



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

Lone Star Legal Aid
Case Service Report/Case Management System Review
December 5-9, 2011

Recipient No. 744060

I. EXECUTIVE SUMMARY

Finding 1: Sampled cases evidenced that LSLA's automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. However, due to discrepancies between LSLA's case lists for HVLP and HVLP files, HVLP's open case list was deemed unreliable.

Finding 2: LSLA's in-house intake procedures and case management system generally support LSLA's compliance related requirements. However, AVDA and HVLP do not screen for income prospects. Further, HVLP cases reported pursuant to the subgrant are not screened for assets in accordance with the LSLA Financial Eligibility Policy.

Finding 3: With two (2) exceptions, sampled cases evidenced that LSLA maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). LSLA's income eligibility policy is in compliance with 45 CFR Part 1611.

Finding 4: With one (1) exception, sampled cases evidenced that LSLA maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. LSLA's asset eligibility policy is in compliance with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

Finding 5: With one (1) exception, LSLA staff cases were in compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). Additionally, there was one (1) case reviewed that contained an untimely citizenship attestation and two (2) that were undated. Policies reviewed evidenced compliance with 45 CFR Part 1626. However, HVLP cases are not in compliance with the documentation requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5.

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

Finding 7: With one (1) exception, sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). Additionally, policies reviewed evidenced compliance with 45 CFR Part 1636.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR § 1620.4 and § 1620.6(c) (Priorities in use of resources).

Finding 9: LSLA in-house sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided); however, cases reported pursuant to the HVLP subgrant do not comply.

Finding 10: Sampled cases evidenced that LSLA's application of the CSR case closure categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended

2011). However, AVDA and HVLP cases are not in compliance with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases). However, HVLP cases are not in compliance.

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

Finding 13: Review of LSLA's policies, the list of attorneys who have engaged in the outside practice of law, and staff interviews revealed that LSLA is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 14: Sampled cases and a limited review of the detailed general ledger and other accounting documents for 2009 and January 2011 through November 2011, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: From a limited review of financial documents, interviews with staff, and sampled case review it was determined that LASLA is in compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A limited review of LSLA's accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities. However, LSLA is not in compliance with the requirements of 45 CFR § 1610.5(a) (Donor notification letters).

Finding 17: LSLA is not in compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. Additionally, the review of the 2010 PAI schedule revealed that there was not always compliance with 45 CFR Part 1614 or the LSC requirements for PAI. The indirect expenses allocated to PAI were not based upon operational data and the hours used to calculate the wage rate used by LSLA's employees to charge PAI was not based upon the annual scheduled work hours divided into the employee's annual salary.

Finding 18: LSLA is not in compliance with 45 CFR § 1627.3(c) (Sub-grants). LSLA is also not in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 19: LSLA is in compliance with 45 CFR Part 1635 (Timekeeping requirements). However no liability for the accrued vacation of the employees is recorded in the general ledger or in the Annual Financial Statements as required by Generally Accepted Accounting Principles (GAAP).

Finding 20: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 21: Sampled cases and policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities). However, review of financial documents and interviews with staff revealed that LSLA engaged in legislative and rulemaking activities in November and December of 2010, and June of 2011 and failed to maintain separate accounting records showing the expenditures incurred relating to these activities. LSLA used LSC funds instead of non LSC funds to cover the costs related to these activities, in violation of the regulation.

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

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

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

Finding 30: LSLA is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decision, to sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

Finding 31: A limited review of LSLA's internal control policies and procedures demonstrated there are four (4) areas where there is a lack of segregation of duties within the financial operations of LSLA.

Finding 32: The follow up review of the OIG fiscal comments disclosed that LSLA has instituted a procedure to have non-exempt employees follow proper overtime request procedures and obtain permission from management prior to working overtime, however contract employees do not always have current employment contracts with LSLA.

Finding 33: From a limited review of LSLA's financial documents it was revealed that the program received a Cy Pres Award on September 30, 2010 in the amount of \$53,655.17 and failed to disclose this information in their 2010 audited financial statements.

II. BACKGROUND OF REVIEW

During the week of December 5-9, 2011, staff of the Office of Compliance and Enforcement (OCE) conducted a Case Service Report/Case Management System (CSR/CMS) Review at Lone Star Legal Aid (LSLA). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable guidance such as Program Letters, the LSC Accounting Guide for LSC Recipients (2010 Edition), and the Property Acquisition and Management Manual. The visit was conducted by a team of 12: Eight (8) LSC staff attorneys, two (2) LSC temporary employees, and two (2) LSC staff fiscal analysts.

The onsite review was designed and executed to assess program compliance with basic client eligibility, intake, case management, regulatory and statutory requirements, and to ensure that LSLA has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed LSLA for compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees)²; 45 CFR Part 1630 (Cost standards and procedures); 45 CFR 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

By letter dated October 12, 2011, OCE requested that LSLA provide a list of all cases reported to LSC in its 2009 CSR data submission (closed 2009 cases), a list of all cases reported in its 2010 CSR data submission (closed 2010 cases), a list of all cases closed between January 1, 2011 and October 15, 2011 (closed 2011 cases), and a list of all cases which remained open as of October 15, 2011 (open cases). OCE requested that the lists 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 closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by LSLA staff and the other for cases handled through LSLA's PAI component. LSLA was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10, 11, and 12, and the LSC *Access to Records* protocol (January 5, 2004). LSLA was requested to notify OCE promptly, in writing, if it believed that

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

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

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

The OCE team interviewed members of LSLA's upper and middle management, staff attorneys, and support staff. LSLA's case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, case file review was conducted. The sample case review period was from January 1, 2009 through October 15, 2011. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the onsite review, the OCE team selected 1,935 cases to review onsite, which included 271 targeted files, and some deselected cases which were pulled onsite. All of the selected cases were reviewed.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and LSLA agreement of November 14, 2011, LSLA staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.³

LSLA provides free legal services to low income persons in 72 counties in Eastern Texas and four (4) counties in Southwest Arkansas through 14 offices, including its main office in Houston.

LSLA received grant awards from LSC in the amounts of \$10,888,594.00 for 2009, \$11,507,677.00 for 2010, \$10,585,818.00 for 2011, and \$9,033,961.00 for 2012. In its 2011 CSR submission to LSC, the program reported 17,212 closed cases; in its 2010 CSR submission to LSC, the program reported 19,645 closed cases; in its 2009 CSR submission to LSC, the program reported 17,798 closed cases. LSLA's 2011 self-inspection certification revealed a 0.50% error rate in CSR reporting. LSLA's 2010 self-inspection certification revealed a 1.33% error rate in CSR reporting. LSLA's 2009 self-inspection certification revealed a 1.41% error rate in CSR reporting.

LSLA's management and staff cooperated fully in the course of the review process. As discussed more fully below, LSLA was made aware of compliance issues during the onsite visit. This was accomplished by informing intermediaries, as well as members of LSLA's Senior Leadership Team and the Executive Director, of any compliance issues uncovered during case review.

At the conclusion of the visit, on December 9, 2011, OCE informed LSLA that we would conduct a telephonic exit conference on December 13, 2011. During the exit conference, LSLA was provided with OCE's initial findings and was made aware of the areas in which compliance issues were found. LSLA was informed that the review team was very impressed with LSLA's

³ In those instances where it was evident that the nature of the problem and/or the nature of the assistance provided had been disclosed to an unprivileged third party, such discussion was more detailed, as necessary to assess compliance.

oversight of their cases. The staff cases reviewed in each branch office clearly reflected the high level of importance LSLA places on LSC's requirements. Most of the findings and corrective actions regarding case review resulted from the Private Attorney Involvement (PAI) subgrant cases. Other notable findings, detailed below, were made regarding fiscal issues. LSLA was very receptive to LSC's findings and indicated that they would make every effort to rectify them.

OCE noted substantial compliance in the areas of 45 CFR Part 1611.4 (Financial eligibility), 45 CFR § 1611.9 (Retainer Agreements), and CSR Handbook (2008 Ed., as amended 2011), Chapters VIII and IX (Case closure categories). One (1) case was noted that did not comply with the requirements of 45 CFR Part 1636 (statement of fact) and one (1) staff case was reviewed that did not comply with the requirements of 45 CFR Part 1626 (Citizenship attestation). Non-compliance was noted in the PAI subgrant cases in the areas of 45 CFR § 1614.3(d)(3) (Oversight and follow-up of PAI cases), 45 CFR Part 1626 (Citizenship attestation), CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided), CSR Handbook (2008 Ed., as amended 2011), Chapter VIII and IX (Case closure categories), and CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases).

Finally, non-compliance was noted in the following fiscal areas: 45 CFR § 1610.5(a) (Notification letters), 45 CFR § 1627.4(a) (Membership fees or dues), and 45 CFR § 1627.3(c) (Subgrants).

By letter dated May 15, 2012, OCE issued a Draft Report (DR) detailing its findings, recommendations, and required corrective actions. LSLA was asked to review the DR and provide written comments by June 14, 2012. On June 11, 2012, LSLA requested, and received, an extension of the due date for their response to the DR. Pursuant to the extension, LSLA agreed to submit its response to the DR by July 14, 2012. By electronic mail dated July 3, 2012, LSLA submitted its comments to the DR. OCE has carefully considered LSLA's comments and has either accepted and incorporated them within the body of the report, or responded accordingly. LSLA's comments, in their entirety, are attached to this Final Report.

III. FINDINGS

Finding 1: Sampled cases evidenced that LSLA's automated case management system (ACMS) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. However, due to discrepancies between LSLA's case lists for HVLP and HVLP files, HVLP's open case list was deemed unreliable.

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

LSLA utilizes a customized version of Practice Manager 9.0.4.1 SQL as its ACMS, after upgrading from Kemps at the end of 2006. Another upgrade is planned for 2012. Practice Manager is a web-based system which allows staff access from any location with an internet connection, facilitating intake at outreach sites. Practice Manager includes integrated eligibility determination, tracking, timekeeping, document assembly, contact management, and customizable report generation features. The Centralized Intake Unit (CIU) utilizes the advanced features of Practice Manager and case files are electronic. E-mails and other contacts with staff and outside parties and scanned documents are attached to electronic case files, allowing easy review and oversight of cases. In addition, the CIU uses the advanced document assembly features to efficiently draft unique advice letters from pre-programmed language. During the first steps of data entry, the ACMS prompts a program-wide conflict check and identifies whether the individual is a current or former client, thereby reducing the potential for duplicate case records.

The Director of Advocacy, based in Angleton, is generally responsible for compliance and works closely with the program's information technology staff. New employees receive two and a half (2.5) days of Practice Manager training conducted by a Technology Training Coordinator who is based out of the Nacogdoches office. At the end of the training, staff take a test to be certified on Practice Manager. Staff who do not pass the test are not given access to the database, until they pass the test. Interviews confirmed that staff are well-trained on the ACMS, are trained to generate a variety of case lists, and that technology staff are readily accessible as needed.

LSLA has developed a comprehensive series of daily, monthly, and annual Crystal Reports which are aimed at identifying compliance exceptions for its various funding sources. Each morning the daily reports are available to all staff. Though there is no day-to-day requirement for staff to review these reports, all data reports must be cleared annually. Further, Supervising and Managing Attorneys are responsible for the integrity of the data from their offices and use the report data to that end. The Director of Advocacy and the technology staff conduct a rigorous review of case data prior to submission of CSRs to LSC, thereby satisfying the requirements of the CSR Handbook (2008 Ed., as amended 2011), § 3.4.

