Windows 7 operating system, which, together with the enhanced memory, greatly improves PROMAC's performance.</p> <p>1. There never was loss of information. The completion of the conversion of data from APPLICA to PROMAC was validated. All information was migrated. The problem was that the personnel did not</p> |

| FINDING | SUGGESTED CORRECTIVE ACTIONS   | FINDING INDICATIONS   | PRLS COMMENTS  |
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|         | <p>and whether there are denial of service issues, a review of desktop hard drives and operating systems to run PROMAC applications, and an assessment of PRLS servers to assess whether there is adequate memory, connectivity and up-to-date OS patches.</p> | <p>2. PROMAC fails to record and even alters information.</p> <p>3. PROMAC automatically assigns a case closure category to the case, before the case is actually closed.</p> <p>4. PROMAC was unable to retrieve financial eligibility information entered in APLICA.</p> <p>5. "Firewall" is malfunctioning and has blocked Access to data (case histories and case inventories) within and between DSCs.</p> | <p>know how to use the newly installed program and had difficulty in retrieving information. This has been corrected.</p> <p>2. The necessary adjustment was made so PROMAC recorded all the information. the problem was identifying symbols the users wrote.</p> <p>3. The problem arose when in Tele-Abogado (Tele-Lawyer) transfer a case file to a DSC and closes the file before transferring the record. Instructions were given by the director of the Centralized Telephone and intake Center, to transfer the record to a DSC without determining so PROMAC will not put a closure category to a opened record</p> <p>4. The data base was reviewed and the financial eligibility information was saved. Once the computers were changed in that particular DSC, the problem was solved.</p> <p>5. The "firewall" is functioning well, and attorneys can see case histories and case inventories. PRLS intentionally sought Establish, as a control, a firewall that Impedes each DSC or project from having access to other DSCs or projects' data.</p> |



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|         |                              | <p>6. Some DSCs are unable to conduct program wide conflicts and/or duplicate check, or adequately supervise cases and perform compliance duties.</p> <p>7. Training staff to use PROMAC</p> <p>8. A DSC alleged having incorrect internet browser as the reason for not accessing PROMAC.</p> <p>9. PROMAC does not ensure that information necessary for effective management of cases is accurately and time recorded as required by CSR Handbook (2008 Ed.)</p> <p>10. In some instances the file numbers were different from the case list provided by PRLS prior to the visit.</p> | <p>6. Conflict check is done by the CIS (Centralized Intake System – SEC by its Spanish-language acronym)</p> <p>7. PRLS trained its staff on using PROMAC. We are enclosing copy of their attendance to the training.</p> <p>8. PROMAC is able to function using almost any internet browser. In the case of Microsoft Explorer, it will run on version 7 or above. Before installing PROMAC, all Browsers on PRLS computers were upgraded. Furthermore, since PROMAC began operating, some 140 computers have been upgraded with new models, all of which have at least two browsers (Explorer and Firefox) which access PROMAC. Problem solved.</p> <p>9. Initial problems presented by PROMAC were solved, ensuring that information necessary for the effective management of cases is accurately and timely recorded.</p> <p>10. The difference in the file numbers is because the information for reports is retrieved from the APLICIA program, since</p> |

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| <p><b>2 - Except as noted in Finding 1, PRLS Intake procedures supports most compliance Related requirements</b></p> <p><i>Substantial compliance</i></p> | <p>A. PRLS is instructed to make reasonable inquiry into the income prospects of each applicant and to keep such records or documentation as may be necessary</p> | <p>1.1. The dates in open or closed cases are different from the dates in PROMAC</p> <p>1. PRLS screened for prospective income only if no income value was entered into the ACMS.</p> | <p>the statistical reports were not finished in the APLICAWEB program. Due to problems in the data conversion to be able to make the reports, we kept the DSC identifying number in the original APLICIA program. For example, The Arecibo PPC number was 401 in APLICIA and now is 4054. With PROMAC, reports are being integrated, to prevent this from occurring again.</p> <p>1.1. PROMAC uses the date the case was determined. Cases indicating closure dates in the file but still appear opened in PROMAC are because the DSC did not perform the login when requested by the Office of Information System. Nonetheless, the necessary adjustments have been made to PROMAC to guarantee it will not happen again.</p> <p>1. Currently, PROMAC will automatically require the intaker to make an inquiry on prospective income, only when no value in current income is entered or when none of the Public Benefits programs (for example: food Stamps) is checked. Until our ACMS is re-programmed, we will instruct the DSCs to conduct a manual inquiry and document it in the file. Once re-programmed, the SEC personnel will always make this inquiry during</p> |