LSLA has implemented several methods to ensure that non-reportable events are excluded from CSRs.⁴ The program's principal method used to include a case in CSRs is to assign it to LSC in the Billable number field on the Case Info screen. Cases billable to LSC that are also reportable to an alternate funding source are designated on the Matter Aux screen's Compliance/Miscellaneous Funding tab. Cases which are ineligible for LSC but allowable under an alternate funding source are assigned to that source in the Billable number field. To assist the user in the determination as to whether a case is financially LSC-eligible, Practice Manager intuitively determines eligibility for either LSC and other grants with a maximum income level of 125% or a grant with a 187.5% income level, based upon the information entered into a case record. This yes or no determination is based upon a number of fields which including gross income, net income, and total assets and is found on the Eligibility two (2) screen. In addition, cases can be closed with closure codes which are not reported in CSRs. The ACMS has a status field which includes the CLOSED/A through CLOSED/L LSC closing codes, which are reported to LSC,

⁴ The CSR Handbook (2008 Ed., as amended 2011) , § 3.5 requires programs to establish a method in their case management systems that will de-select case files for CSR reporting purposes.

and several non-reportable codes such as CLOSED/X Non-CSR Event, PR/Closed.⁵ The X code is used primarily for administrative error or duplicate closed case. The PR codes are used to designate an open or closed case that management determined to be not reportable to LSC but for which LSLA has a professional responsibility.

Review of non LSC-eligible cases that had been previously deselected from inclusion in 2011 CSRs revealed that most cases are appropriately deselected using the “X” code. However, LSLA is applying more stringent timeliness and dormancy requirements than LSC. Based upon file review, cases that had been deselected from reporting as open or closed PR cases meet the requirements of the CSR Handbook (2008 Ed., as amended 2011). *See e.g.*, Case No. 0704-008995-PBS, PR Closed, a case which should have been closed in 2011 with a G, Negotiated Settlement With Litigation, code; Case No. 0909-021918, a case which should have been closed with an H, Administrative Agency, code; and Case No. 0703-004972, a case which should be closed in 2011 with a G, Negotiated Settlement With Litigation. These cases all evidenced activity each year, including the recording of time, though they often had gaps in time during which the program was waiting for an agency to act.

The DR indicated that LSLA should reassess its policy of coding cases as PR and retrain staff, particularly in light of the clarification of the CSR timely closure requirements.

In its response to the DR, LSLA stated that they have reviewed the use of the PR category and moved cases to other categories, and will restrict use of PR category henceforth. LSLA further stated that they will also amend training materials to incorporate this practice.

Practice Manager was assessed for defaults in fields that are critical to the determination of eligibility. Pursuant to Program Letter 02-6 and CSR Handbook (2008 Ed., as amended 2011), § 3.6, a program's ACMS is prohibited from having a default in income, assets, number in household, citizenship/eligible alien status, and LSC-eligibility, to definitively demonstrate that an inquiry was made with respect to those eligibility-dependent fields. No defaults in critical eligibility determination fields were identified.

The two (2) LSLA PAI subgrantees Aid to Victims of Domestic Violence (AVDA) and Houston Volunteer Lawyers Program (HVLP) each conduct their own intake, utilize Kemps as their ACMS, and maintain their own databases. The two (2) organizations receive grants from other funding sources which have either no eligibility guidelines or eligibility guidelines higher than LSC; accordingly, they report only the LSC-eligible subset of cases to LSLA. Cases are designated as LSC-eligible at the initial intake. LSLA's PAI Coordinator also maintains a version of Kemps, updates quarterly information which is provided from the subgrantees on disc, and conducts an independent electronic review of case reportability. LSLA has implemented procedures to ensure that duplicate cases are not reported for the same client across the three (3) programs as often clients go to more than one of the entities and may get advice or other assistance from, more than one of the entities. For CSRs, the information technology staff merge the Kemps data from AVDA and HVLP with the Practice Manager LSLA data.

⁵ This field is also used to reflect different open, hold, decline and reject statuses. For example, the open status has five statuses: OPEN, OPEN: Advice, OPEN: Extended Service, OPEN: Investigation Only, OPEN: Limited Action, and OPEN: Ready to Close. There is also a PR/OPEN status.

The Kemps ACMS used by AVDA and HVLP were reviewed onsite. Although the organizations use different versions of Kemps, neither contained defaults in fields that are critical to the determination of eligibility. The ACMS are generally sufficient, though two (2) issues are noted. First, neither version of Kemps had fields for the recordation of prospective changes in income and, as discussed in Finding No. 2, neither organization screens for this element. A second, more minor, issue is that both organizations count food stamps in their eligibility determination. The AVDA version of Kemps includes food stamps in the income drop-down box and it is included in the calculation of gross income, and the HVLP version includes food stamps as assets though staff reported they do not count food stamps as an asset.⁶ In the event food stamps renders an applicant ineligible for LSC funded services, the organizations reported they would fund the cases with an alternate funding source and not report them as LSC-eligible. Nevertheless, it is recommended that AVDA and HVLP remove food stamps from consideration in the calculation of eligibility either by electronically removing them from their respective ACMS or by instructing staff not to include them. In addition, the DR directed that AVDA and HVLP must screen for income prospects and record the results in the ACMS. *See* 45 CFR § 1611.7.

In its response to the DR, LSLA stated that their management will ensure that AVDA and HVLP screen for income prospects during eligibility screening, and they will ensure that they do not include food stamps in the calculation of eligibility either by electronically removing the field from the ACMS or by instructing staff not to count them.

Because AVDA, HVLP, and LSLA maintain unconnected Kemps systems, information is not updated in real time. This has resulted in discrepancies between the systems. Eight (8) cases on the LSLA-generated open case lists for the subgrantees had been closed by AVDA or HVLP in prior years. *See* Case No. 08E-11012047, Open, a case which was closed on December 3, 2009 at AVDA; Case No. 08-11012018, Open, a case which was closed on February 11, 2010 at AVDA; Case No. 06E-1004085, Open, a case which was closed on March 13, 2009 at HVLP; Case No. 08E-1005506, Open, a case which was closed on April 1, 2009 at HVLP; Case No. 04E-1055729, Open, a case closed on November 30, 2004 at HVLP; Case No. 08E-1002880, Open, a case closed on December 31, 2009 at HVLP; and Case No. 04E-1054899, Open, a case closed on June 21, 2005 at HVLP. Some of these discrepancies may be attributable to the quarterly lag in LSLA receiving updated information from the subgrantees. For example, if in December 2011 a subgrantee closes an untimely closed case from 2009, it uses the date the case should have been closed as the closing date. This information will not be reflected in the LSLA database until the fourth quarter 2011 report is received by LSLA and input in its Kemps. Irrespective of the lag, it appears there is some miscommunication between LSLA and the subgrantees on case status which, coupled with dormancy and other intake screening issues discussed below, render the HVLP open LSC-eligible case list unreliable. While these cases would be identified and excluded from CSRs by LSLA, the LSLA case list of open HVLP LSC-eligible cases is inaccurate. Program data revealed that, as of October 15, 2011, HVLP had 878 open cases which, based upon case review, is overstated.

⁶ The HVLP version of Kemps includes food stamps in the "FS/Checking/Saving" category.

Based on interviews and a comparison of the information yielded by the ACMS to information contained in the case files sampled, LSLA's Practice Manager ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Inconsistencies were noted in 12 cases. *See e.g.* Case No. 1007-018274-CIU, 2010, a case properly closed with an L, Extensive Service. The ACMS lists the case as both opened and closed on October 26, 2010 though the file reflects an opening of July 23, 2010. It appears as if this was a data entry error and that the open date was changed during closing; Case No. 0811-022751-CIU, 2009, the opening date in the ACMS for this case was June 23, 2009 but in the case file the opening date noted was November 12, 2008; and Case No. 0810-0208471-PBS, 2010, the opening date in the ACMS was October 9, 2008 but in the case file the opening date noted was October 20, 2009.

Further, it would appear from the ACMS that those cases that have been tagged as "X" or "PR" cases (*i.e.*, deselected) were funded with LSC funds. Those cases that were deselected as "X" because they do not comply with the requirements of 45 CFR Part 1626 or where the applicant was financially ineligible must not be funded with LSC funds. *See e.g.*, Case No. 1104-009090, this case was deselected as an "X" case because LSLA did not obtain a citizenship attestation; Case No. 1012-033211, this case was deselected as an "X" case because LSLA did not obtain information relating to the applicant's income before providing legal services; and Case No. 1012-033557, which was deselected as an "X" case because LSLA discovered the client was over-assets. If these cases have already been re-allocated to be funded by an alternative funding source, such information must be reflected in the ACMS.

Additionally, case review revealed that three (3) of the cases that were reported, or designated to be reported, as PAI cases should actually have been or be reported as staff cases. *See* Case No. 0909-020781, which was closed in 2009. Designated as a PAI LSC-funded case, LSLA staff provided the client with initial advice and the case was referred to a PAI attorney. But the PAI attorney did not work on the case because the client decided not to proceed; Case No. 1102-005102, which was closed in 2011. Designated as a PAI LSC funded case but only LSLA staff provided legal services to the client; and Case No. 0906-014767, which was closed in 2010. Designated as a PAI LSC funded case where the client received advice from staff but LSLA was not able to refer the case to a PAI attorney for additional legal assistance. Staff indicated that the one (1) case closed in 2011 that was incorrectly designated as a PAI case would be corrected and reported as a staff case in the 2011 CSR.

As noted previously, the HVLP open case lists are inaccurate. The DR directed that LSLA must take corrective action to ensure that HVLP open case lists are accurate. Action should include a review of open cases, closure of dormant cases, training of HVLP staff on CSR timeliness requirements, and implementation of new oversight measures to ensure timely closure in the future.

In its response to the DR, LSLA stated that their management will ensure that HVLP open case lists are accurate by conducting a regular review of the HVLP generated case lists against LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, and will take measures to ensure timely closure in the future.

Finding 2: LSLA's in-house intake procedures and case management system generally support LSLA's compliance related requirements. However, AVDA and HVLP do not screen for income prospects. Further, HVLP cases reported pursuant to the subgrant are not screened for assets in accordance with the LSLA Financial Eligibility Policy.

The majority of LSLA's intake is conducted by the CIU, a screening, advice and referral hotline. In addition, most LSLA offices conduct telephone and walk-in intake during their own regularly scheduled hours, though all offices will accommodate emergencies as needed. In addition, many offices conduct outreach intake or intake at LSLA-sponsored clinics and two (2) of LSLA's Houston-based substantive legal units conduct intake. Lastly, the AVDA and HVLP subgrantees conduct intake.

The interviews of support staff, staff attorneys, and Managing attorneys and written and electronic documents reviewed, revealed that intake procedures performed by the intake staff generally support the program's compliance related requirements, with respect to obtaining written citizenship attestations, performing conflict and duplicate checks, inquiring as to the applicant's reasonable income prospects, and considering all authorized exceptions and factors when screening an applicant for income eligibility. However, exceptions were noted with respect to some intake staff members' understanding of the application of 45 CFR § 1626.4 and Program Letter 06-2, Violence Against Women Act 2006 Amendments (VAWA).

Staff Intake

Centralized Intake Unit

The CIU conducts the majority of LSLA's intake. At the time of the CSR/CMS Review, LSLA had closed over 5,000 cases in 2011. Based in Houston, the CIU regularly conducts intake for the 14 counties served by the Angleton, Conroe, Galveston, and Houston offices, though it will accept callers from any county served by LSLA.⁷ The CIU also conducts intake for five (5) of the program's substantive law units: Children's Rights Unit, Consumer Unit, Home Protection Unit, Family Unit, and the Tenant's Rights Unit. Given the high volume of cases and the technological capability of the Practice Manager ACMS, the CIU case files are all electronic. Intakes are not printed and any documents are scanned and attached to the electronic file. E-mails, notes, and letters can also be attached to the electronic file.

The CIU is staffed by four (4) intake workers, four attorneys, and the Managing Attorney.⁸ The unit is open for telephonic intake from 8:30 am-12:30 pm, Monday through Friday. Callers have the option to select the English or Spanish language queue. Walk-in appointments are set by the receptionist for 30 minute slots from 9:00 am-11:00 am and 1:00 pm-2:30 pm, Monday through Thursday. Emergency family law issues are intaked during normal intake hours, though non-emergencies are scheduled for seven (7) walk-in appointment slots on Mondays.

⁷ The 14 counties are Brazoria, Colorado, Matagorda, Wharton, Montgomery, Polk, San Jacinto, Trinity, Walker, Waller, Chambers, Galveston, Fort Bend, and Harris.

⁸ At the time of the review, one (1) of the intake workers was out on leave.

Walk-in applicants are taken from the reception area to a private cubicle and intake is conducted by an intake worker. Questions are guided by the ACMS screens and answers are simultaneously entered into the system. These applicants are asked to sign a green citizenship attestation which complies with the requirements of the CSR Handbook (2008 Ed., as amended 2011). Typed notes are taped to the desktop computers in these cubicles to remind staff to obtain the attestations. If an applicant is not a citizen, intake workers record the applicant's alien eligibility documentation information. The most common non-citizen status for LSLA is Legal Permanent Resident. In such cases, the intake worker records the status, alien number, and expiration date. After the initial intake is conducted, attorneys meet with the walk-in applicant to determine eligibility including an evaluation of eligible alien documentation. If eligible, attorneys provide legal advice.

The majority of the CIU applicants make contact by telephone. Questions are guided by the ACMS screens and answers are simultaneously entered into the system. Though intake was not observed, interviews and demonstrations using the ACMS were conducted with intake workers.⁹ Intake workers do not make eligibility decisions but flag potential eligibility and conflict issues. Calls with potential eligibility issues are not sent through the queue but placed in a hold status and an e-mail is sent to the attorneys for review. Unless the case is an emergency, these cases are reviewed by attorneys in the afternoon. If the attorney determines these cases are ineligible, they note the reason and send an e-mail to an intake worker for closure. The intake worker is responsible for sending the applicant a letter identifying the reason for denial, except that applicant denied due to a conflict receive a letter simply stating that LSLA is unable to accept the case. If the attorneys determine the case to be eligible, the applicant receives a call-back and the attorney continues the intake. If the attorney is unable to reach the applicant, a letter is sent asking them to call the program within 14 days or the matter will be closed. If the applicant does not contact the program, they are sent a no contact closure letter.

Intake workers directly place callers who appear to be eligible in the queue to speak to an attorney. Callers with apparent emergency issues are prioritized in the queue. As they become available, the attorneys answer the next call, get the applicant's name and pull the eligibility information up on the ACMS. The attorney reviews the information for the applicant, makes an eligibility determination, and determines whether to accept the case for limited assistance. Typically, eligible persons receive advice which is then notated in the case record. The attorney also notes whether the case should be closed or referred to a local office, a Houston substantive law unit, the pro bono unit, or an organization outside the program. Referrals to local offices are made pursuant to detailed criteria that are issued and updated by the offices on a regular basis. If a caller has previously received advice from another office or substantive unit and calls back with the same problem, the case is referred to the appropriate substantive law unit for review. Local offices and substantive law units have five (5) business days to accept or decline additional representation. Denial letters are sent directly from the local office. Coding protocols are in place to ensure that offices/units receive and act upon the referrals.

The attorney enters notes specifying whether the case should be referred or closed and, if it is to be closed the closure code is identified. The attorney then sends an e-mail outlining the matter

⁹ LSLA opposed OCE's observance of intake.

number, the letter template, unique language to be added, and enclosures, if any, to a designated intake worker. The intake worker generates the appropriate letters which are signed by the attorney. Practice Manager has features that automatically generate letters through a process that prompts the user to select pre-programmed author, date, advice template and enclosure options. Letters are generated within the ACMS and are therefore attached to the electronic file.

The CIU intake workers are assigned to close cases for specific attorneys within the CIU. Each day they generate a list of cases ready to close. The closing procedure involves associating pdf versions of letters, attestations, and other documents to the file and ensures that there are adequate descriptions of the actions taken by each staff member. The intake worker also completes the electronic Closed Case Review Form and enters the closing code as designated in the notes by the attorney. Cases are usually closed the same day the attorney completes the assistance.

In the afternoon when the hotline is closed, attorneys review the potential conflicts as well as other cases flagged for potential issues. The CIU staff also sees walk-ins during the afternoon and catch up on notes or other outstanding work.

To date, the CIU provides only limited assistance. The majority of the cases are closed as Counsel and Advice, though some Limited Action is provided on occasion. The Managing Attorney stated that he is moving the staff toward handling some bankruptcy work and at that time they may begin providing extended representation.

*Branch Office Intake Procedures:*¹⁰

Each branch office conducts telephone and walk-in intake screenings. The general walk-in intake procedure is as follows: The intake coordinator first verifies that the applicant intended to contact the specific office contacted for a legal services related matter. Then, the intake staff person escorts the applicant to the intake room, where the eligibility screening is done. The applicant is asked to complete two (2) intake information forms and execute a citizenship attestation/complete a verification of alien eligibility prior to providing information regarding their need for legal services. The two (2) intake information forms contain sections where the applicant is required to input their financial eligibility information (*e.g.*, income, asset, authorized expenses, etc.). Once the applicant has completed the two (2) intake forms, the information is reviewed by the intake staff member, who will ask for supplemental information if necessary. It is at this time that the applicant's income/asset eligibility, citizenship status, and legal issue(s) are verified. It is also at this time that a case-specific questionnaire is completed, if applicable. If the applicant appears to be ineligible based on the reported income or assets, the intake staff person will request and document all information relating to the existence of authorized factors. The intake staff is aware of the authorized exceptions to the income/asset guidelines, and that waivers are statutorily permitted for applicant's whose income exceeds 200% of the Federal Poverty Guidelines (FPG).

¹⁰ Slight variations in intake procedure were noted between the offices but none that were found to affect appropriate screening of applicant eligibility or case acceptance.

If the applicant appears eligible for services, and the case is an emergency, the intake staff person schedules a meeting with the applicant and an available attorney, inputs the information into the ACMS, and creates a physical case file with the corresponding ACMS case number. The applicant then meets with an attorney. If the applicant meets with the Managing Attorney, then the Managing Attorney may accept the case, and have the client execute a Retainer Agreement, Statement of Facts Form, and Authorization to Release Records, if applicable, and provide legal assistance on that same day. However, if the applicant meets with a staff attorney and the Managing Attorney is not available to review the applicant's eligibility information and make a determination as to whether to accept or reject the applicant's case, the applicant is informed that they will be notified with an acceptance or rejection decision after the Managing Attorney reviews the information.

If the applicant appears eligible for services but their case is not an emergency, then the applicant is informed that the application will need to be reviewed and that the program will notify them whether they have been accepted or rejected. The attorneys of each branch office meet with the Managing Attorney weekly to determine which cases will be accepted and rejected. At the conclusion of the meeting, applicants are informed as to whether their case will be accepted or rejected by letter and/or telephone call.

Once the staff attorney has ceased work on a client's case, the case is closed using a Closed Case Review Form and/or a Closing Memorandum, which allows the staff attorney to identify the highest level of service provided to the client, as well as confirm the client's eligibility. Additionally, the client is sent a closing letter, which indicates that the matter has been fully resolved. Once the attorney has closed the case, the Managing Attorney reviews the closed file and verifies that the case closure code is accurate and that the case is or is not CSR-reportable.

The intake procedure for telephone applicants is virtually identical to the telephone intake procedure, with respect to the eligibility screening. With telephone applicants, the intake staff obtains the applicant's verbal citizenship attestation or alien eligibility verification over the telephone at the beginning of the intake interview. Additionally, if the applicant has been deemed eligible, then an appointment is made for the applicant to meet with an attorney, who provides legal assistance. Lastly, if an appointment is made to meet with the attorney, the client's written citizenship attestation/verification of alien eligibility and signed retainer agreement, if applicable, are obtained prior to the meeting.

The simulated ACMS intake screenings for all offices revealed that conflict and program-wide duplicate checks were performed in the ACMS system at the beginning of the intake screening, after the applicant provided their name and all relevant party information.

Reasonable Income Prospects Screening:

The intake staff interviewed reported that proper inquiry is made into the reasonable income prospects of applicants, and there is a specific question for reasonable income prospects screening in the ACMS system and in the manual intake forms.

Citizenship and Eligible Alien Status Screening:

Intake staff demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626. Intake staff reported that they verify citizenship status during telephone intake screening and, when necessary, require documentation of eligible alien status before completing an intake. Once the applicant provides this information, the intake staff person determines if the applicant is an eligible alien pursuant to 45 CFR Part 1626.

Those interviewed reported that written citizenship attestations/verifications of alien eligibility are obtained for those applicants who walk into the office. The applicant is instructed to verify their alien eligibility status or sign the citizenship attestation form, which contains a proper citizenship attestation. This is in compliance with 45 CFR § 1626.6(a) and CSR Handbook (2008 Ed., as amended 2011), § 5.5, which requires recipients to obtain written citizenship attestations whenever program staff has in-person contact with the applicant.

The majority of the intake staff interviewed demonstrated an understanding of the applicability of 45 CFR § 1626.4 and Program Letter 06-2, Violence Against Women Act 2006 Amendments (VAWA), with respect to removal of the requirement to obtain a signed citizenship attestation or alien eligibility documentation from an otherwise ineligible alien, and exclusion of all assets, other than those of the victim, from consideration during the financial eligibility screening. However, certain intake staff indicated that they are still required to request documentation of citizenship or alien eligibility for those applicants who are victims of domestic violence. This is contradictory to Advisory Opinion AO-2009-1008, which indicates that recipients are not statutorily required to inquire into citizenship or alien eligibility for those applicants who qualify for services pursuant to VAWA. Additionally, one (1) intake staff member indicated that an applicant who qualified for services under VAWA would still be required to provide proof of citizenship or alien eligibility prior to receiving services.

The DR recommended that intake staff receive training on the applicability of the VAWA 2006 Amendments, and its effects on otherwise ineligible aliens seeking legal assistance.

In its response to the DR, LSLA stated that their training and training materials will reemphasize this recommendation.

Income and Asset Screening:

Case review and interviews revealed that staff screen for income, income prospects and, assets in accordance with LSC requirements and the LSLA Board-adopted policy. Eligibility screening is accurate and, with only minor variations between branch offices, consistently recorded on program-wide forms. All compliance and case management forms, and letter formats used in LSLA offices and units are standardized. Although LSLA does not have a hard copy policy manual, current versions of policies and compliance forms are electronically accessible to all staff on a shared drive.