| FINDING | SUGGESTED CORRECTIVE ACTIONS  | FINDING INDICATIONS  | PRLS COMMENTS  |
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|         | <p>B. PRLS must take such measures as to remove all asset and income defaults</p> | <p>2. PRLS' ACMS defaults to a value of "0" for income assets, household size and citizenship attestation.</p> | <p>The interview they perform.</p> <p>2.The statistical program (APLICAWEB) we had until PROMAC was installed was designed in such a way that would not permit eliminating the preset "0" value. With that system the attorneys checking financial eligibility, certified by a check mark having inquired on prospective income. If this was not done, the program would not permit them to continue the same applies to PROMAC at Present. However, PROMAC will be Reprogrammed to bring it into compliance With LSC regulations and the suggested Corrective action.</p> <p>Neither APLICA WEB or PROMAC have preset household size.</p> <p>No preset selection was included in APLICA WEB or in PROMAC for citizenship eligibility. Although the available four (4) classifications for citizenship or alien status are preset in the program, the Intaker is obligated to ask the applicant his/her specific information and select one in order to continue with the interview. Our ACM will be re-programmed at the same time we are redesigning our case management to be in compliance with financial eligibility policy as required by 45 CFR 1611.</p> |

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| <p><b>4- PRLS is in compliance with LSC's Income documentation requirements</b></p> <p><b>5- PRLS is in compliance with LSC's Assets documentation requirements</b></p> <p><b>6 – PRLS citizenship/alien eligibility documentation forms are insufficient to maintain a record of its compliance with Part 1626.</b></p> <p><b>Additionally, two of the files that were reviewed during the visit, lacked the citizenship/alien eligibility documentation required by LSC regulations and the CSR Handbook.</b></p> | <p>E. Eliminate the section within its financial eligibility policy entitled "Disqualifying Factors"; Revise its group eligibility policy consistent with 45 CFR 1611.6;</p> <p>F. Revise the confidentiality section of its financial eligibility policy consistent with Section 509 (h), Pub. L. 104-134, 110 Stat.1321 (1996);</p> <p>G. After revising its financial eligibility policy, must submit same to OCE for review prior to adoption by its governing Body.</p> | <p>1. Different citizenship/alien forms used by PRLS at various times, not in compliance with CSR Handbook (2008 Ed.)</p> | <p>In compliance. No other comment necessary</p> <p>In compliance. No other comment necessary</p> <p>1. Since approval of CSR Handbook (2008 Ed.), PRLS has had only one form for citizenship attestation. The form is even included in our Client Service Manual. Those DSCs mentioned in the finding, did not use the corrected and official form. Written instructions will be issued in order to insure compliance with LSC regulations and the suggested corrective actions.</p> |
| <p>A. All service applicants who claim to be citizens must execute a written attestation.</p> <p>B. Brief advice and consultation by telephone, which does not involve continuous representation, must include a written notation or computer entry that reflects the applicant's oral response to the recipient inquiry regarding citizenship/alien eligibility.</p>   |  |   |   |