Because LSLA's Financial Eligibility Policy contains several categories of assets that are partially excluded, it is necessary that intake workers ask detailed questions to ensure that applicants are fully screened in accordance with the limits in the policy. The ACMS contains a comprehensive list of asset categories. During interviews, intake workers reported that they screen for all asset categories listed on the form listed in the drop-down box, which match the program's financial eligibility policy. Some minor improvements could be made on the written intake form with respect to asset categories, though in Houston it is used only for outreach or at clinic.¹¹ For example, the written intake form asks about a mix of excluded and countable asset categories; the form asks about primary home but does not ask about homestead though both are excluded. Some of the excluded categories are wholly excluded while others are only partially excluded. For example the form asks about the primary home, vehicles and personal property, though the primary home is wholly excluded, and personal property and vehicles are partially excluded. Intake workers stated that they only enter into the ACMS countable assets, therefore, to include a mix of assets on the form requires staff to sort out the assets that should be included during data entry. It may also take longer for case handler staff to determine if an applicant is eligible. Therefore, to save staff time and improve consistency between screening using the ACMS and the paper form, the DR recommended that the program revise the asset section of the form to be consistent within itself, either ask only about countable assets or all assets.

In its response to the DR, LSLA reported that they have revised the “Street Sheet” regarding assets.

Income prospects are recorded on a sub-tab on the Matter Aux screen of the ACMS. If the applicant has reason to believe that income is likely to change significantly in the near future, additional questions are asked by the intake workers and the answers are considered in the eligibility determination. The question and answer prints on the intake summary sheet. Lastly, attorneys responsible for making eligibility determinations are well trained and could articulate LSC restrictions, compliance requirements and program policies. During interviews, the attorneys described a detailed review of eligibility information prior to rendering an eligibility determination. The Director of Advocacy provided copies of PowerPoint presentations on Intake Interviews, Conflict and Duplicate Checking, Citizenship and Eligible Alien Documentation, and Financial Eligibility that are used during training. The presentations were reviewed and found to be detailed and accurate.

Group Eligibility:

LSLA's financial eligibility policy includes group eligibility policies for LSC-funded cases, which match the language at 45 CFR § 1611.6. LSLA also has a Group Eligibility Form, dated May 1, 2010, attached to the policy. It requires a representative of the group to provide detailed information regarding the group's organization and structure; financial position and resources;

¹¹ It is noted that the drop-down box of the ACMS and written intake form do not include the cash surrender value of life insurance. The Board-adopted policy exempts from consideration the cash surrender value up to \$9,300. However, during the week of the visit, LSLA management determined that the entire value is exempt under Texas statute; accordingly, LSLA indicated that it will revise its policy.

and eligibility of individual members or the recipients of the group's services. No concerns with the form were noted.

One Public Benefits Unit group case was reviewed in which LSLA represented a Houston-based clients council in a matter regarding the delay in processing food stamp applications and the wrongful denied of food stamps. Texas Rio Grande Legal Services had previously filed the original petition and it was amended to include the LSLA group and other individual clients represented by LSLA. This case included the aforementioned group eligibility form, supplemented by additional information. Screening complied with LSC requirements.

Outreach:

Paralegals in some branch offices conduct regularly scheduled outreach intake at various community centers. The paralegals complete a yellow version of the program's intake form, and obtain citizenship attestations or review eligible alien documentation on standardized forms as described above. They have been trained to render eligibility decisions. If eligible, advice is provided and documented. Upon returning to the office, forms are provided to the intake workers to enter into the ACMS. All cases are reviewed at the weekly case review meetings and considered for additional representation. The process proceeds as described above.

Disability Seminar:

The Public Benefits Unit holds Disability Seminars for persons who have applied for Social Security Disability benefits and been denied. Seminars are held on the second Monday of the month at LSLA's Houston office. Persons appropriate for the seminar are identified during the normal intake process. These applications are sent directly to the Managing Attorney who reviews the eligibility and other case information and decides whether the person should be scheduled for the next clinic. When arriving for the seminar, attendees who applied by telephone must either sign citizenship attestations or produce eligible alien documentation.

Staff are assigned to conduct the clinic on a rotating basis. The attendees initially meet as a group and view a PowerPoint presentation. Then, case handlers meet individually with the attendees, review their individual situation and provide advice. During weekly case review meetings, disability clinic cases are considered for additional representation.

PAI Intake

Intake for reduced-fee contract and pro bono referral cases are conducted through CIU and the branch offices as described above. Intake for PAI cases is also conducted at pro bono clinics operated by LSLA and at the HVLP and AVDA subgrantees.

*Pro Bono Clinics:*¹²

¹² Slight variations in intake procedure were noted between the offices but none that were found to affect appropriate screening of applicant eligibility or case acceptance.

The three (3) Pro Bono Coordinators assigned to various branch offices each contact the community groups to identify any interests or legal needs then matches attorneys or firms in the area to that need. Some events are legal information only through a presentation by the Pro Bono Coordinator. Other events involve legal document preparation and/or advice by pro bono attorneys. At the legal assistance clinics, the Pro Bono Coordinator screens for eligibility using the program's standardized written intake form and citizenship attestation form. Eligible alien documentation is reviewed and copied. LSC-eligible persons meet one-on-one with pro bono attorneys and receive individualized legal assistance. If documents are prepared, copies are maintained. Advice is documented on a written notes form. Applications and notes are entered into the ACMS when the Pro Bono Coordinator returns to the office. The majority of these cases are closed with advice. On occasion a pro bono attorney will keep the case and provide extended representation or a staff attorney will provide further assistance. The Pro Bono Coordinators advised that at times it is necessary for them to assist clients at the clinics depending upon the number of attendees. They have been trained on the proper coding of cases as staff or PAI, depending upon whether the highest level of service has been provided by a private attorney or a staff attorney.

If a case is held open for extended service, the Pro Bono Coordinators follows-up every 90 days using the forms described in Finding No. 17.

When cases are ready for closure, the Pro Bono Coordinators complete the standard LSLA Case Closing Review Form, select the closing code, and close the case on the ACMS. All closed cases are reviewed by the assigned Supervising Attorney.

Houston Volunteer Lawyer's Program:

HVLP is a longstanding subgrantee of LSLA. In 2011, LSLA subgranted \$240,000 of LSC funds to HVLP to conduct intake and refer LSLA-eligible persons to pro bono attorneys willing to provide free legal assistance. The majority of the intake is conducted at regularly scheduled First Saturday Clinics, Low Income Tax Clinics, Veterans Clinics and HIV/AIDS projects. Callers to HVLP are directed to the clinics, where they can receive immediate advice, but may opt to be screened over the telephone. Clinics are held on a rotating basis in different sections of the city. At the clinics, HVLP staff distribute written intake forms to applicants for completion, and determine if the applicants are eligible for service.

HVLP receives funding from multiple sources with varying eligibility guidelines. Applicants generally must be at or below 175% of the FPG though Low Income Tax Clinic cases have a ceiling of 250%, and the Veterans and HIV/AIDS Projects have ceilings of 300%. Persons eligible for any one of the grants meet individually with pro bono attorneys who participate individually or as a firm. The pro bono attorneys interview the client, complete a problem specific questionnaire, and provide legal advice. The pro bono attorneys document legal assistance on a form titled Attorney Notes. Pursuant to guidelines, the pro bono attorneys may also provide referrals to outside organizations or recommend referral to an HVLP pro bono attorney, outside of the Low Income Tax Clinic, for extended representation.

Conflicts are not checked at the clinics.¹³ According to interviews, some of the case types handled do not require adverse party conflict checks such as wills, probate, public benefits, and taxes, though the clinic attendee may have been a former or existing client of the firm. Family law issues and consumer issues, which are common problems at clinics, do have adverse party issues.¹⁴ When questioned on this issue, the LSLA PAI Coordinator for the subgrantees stated that legal services attorneys are now permitted to provide unbundled legal services and provided Ethics Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas. The facts stated in the opinion do not exactly match the description of the clinics as described by HVLP staff.

The DR stated that LSLA should conduct an additional review of this opinion to determine whether it relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting.

In its response to the DR, LSLA stated the following:

“LSLA management has reviewed Ethic Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas to determine whether it relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting and has determined it does not relieve the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting. LSLA will develop an appropriate policy and procedures to relieve conflict check responsibilities for pro bono attorneys providing legal assistance in a clinic setting.”

Before leaving the clinic, clients who need additional assistance are given an Applicant Agreement and checklist of documents they must submit to HVLP before the case will be considered for referral to a pro bono attorney for extended services. The checklist includes proof of income for the household. If the person applied by telephone, they were already sent a letter identifying the documents. After the clinics, the forms are brought back to HVLP and entered into the Kemps ACMS by paralegals who conduct a conflict check and assess eligibility. If the case is LSC-eligible, the LSC-eligible box on ACMS is checked and the file folder receives a sticker on the front to separately identify it from cases funded by other sources. Cases are distributed amongst five (5) HVLP attorneys in the pro bono unit, who re-check eligibility. They also prepare a case summary, which includes a review of the documents that must be submitted and often an in-person appointment is set. If incomplete documentation is received, clients are sent a letter identifying the outstanding documents. If no documentation is received in a reasonable period of time, the person is sent a letter advising that HVLP will close the case in three weeks unless contact is made and, if no contact is made after that time the client is sent a closing letter.

¹³ Conflicts within HVLP are checked when the case information is brought back to HVLP and entered in the ACMS, though advice has already been provided. If a case is referred for extended representation, the private attorney checks conflicts before accepting the case.

¹⁴ Many of the law firms participating in these clinics represent banks and/or other creditors so that the likelihood of a conflict is diminished.

After documentation is received, HVLP attorneys meet with the person to decide whether cases are appropriate for referral for extended services. If not, they receive a denial letter. If they do not show for an appointment they are sent a closure letter. If they do show up for their appointment, and after filing fees are collected if applicable, cases without names are sent to firms or individual practitioners who have signed-up to handle a certain number of cases per year in specific legal areas. Attorneys can accept or reject. Cases may also be distributed at CLE or other events.

Though oversight procedures, discussed in Finding No. 17, are in place, a large number of dormant HVLP cases were identified. *See* Finding No. 11. Further case review revealed a number of cases with either weak or no documented legal advice, requiring corrective action. *See* Finding No. 9.

It is noted that, on occasion, advice or other assistance is provided by HVLP attorneys. This occurs if the case cannot be placed or if only limited action is required that can be quickly provided. These cases are also reported under the subgrant if the client is LSC-eligible. This practice is allowable if the HVLP attorneys do not meet the definition of an LSC staff attorney. 45 CFR § 1600.1 defines a staff attorney as an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation. The LSLA PAI Coordinator responsible for the subgrant and the HVLP Executive Director both stated in interviews that none of the salaries of the case handlers working on LSC-eligible cases is funded at 50% or more by the LSC subgrant.