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| <p><i>Not in substantial compliance</i></p>   | <p>C. PRLS is cautioned that LSC regulation do not permit self- verification of alien eligibility.</p>   | <p>2. LSC regulations do not permit self- verification of alien eligibility.</p> <p>3. Citizenship attestations were dated after the representation began.</p>   | <p>2. PRLS has always verified alien eligibility, but new guidance will be given to the CIS and to the DSCs, to document the alien eligibility. We will also re-program PROMAC to make this verification process a required field.</p> <p>3 .Some DSCs were not in compliance but, that was not the case of DSC Manati, which we verified. Closer supervision will be undertaken to avoid lapses in compliance in the future.</p> |
| <p><b>7 – PRLS is in substantial compliance with The requirements of 45 CFR 1611.9, “Retainer agreements.”</b></p> <p><i>Substantial compliance</i></p> | <p>A. Retainer agreements must be signed before commencing legal representation or if an emergency, as soon as practical. Must retain copy</p> <p>B. Retainer agreement must specify service sought and the level of legal assistance to be provided.</p> <p>C. Files without a retainer agreement, but of an eligible client and properly documented must be reported to LSC (CSR, 2008 Ed.)</p> <p>A. Identify by name each plaintiff it Represents in any complaint it files or</p> | <p>1. At a minimum, retainer agreement must include a statement identifying the legal problem for which representation is, Sought, and the nature of legal service to be provided.</p> <p>2. 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</p> | <p>1. DSCs will receive guidance once more of the proper way to comply with the requirement of 45 CFR 1611.9</p> <p>2. The DSCs will be instructed to review all opened files to ensure compliance with the requirements of 1611.9.</p>   |
| <p><b>8 - The files that were reviewed during The on- site visit demonstrated</b></p>   | <p>A. Identify by name each plaintiff it Represents in any complaint it files or</p>   | <p>1.In four DSCs, files lacked the statement of facts required by Part 1636</p>   | <p>1.DSCs will be instructed to review all open files to ensure they have the form</p>  |

| FINDING   | SUGGESTED CORRECTIVE ACTIONS   | FINDING INDICATIONS  | PRLS COMMENTS   |
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| <p>Substantial Compliance with the Requirements of 45 CFR 1636 Client Identity and Statement of Facts.</p> <p><i>Substantial compliance</i></p>   | <p>pre-litigation settlement negotiation</p> <p>B. Must prepare a dated, written statement signed by each plaintiff it represents, enumerating the particular facts supporting the complaint.</p>      | <p>when recipient files a complaint in a court or otherwise initiates or participates in litigation against a defendant, or when Engages in pre-complaint settlement Negotiations with prospective defendants.</p> | <p>for client identity and statement of facts correct, complete and on file.</p>  |
| <p>9 – The files that were reviewed during the on-site visit demonstrated compliance with the requirements of 45 CFR 1620.4 and 1620.6 (c) (Priorities in Use of Resources)</p>   | <p>A. Programs must limit to the approved priorities, except on an emergency case.</p> <p>B. Attorneys must sign document certifying knowledge of the priorities and protocol for emergency cases.</p> | <p>OCE encountered several migrant cases that involved legal issues that albeit consistent with PRLS basic field priorities, did not appear to be within the priorities of the Migrant Farm Worker Division.</p>   | <p>1.PRLS has instructed Migrant Division not to accept cases outside of the approved priorities. Furthermore, the Division Manager was instructed to review open cases mentioned in the draft report to determine if they can be transferred to the basic field or must be closed. All such cases have been transferred to the basic field (a DSC). Matter resolved.</p> |
| <p><i>Substantial compliance</i></p>  | <p>A. Legal assistance provided must be documented in the case file.</p>   | <p>1.Files did not have notations on case Information.</p>   | <p>2. When PRLS recruits an attorney, before beginning to work, must sign a document committing to comply with priorities requirement under Part 1620.</p>  |
| <p>10 - The files that were reviewed during the On-site visit demonstrated substantial Compliance with the requirements of CSR Handbook (2001 Ed.) \$5.1 and CSR Handbook (2008 Ed.) \$5.6 (Description of Legal Assistance Provided)</p> | <p>A. Legal assistance provided must be documented in the case file.</p>   | <p>2.Files not documented the level of legal</p>   | <p>1. Finding is correct. Files did not have notations of legal assistance provided. Closer supervision will be undertaken To avoid lapses in compliance in the Future.</p> <p>2.Instructions will be given to DSCs</p>   |

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| <p><i>Substantial compliance</i></p> <p><b>11 - The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of Section VIII, CSR Handbook (2001 Ed.), and CSR Handbook (2008 Ed.), Chapter VIII: Case Definitions and Closure Categories.</b></p> <p><i>Substantial compliance</i></p> <p><b>12 - The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001 Ed.), §3.3 and CSR Handbook (2008 Ed.), § 3.3 (Timely Closing of Cases)</b></p> <p><i>Substantial compliance</i></p> | <p>A. Files must be closed using the closure category that best reflects the level of legal assistance provided in the case</p> <p>A. PRLS should ensure that all cases are reviews of case management reports on closed cases, particularly those limited service files that remain open for an extended period of time.</p> <p>B. PRLS should review its list of open cases and mark for rejection and exclude from the CSR data submission all dormant, inactive, and files involving ineligible applicants.</p> <p>A. PRLS should identify one of the files for exclusion from future CSR data submissions to LSC.</p> | <p>assistance provided to client</p> <p>1. Closure category was not correct in Some files</p> <p>2. The time between when a case is opened and when it is closed does not determine the closure category.</p> <p>1. Programs shall report cases as having been closed in the year in which assistance ceased depending on case type with the exception for cases opened after September 30, and those containing a determination to hold file open because further assistance is likely.</p> <p>1. Duplicate files were found</p> | <p>Directors and PAI coordinators to review files periodically to ensure files are documented.</p> <p>1.PRLS will design training to refresh all of our personnel and PAI attorneys on this matters.</p> <p>2. PRLS will design training to refresh all of our personnel and PAI attorneys on this matters.</p> <p>1. Instructions will be given to DSCs Directors and PAI coordinators to check case inventories and review files to ensure timely closure of files, especially those that appear to be inactive or dormant</p> <p>1. Duplicate cases were eliminated.</p> |
| <p><b>13 – The files that were reviewed during the on-site visit demonstrated substantial compliance with the requirements of CSR Handbook (2001</b></p>   |  |   |   |

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| <p>Ed.), §3.2 and CSR Handbook (2008 Ed.), §3.2 regarding duplicate reporting</p> <p><i>Substantial compliance</i></p> <p>14 – The files that were reviewed during the on – site visit demonstrated Compliance with the requirement of 45 CFR Part 1608 (Prohibited political Activities)</p> <p>15 – PRLS provided legal assistance in fee-generating cases in violation of 45 CFR §1609.3</p> | <p>N/A</p> <p>A- Assure compliance with 45 CFR Part 1609.3 (a).</p> | <p>N/A</p> <p>PRLS provided legal in fee-generating cases</p> | <p>In compliance. No other comment necessary</p> <p>PRLS does not agree with this finding but until further discussion with LSC on this matter, has instructed TeleAbogado not to accept tort cases for legal advice. The remaining fee-generating cases that fall under our priorities will be referred to the DSC in order to comply with 1609. It is our opinion that it would be onerous for PRLS and applicants who only seek advice, to be referred to a DSC to be then referred to two private attorneys in order to obtain a rejection letter for a consultation without a payment fee. It is our understanding that this Prohibition applies only to extended services since a mere consultation does not generate statutory fees.</p> |



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| <p>16 – PRLS is in compliance with the Requirements of 45 CFR Part 1610 (Use Of non-LSC funds, transfer of LSC Funds, program integrity).</p> <p>17 – PRLS has not accurately identified and accounted for the costs related to its PAI effort as required by 45 CFR Part 1614.</p> | <p>N/A</p> <p>A. PRLS is required to take corrective to accurately identify and account staff costs related to its PAI activities. Necessary adjustments should be made in the same year that the costs were incurred.</p> <p>B. PRLS is further directed that the 2009 adjustments of PAI hours should not be charged as a PAI cost for 2010.</p> <p>C. PRLS should determine which attorneys employed by Pro Bono, Inc., derive more than one half of their annual professional income from proceeds of the sub grant and on the basis of time maintained in accordance with 45 CFR 1610.7(b) (2), accurately identify and account for Staff costs related to PAI activities</p> <p>D. PRLS must ensure that Pro Bono, Inc has a reasonable and clearly documented methodology on allocating</p> | <p>N/A</p> <p>1. To the extent that PRLS has incurred, non-LSC funded administrative, overhead, staff, support or contract costs related to its PAI effort that have not been allocated, it has not accurately identified and accounted for its PAI costs as required by LSC regulations</p> <p>2. It does not appear that PRLS has staff accurately identified and accounted for costs related to its PAI activities.</p> <p>3. PRLS may not be allocating non-LSC funded administrative, overhead, staff</p> | <p>In compliance. No other comment y Necessary.</p> <p>1. PRLS is developing and will establish a policy and procedure to properly distribute PAI costs. This will include an adjustment, as required by LSC regulations, in the amount of those funds granted to Pro Bono, Inc. as well as those utilized in our PPC program, which are charged to PAI and should not be, as well as an assignment of funds from Non-LSC which are invested in our PAI effort and had not been properly credited. This revised allocation scheme will be applied retroactively to 2010, but prospectively in 2011 and beyond, so that adjustments are made in the same year the costs were incurred.</p> <p>2. Based on the new policy to be developed to properly distribute PAI costs, staff and other costs will be timely identified and recorded.</p> <p>3. PRLS will review the allocation of non-LSC costs associated to PAI</p> |