Several deficiencies in HVLP screening practices were identified which affect the reliability of HVLP CSR reports. As discussed in Finding No. 5, HVLP utilizes a non-compliant citizenship attestation for the majority of its screening and does not verify eligible alien status. These cases are ineligible for inclusion in CSRs but currently are being reported. In addition, HVLP does not screen for income prospects. Apart from the lack of screening for income prospects, income screening is sufficient. However, the written intake form only asks all applicants to document four (4) expenses: health insurance premiums/medical expenses, court ordered child support, transportation to work or for health care, and babysitting/daycare. Accordingly, individuals with income between 125%-200% without such expenses are not considered to be LSC-eligible. HVLP's practice is to subtract expenses from gross annual income in an attempt to "spend-down" applicants' income below 125% to qualify as LSC-Eligible. The spend-down is recorded on the ACMS and both net and gross income amounts are preserved. However, the LSLA policy does not require a spend-down. While it is acceptable for HVLP to exclude from LSC reportability cases which cannot be spent-down and attribute them to other funding sources, it is possible that additional cases would be eligible and reported to LSC if HVLP used all of expenses allowed by 45 CFR Part 1611 and contained in LSLA's financial eligibility policy and did not require a spend-down. *See* Findings No. 1 and No. 3.

Lastly, the HVLP written intake form, used for the majority of screening, does not include several asset categories which must be considered pursuant to 45 CFR Part 1611 and the LSLA Financial Eligibility Policy, these are cash, checking accounts, bonds and personal property. *See* discussion of policy in Finding No.3. Accordingly, there is no assurance that only LSC asset-

eligible persons are included in CSRs.¹⁵ While HVLP receives other funding sources with different requirements, only cases which are screened in accordance with the LSC regulations and HVLP Financial Eligibility Policy may be reported in CSRs.

The DR noted that corrective action is required to ensure that HVLP cases are screened in accordance with the LSC Requirements and the LSLA Financial Eligibility Policy.

In its response to the DR, LSLA stated that their management will ensure that HVLP cases are screened in accordance with LSC requirements and LSLA's Financial Eligibility Policy.

Aid to Victims of Domestic Violence:

AVDA is a longstanding subgrantee of LSLA.¹⁶ In 2011, LSLA subgranted \$240,000 of LSC funds to AVDA funds to provide legal services to LSC-eligible clients who are victims of domestic violence in Harris County. AVDA uses the staff attorney model to provide legal assistance. This model as PAI is allowable if the AVDA attorneys do not meet the definition of an LSC staff attorney. 45 CFR § 1600.1 defines a staff attorney as an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation. During an interview, the AVDA Executive Director stated that part of the salary for four (4) attorneys is supported by the LSLA subgrant.

Intake is conducted by telephone from 8:00 am-5:00 pm, Monday through Friday and at a variety of community organizations on a regular basis, including one (1) day per week at the Houston Area Women's Shelter and three (3) days per week at the Houston Police Department. AVDA handles emergency protective and restraining order cases as well as divorce, child custody/visitation, and child support issues for victims of domestic violence.

Client Legal Advocates, who are considered paralegals, conduct intake. After a prescreen to determine the presence of domestic violence and residency, applicants are screened for eligibility. If applying by telephone, an advocate checks conflicts, completes basic information in Kemps, and interviews the person in-depth regarding the domestic violence using the Client Intake Form. Telephone applicants who are eligible for assistance with one of AVDA's funding sources, are set up for an in-person appointment at the office. If applying in-person at an outreach site, the applicant completes a written intake form and lengthy Case Review questionnaire, and conflicts are checked by laptop. Applications are entered into the ACMS as soon as possible. The advocates have been trained to determine whether a case is LSC-eligible and, if so, checks that field on the ACMS. At the appointment, the applicant completes the lengthier Case Review questionnaire. During the meeting with the Client Legal Advocate, whether at outreach or at the office, an assessment of all of the person's needs is conducted, a safety plan is developed, and legal advice is provided. The advocates are supervised by the Director of Victim Advocacy, who is an attorney. They have been trained to identify fact

¹⁵ Some of the problem specific questionnaires completed by the private attorneys during clinics contain detailed financial information including some or all of the categories above. There is no evidence, however, that the determination of LSC-eligibility includes a detailed review of each questionnaire.

¹⁶ AVDA is funded by several sources and operates two(2) programs, the Battering Intervention and Prevention Program, a counseling program for perpetrators of domestic violence and a Victim's Services Program, which provides free legal services to low-income persons.

patterns and are permitted to independently provide certain types of legal advice. All advice is reviewed by the Director of Victim Advocacy who decides whether the case should be screened by the Managing Attorney to determine if additional legal services are required or to close the case as Counsel and Advice.

Cases are reviewed by the Managing Attorney who rechecks eligibility and determines whether to provide additional representation based upon AVDA's substantive case acceptance guidelines. If accepted in that regard the case is assigned to an attorney assigned to work on cases in a specific eligibility range. Cases which are at or below 125% of the FPG are assigned to either the Managing Attorney, or one of two other attorneys. If the case is denied for extended services, the person is sent a letter and the case is closed based upon the advice previously provided by the advocate.

If the client does not show for the initial interview appointment, a contact letter is sent and, if subsequent contact is not made, the case is closed based upon the advice previously provided by the advocate. At the initial interview appointment with the attorney, a Professional Services Retainer Agreement is executed by the attorney and the client. When a case is ready for closure, the attorney sends a closing letter, completes a closing form, and selects the closing code. The Managing Attorney reviews every closed case.

Interviews and case review determined that staff are well versed in LSC compliance requirements. The only screening deficiency is that staff do not screen for income prospects. Citizenship attestations are compliant, and eligible alien documentation is reviewed and the review is noted in the file. Screening forms are also compliant.

LSLA must ensure that AVDA and HVLP staff screens for income prospects.

In its response to the DR, LSLA stated that their management will ensure that AVDA and HVLP screen for income prospects during eligibility screening.

Finding 3: With two (2) exceptions, sampled cases evidenced that LSLA maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for clients whose income exceed 125% of the Federal Poverty Guidelines (FPG). LSLA's income eligibility policy is in compliance with 45 CFR Part 1611.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.¹⁷ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC,

¹⁷ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

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

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

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

LSLA's current Financial Eligibility Policy was approved by its Board on May 1, 2010. The policy replaced a version approved on January 1, 2010, and the only difference appears to be that the Retainer Agreement attached to the May version was revised to allow the program to seek attorneys' fees. Except for certain assets excluded by the policy discussed below, the policy complies with LSC requirements.

The Board adopted policy has a provision determining that an applicant is financially eligible, without the necessity of an independent determination of the applicant's income or assets, if the household income is derived solely from TANF and SSI. The asset drop-down box on the ACMS includes a MTPB Recipient option to document use of this provision.¹⁸

As required by 45 CFR § 1611.3(e), the Board adopted policy also has a provision prohibiting the consideration of income and assets of an alleged perpetrator of domestic violence, any jointly held assets of the alleged perpetrator of domestic violence, when screening victims of domestic violence.

As described in Finding No. 2, when intake workers are qualifying applicants whose income is between 125%-200%, or over 200%, staff screen for expenses and document them in the ACMS, on the written form, or both. Though the ACMS deducts the expenses from the applicant's gross annual income, the policy is not a "spend-down" and both the gross and net amounts are preserved. The Director of Advocacy stated that it is the office or unit's choice whether to use the ACMS or the form.

Also, as described in Finding No. 2, staff screen for income prospects and document the answer in the ACMS. If the applicant has reason to believe income will substantially change in the near future, additional questions are asked and answers documented for consideration by case

¹⁸ MTPB stands for means tested public benefit.

handlers in rendering an eligibility decision. The Director of Advocacy stated that the income prospects fields were added to the ACMS in 2009 and to the written intake form in 2010.

Sampled cases evidenced that LSLA is substantial compliance with 45 CFR § 1611.4, CSR Handbook (2008 Ed., as amended 2011), § 5.3, and applicable LSC instructions for applicants whose income does not exceed 125% of the poverty guidelines. However, two (2) of the sample case files reviewed appeared to be over LSLA's established income limits for LSC eligible cases and had no authorized exceptions indicated pursuant to 45 CFR § 1611.5. *See* Case No. 1011-031344-BMT, this was an Open case in which total monthly income of \$1,140.00 was noted for a household of one (1), with no authorized exceptions indicated. The intermediary indicated that LSLA was having trouble locating the original paper intake form for this applicant and stated that the program was confident that the necessary authorized exception information would be found on the form. The intermediary indicated that the program would continue to try and locate the form; and Case No. 0609-020345, this was an Open staff case where LSLA continued to monitor the case for almost 1.5 years after the eligible client had passed away. In this case, the client passed away in July 2010, but the attorney handling it did not withdraw and continued to monitor the case and update the client's relatives as to its status. The relatives were not screened for eligibility. The case was dismissed in August 2011 and LSLA expects to close the case by the end of the year. The attorney did not close the case sooner because LSLA felt they had an ethical obligation to monitor it. However, there has been no eligible client being served since the client's passing, which was almost 1.5 years ago. As such, the time charged to this case from a reasonable time from the client's passing until closing should not be funded by LSC funds and the case should not be reported to LSC.

LSLA should ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients.

In its response to the DR, LSLA stated that their management will ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients.

Finding 4: With one (1) exception, sampled cases evidenced that LSLA maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. LSLA's asset eligibility policy is in compliance with 45 CFR §§ 1611.2(d) and 1611.3(d)(1) and (e).

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.¹⁹ *See* CSR Handbook (2008), § 5.4.

¹⁹ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.4.

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

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

LSLA's Financial Eligibility Policy, dated May 1, 2010, establishes an asset ceiling at \$7,500 for an individual applicant and an additional \$500 for each household member. Exempt from consideration are disaster relief funds from any source, including but not limited to government funds, insurance benefits, and/or funds from charitable organizations; the household's principal residence; non-recreational vehicles used for transportation; income producing assets; professionally prescribed health aids of members of the household; certain savings plans which are listed in detail; personal property with a total aggregate equity value up to \$30,000 for a household of one and \$60,000 for a household of more than one; one or more lots used for burial, cash surrender value of a life insurance policy up to \$9,300 and a homestead as defined by Texas law. It is noted that these exemptions allow the exclusion of both a homestead and a principal residence, if they are different.

45 CFR § 1611.3(d)(1) sets forth an exhaustive list of four (4) asset categories that may be excluded from consideration in a recipient's Board-adopted policy. LSLA's policy includes three (3) of these, the household's principal residence, non-recreational vehicles used for transportation, and income producing assets. The remaining assets excluded by LSLA's policy must be allowable under the fourth asset category in the regulation, assets exempt from attachment under State or Federal law. Accordingly, LSLA was asked whether each of its additional exemptions meet that criterion. In response, LSLA provided a chart of the legal authority for each category of assets. During the review, LSLA determined that the entire cash surrender value of a life insurance policy is wholly exempt under Texas statute. The Board-adopted policy exempts the value up to \$9,300; accordingly, LSLA indicated that it will revise its policy. Lastly, at the conclusion of the visit, LSLA was still researching the citation for exempting disaster relief funds from charitable organizations. LSLA should attach its revised Board-adopted financial eligibility policy with its comments to the draft report and advise whether disaster relief funds from charitable organizations are exempt under State or Federal law.

With the exception of Case No. 0609-020345, explained under Finding No. 3, all of the case files sampled evidenced asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4. As such, sampled cases evidenced

substantial compliance with asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d) and CSR Handbook (2008 Ed., as amended 2011), § 5.4.

There are no recommendations or corrective actions required.

Finding 5: With one (1) exception LSLA staff cases were in compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens). Additionally, there was one (1) case reviewed that contained an untimely citizenship attestation and two (2) that were undated. Policies reviewed evidenced compliance with 45 CFR Part 1626. However, HVLP cases are not in compliance with the documentation requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5.