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|         | <p>Its common cost (45 CFR 1627.3 (c))</p> <p>E. PRLS should ensure that Pro Bono audited financial statement separately reports the basic field and PAI revenue expenses</p> | <p>and support costs related to its PAI Activities.</p> <p>4. Pro Bono staff attorney who receives in more than one half of his/her professional income from the staff-model legal services provider is not a "private attorney" according to LSC regulations. Direct legal assistance provided by such attorney cannot qualify as PAI activity and a recipient may not report such cases as PAI in its CSR data submission.</p> <p>5. PRLS has not accurately identified or accounted for Pro Bono staff attorneys costs related to PAI.</p> <p>6. Pro Bono does not describe the methodology on how common administrative and general expenditures are distributed and/or allocated between funding sources (LSC and Puerto Rico State Funds).</p> | <p>activities and correct any deficiencies identified.</p> <p>4.PRLS is already working with Pro Bono to identify its staff attorneys who receive more than one half of his/her professional income from non-LSC sources, so as to document them as "private attorneys" for purposes of correctly allocating the LSC funds assigned to their salaries as PAI expenses, and conversely, to exclude as "private attorneys" those Pro Bono staff who receive more than half of their professional income from LSC funds, for purposes of reporting the cases in which these attorneys provide legal assistance as non -PAI cases.</p> <p>5. See comments 1 and 4, supra.</p> <p>6. PRLS will work with Pro Bono to have the sub-grantee adopt specific written methodology on how common administrative and general expenditures are distributed and/or allocated between funding sources (LSC and Puerto Rico State Funds).</p> |

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| <p><b>18 – PRLS is in substantial compliance with the requirements of 45 CFR Part 1627</b></p> <p><i>Substantial compliance</i></p> | <p>A. Timely report LSC any change to sub grant awards not in excess of 10%</p> <p>D. Conduct internal audits as per the Term of the sub grant agreement</p> <p>C.PRLS is directed to demonstrate that this expenditures by Pro Bono conform to the criteria enumerated at 45 CFR 1630.3 (a) and if not verified repayment is instructed.</p> <p>D.PRLS is responsible of ensuring compliance by sub recipient with LSC financial and audit requirements; LSC Accounting Guide for LSC recipient at Section 2-2.8</p> | <p>7. Pro Bono’s audited financial statement does not separately report the basic field and PAI revenue and expenses on the Statement of Support, Revenues and Expenses and Changes in Net Assets.</p> <p>1. PRLS failed to inform LSC of minor grant changes made in funding to the original grant award (Pro Bono) in years 2008, 2009 and 2010. (1627.3 (a) (1) and (b) (3)</p> <p>2. PRLS responsibility to verify compliance by sub recipient Pro Bono of LSC financial and audit requirement. (1630.3 (a):</p> <p>2- a: Failure to conduct two annual mandatory internal audits to sub grant agreement Pro Bono.</p> <p>2- b: Failure to notify LSC of training and communicate /client education activities conducted by Pro Bono.</p> | <p>7. This finding will be communicated to Pro Bono for correction of future audits..</p> <p>1.PRLS will ensure that minor changes to Grants are informed to LSC on a timely Basis.</p> <p>2. (a) PRLS agreed to conduct “<u>up to 2</u> Internal audits” to sub grantee in a year. During year 2010 only one audit was realized. This is within the maximum number of internal audits foreseen and PRLS does not believe it to be a lack of compliance with our agreement. PRLS ensure that it complies with the requirement of audits of the sub recipient’s operations.</p> <p>2 b. PRLS is taking steps to improve and better coordinate the exchange of information with Pro Bono so as to provide LSC with this information in a timely manner.</p> |