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

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.²⁰ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a "U" visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases evidenced one (1) case that was not in compliance with the requirements of 45 CFR § 1626.6. *See* Case No. 0902- 002220-BTN, this case was a Closed 2009 counsel and advice case. The client's intake was conducted in-person; however, a citizenship attestation was not obtained.

There was one (1) case that contained an untimely executed citizenship attestation. *See* Case No. 0906-012483, which was Closed in 2009. This case was opened on August 8, 2009 and closed

²⁰ *See* Kennedy Amendment at 45 CFR § 1626.4.

on October 25, 2010. The citizenship attestation was dated February 16, 2010. The intermediary surmised that the omission was discovered during a routine case review and that the citizenship attestation was obtained shortly thereafter.

There were two (2) cases reviewed where the citizenship attestation was signed, but not dated. *See* Case No. 0910-025402 and Case No. 0807-013682.

HVLP cases are not in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.5. As mentioned in Finding No. 2, HVLP's written intake form, which is the primary instrument used to collect eligibility information, does not contain a compliant attestation. The form contains a check-box of status and a signature line tied to all of the information on the form. Other forms such as the Applicant Agreement and problem specific questionnaires also collect citizenship/eligible alien status but these too are non-compliant. In the instances that an applicant applies by telephone, which is somewhat infrequent, the applicant later signs the printed Kemps form which contains a compliant statement. Accordingly, of the 56 files reviewed at HVLP, only 10 had compliant attestations. Cases screened with noncompliant attestations should not be included in CSRs. Corrective action is required to ensure compliance with citizenship attestation eligibility requirements. This issue was discussed with HVLP staff, including the new Executive Director, and the LSLA PAI Coordinator responsible for subgrant oversight. The HVLP Executive Director stated that, to cure this defect, HVLP will add to the reverse of the intake form a separate section that contains a compliant citizenship attestation.

In addition, one (1) HVLP file lacked a citizenship attestation and one (1) HVLP file lacked screening of eligible alien documentation. *See* Case No. 10E-1010145, this was a Closed 2010 file, in which in-person advice was provided at a clinic. The file documented a verbal response that the client was a legal resident, but documentation was not screened; and Case No. 06E-1005640, this case was closed with an Ia closing code. The file documented verbal telephonic screening and that the client was a citizen, but no citizenship attestation was present. [Although only one case was identified, interviews revealed that HVLP's screening procedures do not include a review of eligible alien documentation and therefore it is likely that other such cases have been reported to LSC.] Though 45 CFR Part 1626 is an entity restriction, HVLP is a pro bono subgrantee and therefore the regulation only applies to LSC funds. *See* 45 CFR § 1610.7(c). However, cases lacking screening may not be reported to LSC pursuant to the subgrant, as is the current practice. Accordingly, this is a violation of 45 CFR Part 1626 requirements.

The DR directed that LSLA must ensure that all case files contain timely executed written citizenship attestations, or verifications of alien eligibility, pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

In its response to the DR, LSLA stated that their management will ensure that all case files contain timely executed written citizenship attestations or verifications of alien eligibility pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

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

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.²¹ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

LSLA is in substantial compliance with the requirements of 45 CFR § 1611.9. There were three (3) extended service cases reviewed from the sample that failed to contain a retainer agreement. *See* Case Nos. 1004-010148-CIU, 1005-012575-CIU, and 2009400011.

Additionally, one (1) case file contained a retainer agreement that was not dated by the client. *See* Case No. 0807-013682, this was a Closed 2009 staff case that contained a retainer that was not dated by the client, but where the attorney filled in the client’s “date” field as of the date the attorney signed the agreement). Also, one (1) case file contained a retainer agreement with a scope that did not accurately describe the nature of the legal services provided. *See* Case No. 0803-004781, this was a Closed 2010 staff case that contained a retainer stating LSLA was to conduct an evaluation of the merits of the case, but contained no retainer stating LSLA was going to try to obtain an administrative decision where the attorney handling the case did so and closed the case as an H – Administrative Agency Decision.

The DR recommended that LSLA review all case files required to have a retainer agreement to verify that all required agreements are properly executed and contain a detailed scope and subject matter of the representation.

In its response to the DR, LSLA stated that all case files which were required to have a retainer agreement were reviewed for 2011, and they will continue to review all such files in the future to verify that all agreements are properly executed and contain a detailed scope and subject matter of representation.

Finding 7: With one (1) exception, sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts). Additionally, policies reviewed evidenced compliance with 45 CFR Part 1636.

²¹ 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.

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

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

Case files reviewed indicated that, with one (1) exception, LSLA is in compliance with the requirements of 45 CFR Part 1636. *See* Case No. 1001-000781.

There are no recommendations or corrective actions required.

Finding 8: Sampled cases evidenced 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.

Prior to the visit, OCE was provided a list of LSLA's priorities. LSLA identifies the following types of cases as within their priority areas: Improving the delivery of legal services; Providing advice, brief services and referrals; Maintaining, enhancing safety, stability, and health or well-being; Preserving housing and related housing needs; Improving outcomes for children; and Assisting populations with special vulnerability. Sampled case files reviewed evidenced that LSLA is in compliance with 45 CFR Part 1620.

There are no recommendations or corrective actions required.

Finding 9: LSLA in-house sampled cases evidenced compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided); however, cases reported pursuant to the HVLP subgrant do not comply.

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

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

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

All LSLA in-house sampled cases were in compliance with CSR Handbook (2008 Ed., as amended 2011), § 5.6 (Description of legal assistance provided); however, cases reported by the HVLP subgrant were not in compliance. As described in Finding No. 2, the majority of applicants are intaked and receive advice at an HVLP clinic staffed by pro bono attorneys. The attorneys complete a form documenting the contact with the client. If clients do not follow-up by providing additional documentation required for HVLP to consider the case for referral to a pro bono attorney for extended representation, or if a case is unable to be placed, clients are sent closing letters. HVLP relies upon the Attorney Notes form and/or the generic form closing letters to document advice. Case review revealed nine Counsel and Advice cases had no documented advice and the majority of the other files reviewed were weakly documented. These cases had no advice on the Attorney Notes form; some only documented detailed facts while others had little to no documentation of facts. Further, many of the closing letters had legal information and not advice, and where there could be advice it was impossible to determine whether it was specific to the person's legal problem and circumstances due to a lack of sufficient detail about the legal problem.

This deficiency was discussed with HVLP staff, including its newly hired Executive Director and LSLA's PAI Coordinator responsible for subgrant oversight. One option discussed was to revise the Attorney Notes form to separate it into a section for the facts of the case and the advice provided to the client. Revision of the closing letters was also discussed though the staff was cautioned that for closing letters to serve as Counsel and Advice the program must have obtained and documented sufficient details to determine what specific advice is appropriate.

The DR directed that LSLA must take corrective action to ensure that HVLP cases reported by LSLA have documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

In its response to the DR, LSLA stated that their management will ensure that HVLP cases reported by LSLA have documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

The DR recommended that LSLA provide training to HVLP regarding the necessity for all case files to contain a description of the legal assistance provided to the client.

In its response to the DR, LSLA stated that they provided training on this recommendation to the new HVLP Executive Director and managers, and that training for case handlers would take place on July 12, 2012.

Finding 10: Sampled cases evidenced that LSLA’s application of the CSR case closure categories is consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011). However, AVDA and HVLP cases are not in compliance with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011).

The CSR Handbook defines the categories of case service and provides guidance to recipients on the use of the 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 (2008 Ed., as amended 2011), § 6.1.

The files reviewed demonstrated LSLA’s application of the CSR case closing categories is generally consistent with Chapters VIII and IX, CSR Handbook (2008 Ed., as amended 2011), in that a very small number of the sampled cases reviewed contained closing code errors. *See e.g.*, Case No. 0911-027347, the client in this case did not want to pursue the matter. LSLA was dismissed from the case by court order. LSLA will change the closing code to IA; Case No. 0902-003274-BMT, this was a Closed 2010 case that was closed utilizing the closing code I-A (Court Decision-Uncontested). The case was in litigation and contained a filed settlement agreement that was negotiated between the parties. The applicable closing code in this case is “G” (Negotiated Settlement with Litigation)); and Case No. 0606-12141-BMT, this was a closed 2010 case that was closed utilizing the closing code I-A (Court Decision-Uncontested). The case was in litigation and contained a filed settlement agreement that was negotiated between the parties. The applicable closing code in this case is G (Negotiated Settlement with Litigation)).

Six (6) closing code errors were identified in AVDA and HVLP cases. Three (3) cases were closed with an F, Negotiated Settlement without Litigation, when the file evidenced that G, Negotiated Settlement with Litigation code would be appropriate. *See* Case Nos. 10E-11014460, AVDA 2010, 11E-11016837, AVDA 2011, and 08E-1002044, HVLP 2011. Due to the nature of the cases, it is likely that the selection of these codes was a data entry error during closure. Two (2) other cases were closed with an A, Counsel and Advice, though an L, Extensive Service code was supported by the file. *See* Case No. 10E-11015514, AVDA 2011, and Case No. 08E-11012664, AVDA 2009. These were both divorce cases in which the client decided not to go forward after the complaint was filed and the case was non-suited. However, in both cases the attorney had obtained temporary orders. The CSR Handbook (2008 Ed., as amended 2011) instructs programs to close cases with an L if an order of withdrawal or voluntary dismissal is entered. *See* CSR Handbook (2008 Ed., as amended 2011), § 8.2. The last case was closed with a B, Limited Action code, though only advice was provided. *See* Case No. 11E-11017137, AVDA 2011.

The DR directed that LSLA must take corrective action to ensure that subgrantee cases are closed with correct closure codes.

In its response to the DR, LSLA stated that their management will ensure that subgrantee cases are closed with correct closure codes in accordance with CSR Handbook (2008 Ed., as amended 2011), Chapter VIII.

The DR recommended that LSLA conduct training for AVDA staff to ensure proper application of the CSR case closure categories.

In its response to the DR, LSLA stated that they provided this training to AVDA managers and will schedule training for AVDA case handlers to take place in 2012.

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Dormancy and untimely closure of cases). However, HVLP cases are not in compliance.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).²² There is, however, an exception for limited service cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). All other cases (CSR Categories F through L, 2008 CSR Handbook) should be reported as having been closed in the grant year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

With the exception of one (1) case, the LSLA in-house cases were reviewed in compliance with the requirements CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). *See* Case No.1006-013963-BTN, this was a closed 2011 case that was accepted for divorce and opened on 06-02-2010. After August 18, 2010 contact was lost with the client. Several letters were sent to the client, the last on December 8, 2010, but no response was ever received. It was untimely closed as A on 02-09-2011.

However, HVLP cases reviewed were not in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3(a). Thirteen (13) of the HVLP sampled cases were dormant; in each of these cases the last documented contact with the pro bono attorney or

²² The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed., as amended 2011), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

the client was between 2005-2009. *See e.g.*, Case No. 06E-1007087, HVLP Open; in 2011, HVLP searched the case records in the online Justice Information Management System (JIMS) and learned that the case was non-suited in 2007; Case No. 06E-1010019, HVLP Open, a case referred to a pro bono attorney in 2007 and HVLP requested final disposition information from the attorney in 2008 but received no response; Case No. 06E-1007345, HVLP Open, a case in which the last contact with the pro bono attorney was 2006; and Case No. 06E-1009456, HVLP Open, a case in which a 2008 note reflects the pro bono attorney obtained a default judgment.