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| <p><b>19 – PRLS is in substantial compliance with 45 CFR 1635 (Timekeeping requirements).</b></p> | <p>A. Ensure that attorneys and paralegals Report all time, including leave time, as Required by 45 CFR 1635.3 (b) (1)</p> | <p>2- c: Failure to pay the February 2010 sub grant installment in advance</p> <p>2- d: Failure to execute sub grant and agreement in Spanish version for 2009 2010</p> <p>2- e: It was detected that public liability insurance for two vehicles for two Pro Bono Board members, were paid by LSC funds for years 2008, 2009 and 200</p> <p>2- f: Pro Bono fiscal records show a net as asset balance of \$37,366.00 in LSC Funds of December 31, 2008, but show a Deficit balance of \$46,424.00 as of December 31, 2009.</p> <p>1. Attorneys and paralegals do not record Vacation or sick leave time.</p> | <p>2c. The finding is correct. PRLS has taken steps to avoid delays in payments so that in 2011 all payments to Pro Bono will be made in the first 5 days of each month.</p> <p>2d. Although the sub grant agreement were actually prepared in Spanish both in 2009 and 2010, this finding is correct since they were never executed. This oversight is being corrected.</p> <p>2e. PRLS has, in the past, questioned this expenditure. Pro Bono has attempted to justify it by stating that it was authorized by its Board of Directors. In light of this finding, PRLS will kneo request that Pro Bono cover this expense with non-LSC funds or repay the funds improperly expended.</p> <p>2-f. This matter was identified by the monitoring report and Pro Bono's Board approved the corresponding transfer of funds from non-LSC funds to eliminate the deficit in LSC funds in December, 2010. This information has already been reported to OCE.</p> <p>1.PRLS modified its timekeeping report program to include a new category of activity, named "Licencias" ("paid or</p> |

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| <p><i>Substantial compliance</i></p> <p><b>20 – Several corrective actions are Required in order to bring PRLS into Compliance with the requirements of LSC’s Accounting Guide for LSC Recipients.</b></p> | <p>A. Finalize and distribute all job descriptions.</p> <p>B. Ensure segregation of accounting duties.</p> <p>E. Extensive analysis and reconciliation has to be made to reconcile the amounts reported in the subsidiary ledger to Those included in the Accounting records</p> <p>D. Reconcile the property and equipment subsidiary ledger with the general ledger Account as required by the Accounting Guide.</p> <p>E. Reconcile the subsidiary records with the general ledger account as required by the Accounting Guide.</p> <p>F. Make the necessary adjustments to as reconcile the depreciation expenses of the subsidiary ledger with the general ledger required by the Accounting Guide.</p> | <p>1. PRLS accounting personnel job descriptions are outdated (2000), some descriptions are in draft and some are hand written by the employee.</p> <p>2. The delay in the implementation of job descriptions compromises a very important tool in the internal control structure, since job descriptions frequently define segregation of duties and are useful in establishing a system of Independent checks and proof.</p> <p>3. Inconsistencies with the Accounting Guide, Section 3-4-3. OCE noted that the review, preparation and reconciliation of PRLS monthly bank statements is performed solely by its Comptroller, creating an internal control deficiency</p> <p>4. Review of PRLS audit financial property statement for the period ending December 31, 2009, disclosed that the and equipment subsidiary ledger was not reconciled with the general ledger.</p> | <p>attorneys and paralegals have been instructed to record use of their leave time accordingly.</p> <p>1. Job descriptions have undergone Extensive review and will be complete in The next month, including distribution to All employees.</p> <p>2. PRLS will establish a procedure to provide for the proper segregation of duties in the preparation of monthly bank reconciliations, with the Executive Director or his designee as responsible for their review after they are completed by the Comptroller.</p> <p>3. See comment to finding 2, above.</p> <p>4. That is correct. An adjustment of 6707.00 was recorded in September 2010 To adjust the depreciation expense for the Year 2009 to 166, 703. The Finance Office Has specific instructions to reconcile the</p> |