The LSLA PAI Coordinator has instructed HVLP to close dormant cases with the date that the case should have been closed. They should also be designated as non CSR reportable so as to not change prior years CSR data records. Accordingly, the dormant cases, when closed, will not be reported to LSC in CSRs. However, the number of dormant cases are significant and render the HVLP open LSC-eligible case list unreliable. Program data revealed that as of October 15, 2011, HVLP had 878 open cases which, based upon case review is overstated.

The DR directed that LSLA should ensure that it closes its PAI cases in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3.

In its response to the DR, LSLA stated that their management will ensure it closes its PAI cases in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases).

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

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

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

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

LSLA has implemented measures to identify duplicate cases. During the conflict check in the initial stages of data entry, the ACMS displays open or closed cases for an individual, and a case handler flags any such records for review. Further, the information technology staff and the

Director of Advocacy generate a series of Crystal Reports to identify potential duplicates. These mechanisms appear to be effective as no duplicates were identified during the review.

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

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 13: Review of LSLA’s policies, the list of attorneys who have engaged in the outside practice of law, and staff interviews revealed that LSLA is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

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

Based on interviews with the Executive Director, two (2) members of LSLA’s Senior Leadership Team, and three (3) of the four (4) attorneys on the list provided by LSLA who have engaged in outside practice of law²³, review of the recipient’s policies, and staff interviews, LSLA is in compliance with the requirements of 45 CFR Part 1604.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 14: Sampled cases and a limited review of the detailed general ledger and other accounting documents for 2009 and January 2011 through November 2011, evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

The limited review of various accounting files, including but not limited to, cash disbursements, cash receipts, general ledger accounts and financial statements and supporting documentation for

²³ The remaining attorney on the list of attorneys who have engaged in outside practice of law was out on leave for the duration of the visit. As such, this person was not able to be interviewed; however, the Executive Director was interviewed regarding this attorney’s outside practice of law and no compliance issues were noted.

the period of January 1, 2009 through November 2011, as well as interviews with the controller and two (2) of LSLA's bookkeepers, revealed that LSLA does not appear to have expended any grant funds, or used personnel or equipment in prohibited political activities in violation of 45 CFR §§ 1608.3(b) and 1608.4(b) and therefore, is in compliance.

A comprehensive review of LSLA's pamphlets, brochures, flyers, etc. was conducted. Review of the above-referenced materials revealed that all collected information was found to be free of any prohibited political message, expression, symbol, image, or allusion, and in compliance with 45 CFR Part 1608.

Sampled files reviewed, interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys, and review of the recipient's policies indicate that LSLA is not involved in such activity.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 15: From a limited review of financial documents, interviews with staff, and sampled case review it was determined that LASLA is in compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

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

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

Sampled files reviewed, a limited review of the cash receipts journals, bank statements, general ledger, financial statements, interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys, and review of the recipient's policies evidenced compliance with the requirements of 45 CFR Part 1609.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 16: A limited review of LSLA’s accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities. However, LSLA is not in compliance with the requirements of 45 CFR § 1610.5(a) (Donor notification letters).

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

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

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

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

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

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

Recipients are further instructed to exercise caution in sharing space, equipment and facilities with organizations that engage in restricted activities. Particularly if the recipient and the other

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

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

A limited review of LSLA's general ledger, cash disbursement journals, cash receipts journals, chart of accounts, vendor's list, web page,, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity), with respect to sharing physical space with a non-LSC entity engaged in restricted activities.

LSLA's policies and procedures and fiscal activities, identified no instance where the recipient had used non-LSC funds for any purpose prohibited by the LSC Act. LSLA communicates its policies and procedures by providing staff training, and by having staff meetings for reinforcement of the LSC Act.

A review of the cash receipt and disbursement journals for the review period identified no inappropriate transfers (45 CFR § 1610.7) or expenditures (45 CFR § 1610.4) by the recipient of its LSC and non-LSC funds. LSLA's cost allocation methodology for direct costs is based on costs allocated to a particular grant to the degree that costs were incurred to achieve the objectives of the grant. Costs that are fund specific are allocated directly to the relevant funding source at the transaction level when entered into the accounting software. The operating cost allocations are allocated based on (1) individual grant document/budget specifications and (2) staff location. Operating costs that are not allocated under (1) or (2), above, are allocated to LSC, and other funding sources based on percentage of revenue to total revenue. These operating cost calculations are normally generated in an Excel spreadsheet. Journal entries are then prepared to record the allocations to the relevant funding sources. At a minimum, the allocations are entered into Fund America accounting system during the period.

LSLA's Board of Directors have certified compliance with 45 CFR § 1610.8(b) with the execution of the certification of program integrity.

LSLA has entered into two (2) subgrant agreements that were approved by OCE, where by LSC funds are transferred to HVLP and AVDA as payments for pro bono services as contemplated in

the subgrant agreements. A review of selected cash disbursements found all to be proper under the scope of the grant agreement.

LSLA uses American Fundware Accounting Software which has the capability of providing fund based accounting and/or cost accounting. LSLA uses a double-entry method for recording all transactions. A trial balance is prepared monthly, after all adjusting and closing entries have been posted. LSLA's Chart of Accounts has been developed so that funds received by the recipient from sources other than the Corporation are accounted for as separate and distinct receipts and disbursements in a manner directed by 45 CFR § 1610.9 (Accounting).

LSC regulation 45 CFR § 1610.5(a) provides that "...no recipient may accept funds from any source other than the Corporation, unless the recipient provides to the source of the funds written notification of the prohibitions and conditions which apply to the funds." LSLA's Director of Development informed OCE that the donor notification letter was updated in July 2008 to include language informing the donors of LSC's requirements.

From a limited review of the cash receipts log, chart of accounts, general ledger, financial statements, grant agreements and written notifications (Thank You Letters) for the period January 1, 2009 through October 15, 2011, LSLA received funding from both federal and state governmental agencies, foundations, law firms, and individuals. From this examination it was determined that LSLA is in violation of 1610.5, because during the review period, they failed to provide written notification to all funders who contributed \$250 or more of the prohibitions and conditions which apply to the funds.

The DR directed that LSLA must ensure that they provide all funders who make contributions of \$250 or more written notification of the prohibitions and conditions which apply to donor funds. For 2011 and going forward, LSLA should identify those donors/funders who did not receive advance written notification and provide them with Thank You Letters informing them of LSC's restrictions.

In its response to the DR, LSLA stated:

"LSLA management will provide donors who contribute \$250 or more with written notification of the prohibitions and conditions which apply to those funds, and ensure that, in the future, donors who did not receive written notification are identified and provided with "Thank You Letters" informing them of LSC's requirements. LSLA sent such letters to all funders, grantors, and donors in February 2012."

Finding 17: LSLA is not in compliance with 45 CFR § 1614.3(d)(3), which requires oversight and follow-up of the PAI cases. Additionally, the review of the 2010 PAI schedule revealed that there was not always compliance with 45 CFR Part 1614 or the LSC requirements for PAI. The indirect expenses allocated to PAI were not based upon operational data and the hours used to calculate the wage rate used by LSLA's employees to charge PAI was not based upon the annual scheduled work hours divided into the employee's annual salary.

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

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

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

LSLA's 2011/2012 Private Attorney Involvement Plan identifies three (3) methods to involve private attorneys in the direct delivery of legal services, pro bono panels, reduced fee contracts and legal clinics. In addition, as noted, LSLA has entered into two LSC-funded subgrants with AVDA and HVLP.

LSLA's PAI program is managed by three (3) PAI Coordinators based in Houston, Longview and Tyler/Nacogdoches and a PAI Supervising Attorney based in Houston.²⁴ Several other attorneys and support staff assist the PAI effort either full-time or part-time. The PAI Coordinator in Houston and the PAI Supervising Attorney were interviewed, as well as a Pro Bono Coordinator who is responsible for setting up clinics staff with pro bono attorneys. The Supervising Attorney's Administrative Assistant, who conducts follow-up and oversight of pro bono cases, was out on medical leave and unavailable for an interview.

Reduced Fee Contract

²⁴ LSLA's General Council served as the PAI Supervising Attorney until the Spring of 2011. He is scheduled to retire in early 2012 and his PAI responsibilities have been transferred to the Supervising Attorney of the Family Law and Children's Rights Unit.

The PAI Coordinator based in Houston, is an attorney. He is responsible for the reduced fee component in the service area of the former Gulf Coast Legal Foundation.²⁵ At the time of the onsite review, seven (7) attorneys participated on his panel. Attorneys execute annual contracts agreeing to accept cases for a rate of \$55 per hour with a maximum limit of 10 hours per cases. Additional case time must be approved by the PAI Coordinator. At the time of the review, 14 reduced fee cases had been closed in 2011 and 91 were open.

Following normal intake as described above, consumer, bankruptcy and family law cases are identified by local office and substantive law units and, due to lack of resources or the need for a particular expertise, and sent to the PAI Coordinator in Houston for consideration for placement. Bankruptcy cases are referred directly to him from the CIU.

Upon receiving cases, the PAI Coordinator reviews cases for compliance, evaluates the legal problem and tries to match the legal problem to an attorney. Cases must have all compliance documentation prior to referral. At the time of the review, only one (1) attorney has signed up to only assist with Chapter 13 Bankruptcies, though the PAI Coordinator has been training attorneys signed up to assist with Chapter 7 Bankruptcies to handle Chapter 13 Bankruptcies.

Once placed, the client is sent a letter listing the attorneys and providing the contact information. In most cases, the PAI Coordinator personally delivers the case documentation to the contract attorney. Attorneys either bill monthly or when the case is complete. The PAI Coordinator reviews the status of cases quarterly and contacts the attorney if the status is uncertain. He is also able to follow-up on cases online through Pacer and JIMS. His procedure is to print the list of open cases and make handwritten notes regarding status on the list. He does not enter all of these notes into the individual electronic case file, only if there is an issue or other significant activity in the case. The handwritten case list is filed in an oversight file in his file cabinet. He stated that the only oversight issue is that under statute Chapter 13 Bankruptcies require annual reports each year of the five year plans and therefore cannot be completed until the fifth year of the case. Accordingly, these cases may not have regular notation in the case notes but their active status can be confirmed in Pacer.

When work on a file is completed, the private attorney sends the bill for the case or the final bill if the attorney has been billing on a monthly basis. The PAI Coordinator compares the bill to the work on the case, selects the closing code, and closes the case in the ACMS. Closed cases are reviewed by the Supervising Attorney.

Pro Bono Panel

Each of the counties served by LSLA has its own pro bono project which is run either out of Houston or the branch office serving that county, depending upon staffing. Each of the offices' pro bono projects is named according to the county and has letterhead for the unique county name. For example, the Houston project is named the Harris County Pro Bono Project. Because the Supervising Attorney is new to her PAI responsibilities, the program-wide pro bono project

²⁵ The former Gulf Coast Legal Foundation covered the Houston, Galveston, Angleton, Bryant, and the former Bellville Offices' service areas.

is in transition. She is reviewing the policies used in each office and developing a policy with standardized procedures. She is also revising several forms, including the Pro Bono Referral Authorization and the case closing form. The new forms will be used program-wide. LSLA senior management reported that 482 attorneys participate in the pro bono project program-wide, with 431 closed cases in 2011 and 422 open cases, as of October 15, 2011. Attorneys volunteering for the project complete Pro Bono Attorney Profiles and general information forms, and specify the number and types of cases they are interested in handling.