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|         | <p>G. Properly code all expenditures, especially if it is a LSC or non-LSC expenditures as required by the Accounting Guide.</p> <p>H. Proceed to request to supporting documentation for the \$338,58 of lodging expenses or LSC funds should be Reimbursed as required by the Accounting Guide.</p> <p>I. Have an individual at the same level of the Executive Director or a Board member review and approve his expenditures as required by the Accounting Guide</p> <p>J. Have the Office of Human Resources implement all staff job description as required by the Accounting Guide</p> <p>K. Monitor the Budget Control Reports to avoid the possibility of a deficit as required by the Accounting Guide.</p> <p>L. Have a responsible individual with no accounting duties review and approve bank reconciliations, and signed and dated for better internal controls as required by the Accounting Guide.</p> | <p>Preliminary adjustment shows that it was made as of September 30, 2010</p> <p>5. Audited financial statement also was disclosed that no depreciation expense recorded on the subsidiary ledger during calendar years 2008 and 2009 and the condition still prevails.</p> <p>6. PRLS, according to audit financial statement had a significant number of account balances that require extensive analysis and reconciliation in order to provide accurate accounting information. On May 12, 2010, an adjustment was made amounting \$162,000.00 reclassifying expenditures reported as LSC expenditures to non-LSC expenditures. It was also detected that on the same day adjustment of \$123,000.00, was made to remove fully depreciated fixed assets.</p> | <p>subsidiary ledger with the audited statement at year -end.</p> <p>5. Depreciation expense for years ended 2008 and 2009 were recorded in the subsidiary ledger. An estimated depreciation expenses was recorded in the General Ledger (GL) and subsequent to year-end reconciliation was made between the general and the subsidiary ledger recording the correct amount in the books of PRLS. Provisions are being taken this year to complete the reconciliation before the closing of year-end.</p> <p>6. In the preparation for the 2009 audit, it is correct that several account balances required reconciliation. With the departure of our past Comptroller in February, PRLS is taking steps to remedy the situation with structural changes in the management of accounts. These changes should be in place before the arrival of a new Comptroller in June, 2011.</p> |

| FINDING   | SUGGESTED CORRECTIVE ACTIONS   | FINDING INDICATIONS   | PRLS COMMENTS  |
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| <p>21 through 30- "Attorneys' fees";<br/> "Restrictions on lobbying and certain other activities"; "Restrictions with respect to criminal proceedings, and actions collaterally attacking criminal convictions"; ; "Class actions"; "Redistricting"; " Restriction on</p> | <p>M. PRLS has to establish more effective review and reconciliation policies in order to adequately reconcile account balances on a timely basis.</p> | <p>7. Two credit cards in use, one assigned to the Executive Director and another to the bankruptcy lawyer, for years 2008 2009 and 2010. Only one unsupported charge was identified because of missing receipt related to travel expense by the Executive Director</p> <p>8. PRLS budget control reports for the six month preceding the on-site visit disclose that the cost of operation is higher than income with a possible future deficit.</p> | <p>7. PRLS has located this missing receipt and corrected the situation.</p> <p>8. PRLS will establish proper procedures to establish the annual budget distribution by account. Also, we will review, control and adjust, if necessary, The budget on a monthly basis to guarantee year-end financial results. PRLS will develop a policy to establish accountability within the organization for budget control. The budget will be restructured by responsible unit, so that each unit supervises the variances from month to month and, in coordination with the Executive Director, make adjustments to avoid deficits at year-end.</p> <p>In compliance. No other comment Necessary.</p> |

| FINDING   | SUGGESTED CORRECTIVE ACTIONS | FINDING INDICATIONS | PRLS COMMENTS |
|---|------------------------------|---------------------|---------------|
| <p>representation in certain eviction proceedings'; "Representation of Prisoners"; "Restriction on solicitation"; "Restriction on assisted suicide, euthanasia and mercy killing"; "Abortion and School desegregation litigation, and Military selective service Act for dissertation".</p> <p>COMPLIANCE</p> |                              |                     |               |