Following normal intake as described above, CIU sends to the pro bono project simple divorces and other family law, wills, and bankruptcy cases that were referred and denied by local offices or substantive units.²⁶ The Supervising Attorney reviews the cases for compliance and assesses their chance for placement with a pro bono attorney. If accepted, the case is coded to the pro bono project for tracking. A letter is sent to the person with several forms that must be executed prior to placement, including a Pro Bono Referral Authorization, program-wide citizenship attestation, and Affidavit of Inability to Pay costs. The Supervising Attorney personally contacts attorneys regarding placement. Once accepted, the client is sent a letter advising of the placement and instructing the client to contact the attorney as soon as possible. The attorney is also sent a letter with enclosures including the intake sheet, Referral Authorization Agreement, and Initial and Final Case Disposition Forms. The Initial Disposition Form is expected to be returned after the attorney's first contact with the client and asks for an anticipated case completion date.

The Supervising Attorney's Administrative Assistant is responsible for following up on cases every 60-90 days, depending upon the type of case. She uses a File Tickler Sheet and the ACMS to document the oversight. Follow-up is conducted by e-mail or in written form, with all documentation electronically associated with the file in the ACMS. The Administrative Assistant uses a variety of letters and forms to follow-up with the attorney. The Supervising Attorney expects four contacts per year with attorneys who have open cases. Other team members reviewed the Houston reduced fee cases.

When work on a file is completed, the attorney is expected to complete a Final Case Disposition form enclosed with the initial referral letter. LSLA uses a variety of Final Case Disposition forms, each tailored to substantive issues with specific outcomes to be checked by the attorney. The Supervising Attorney stated that she is revising the final forms to include the LSC closing codes.

Houston Volunteer Lawyer's Program

Since 1983, HVLP has been a subgrantee of LSLA and was a subgrantee of Gulf Coast Legal Foundation before it. Founded in 1981 by the Houston Bar Association, HVLP obtained 501(c)(3) status in 1987. In 2011, LSLA subgranted \$240,000 of LSC funds to HVLP to conduct intake and refer LSLA-eligible persons to pro bono attorneys willing to provide free legal assistance. HVLP also receives funding from a number of other sources including the

²⁶ At the time of the review, due to staffing issues, case referral to the Harris County Pro Bono Project had been suspended until January 2012.

Houston Bar Foundation, the Texas Bar Foundation, Texas Access to Justice Foundation, Ryan White Title I, and the City of Houston.

As described in Finding No. 2, the majority of the intake is conducted at regularly scheduled First Saturday Clinics, Low Income Tax Clinics, Veterans clinics and HIV/AIDS clinics. Cases which may need additional representation are considered in-house for referral to one of 4,000 participating attorneys. After an attorney or firm has accepted the case and checked conflicts, the client is sent a letter with attorney information and advising the client to contact the attorney within fifteen days. The attorney is also sent a letter with the Initial Disposition form, the Professional Services Agreement for Pro Bono Services, and the Final Disposition form. The Initial Disposition form is to be returned after the first meeting with the client. The attorney must indicate if assistance will be provided, if assistance will not be provided, or if the client never made contact. The attorney is expected to execute the Professional Services Agreement with the client and return a copy to HVLP. The Final Disposition form is to be completed and returned when the case is concluded. The private attorney selects the LSC closing code.

If the attorney advises the HVLP that circumstances have changed and the client no longer requires assistance, the case is closed and the client is sent a letter. Otherwise, a support staff person tracks the referrals. If the Initial Disposition form is not returned, she follows-up with the attorney in a method previously specified by the attorney or checks the online Pacer system if the case is a bankruptcy or the Justice Information Management System (JIMS) for case information. She also tickles the case for a specific interval, depending upon the type of case though generally no longer than 6 months. Once the Final Disposition Form is received, the support staff person closes the case which is then reviewed by an attorney in the pro bono unit. If a case is found to be closed on JIMS, but no Final Disposition Form has been received, another Final Disposition Form is sent to the attorney. If the attorney does not respond, a more strongly worded version of the Final Disposition Form is sent to the attorney. It states that if HVLP does not hear from the attorney by a certain date, the case will be closed and the attorney will no longer be covered by HVLP malpractice insurance. Once a case is officially deemed closed, closing letters are sent to the attorney and the client.

The Houston PAI Coordinator is responsible for training and oversight of HVLP. Quarterly case closing information is provided to the LSLA PAI Coordinator, who as noted previously also maintains a version of Kemps. During interviews, he stated that he updates quarterly information provided on disc and conducts an independent electronic review of case reportability. He stated he does not review case files unless he has a question except that he conducts the annual self-inspection. Monthly billing statements are sent directly to LSLA's General Counsel. The billing statements are reviewed each month by senior management to determine if the amount being billed is within the parameters of the budget submitted by HVLP and that documentation of expenses is included with the billing. It is then transferred to the accounting department for review and payment. The check then goes back to senior management for final review and for check signatures and then back to accounting for mailing.

As described throughout this report, oversight of the HVLP is lacking as evidenced by its non-compliance with the citizenship attestation/eligible alien, timeliness and documentation of legal advice requirements of the LSC regulations and CSR Handbook (2008 Ed., as amended 2011).

In addition, several deficiencies in HVLP screening practices were identified which affect the reliability of HVLP CSR reports. Lastly, HVLP open case lists are not accurate due to dormancy and discrepancies in the open case list maintained on LSLA's HVLP database and the HVLP case files.

The DR stated that LSLA must implement oversight measures to ensure that HVLP cases are in compliance with LSC regulation and the CSR Handbook (2008 Ed., as amended 2011) and that case lists are accurate. Action should include a regular review of the HVLP generated case lists against the LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, training of HVLP staff on CSR timeliness requirements, and implementation of measures to ensure timely closure in the future. In addition, HVLP must revise its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations, and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011).

In its response to the DR, LSLA stated that, starting in 2012, LSLA will conduct quarterly case reviews for PAI cases. LSLA further stated that selected files will be reviewed monthly to reinforce training.

LSLA also stated that their management will ensure that HVLP cases are screened in accordance with the LSC requirements and the LSLA Financial Eligibility Policy. LSLA stated that HVLP, with LSLA's assistance, has revised its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations, and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011).

Aid to Victims of Domestic Violence:

Since 1981, AVDA has been a subgrantee of LSLA and was a subgrantee of Gulf Coast Legal Foundation before it. In 2011, LSLA subgranted \$240,000 of LSC funds to AVDA funds to provide legal services to LSC-eligible clients who are victims of domestic violence in Harris County. AVDA uses the staff attorney model to provide legal assistance. This model as PAI is allowable by LSC regulations if the AVDA attorneys do not meet the definition of an LSC staff attorney. 45 CFR § 1600.1 defines a staff attorney as an attorney more than one half of whose annual professional income is derived from the proceeds of a grant from the Legal Services Corporation.

AVDA is funded by several sources and operates two (2) programs, the Battering Intervention and Prevention Program, a counseling program for perpetrators of domestic violence and a Victim's Services Program, which provides free legal services to low-income persons.

AVDA follows the same oversight procedures as HVLP. Quarterly case closing information is provided to the LSLA PAI Coordinator, who also maintains a version of Kemps. During interviews, he stated that he updates quarterly information provided on disc and conducts an independent electronic review of case reportability. He stated he does not review case files unless he has a question, except that he conducts the annual Self-Inspection.

LSLA's oversight of AVDA meets the requirements of 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases. Case review and interviews revealed only two issues, staff must screen for income prospects and additional training on closure codes is required.

Additionally, review of the PAI schedule disclosed in the Audited Financial Statements for Fiscal Year Ending December 31, 2010 determined that there was not adequate compliance with 45 CFR § 1614 in the allocation of indirect expenses to PAI and the calculation of the wages charged to PAI were not in accordance with LSC requirements. The allocation of the indirect expenses to the PAI calculation was made based upon 12.5% of the indirect expenses incurred, not based upon operational data such as the percentage of closed PAI cases to total cases closed for the year or the percentage of the hours charged to PAI by attorneys and paralegals to the total number hours charged to all cases in the year by the attorneys and paralegals. Wages charged to PAI were not based upon the total number of work hours in a year (2,080) divided into the employee's annual wages to determine a PAI wage rate, which is required by LSC. The payroll service calculated the rate used and it was not based upon 2,080 hours.

The wage rate charged to the PAI allocation should be based upon the total potential hours scheduled to work during a year (2,080 hours for LSLA) divided into the annual salary for employees that do not devote a 100% of their time to PAI. As such, employees who devote 100% of time to PAI activities should charge a 100% of annual salary to PAI. However, employees who charge less than 100% of work hours should charge an hourly rate to PAI based upon annual work hours divided into his/her annual salary. For example: If an employee worked 124 hours on PAI during the year and is paid an annual salary of \$80,000 and his/her potential hours are 2,080 (8 hours a day times 5 days a week times 52 weeks); then the wage rate charge to PAI for the 124 hours worked should be (\$80,000 divided by 2,080 hours) \$38.46 an hour or \$4,769.04 in total (124 times \$38.46).

The DR directed that LSLA should ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI.

In its response to the DR, LSLA stated that their management will ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI.

LSLA was also directed to ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charge by attorneys and paralegals to all staff cases during the year.

In its response to the DR, LSLA stated:

“LSLA management will ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charged by attorneys and paralegals to all staff cases during the year.”

Finding 18: LSLA is not in compliance with 45 CFR § 1627.3(c) (Sub-grants). LSLA is also not in compliance with 45 CFR § 1627.4(a), which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities.²⁷ 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).

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 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).

This section of the regulation requires LSLA to be responsible for ensuring that HVLP and AVDA comply with the financial and audit provisions of the Corporation. LSLA is responsible for ensuring the proper expenditures, accounting for, and audit of delegated funds. Any funds delegated by a recipient to a sub-recipient shall be subject to the audit and financial requirements of the Audit and Accounting Guide for Recipients and Auditors. The delegated funds may be separately disclosed and accounted for, and reported upon in the audited financial statements of a recipient. Or such funds may be included in a separate audit report of the sub-recipient. The relationship between the recipient and sub-recipient will determine the proper method of financial reporting in accordance with generally accepted accounting principles.

²⁷ 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.

Review of the audited financial statements for 2009 and 2010 (with the exception of HVLP for 2010) of LSLA, HVLP, and AVDA evidenced that the information concerning the relationship between these parties were not disclosed in a footnote by the Independent Public Accountant (IPA). LSLA and both sub-recipients are required by 45 CFR § 1627.3(c) of the regulation to disclose their relationship in a footnote. The DR directed that LSLA should follow its own policy and ensure that LSLA, HVLP, and AVDA disclose in a footnote in their December 31, 2011 audited financial statements, the nature of that relationship.

In its response to the DR, LSLA stated that their management has asked their auditor, HVLP, and AVDA to provide in its notes to future financial statements, comments disclosing the fiscal relationship between LSLA, HVLP, and AVDA.

In reviewing the LSLA subgrant agreement for 2010 with HVLP, it was also determined that HVLP is in breach of their contract, because they failed to provide LSLA with timely audited financial statements for 2010. LSLA was directed to ensure that HVLP provides their 2011 audited financial statements no later than February 28, 2012.

In its response to the DR, LSLA stated that HVLP provided their 2011 audited financial statements to LSLA and LSC in a timely manner.

Furthermore, in reviewing HVLP's schedule of PAI Funded Employee Salaries breakdown by funding source using LSC and non-LSC funds, it was determined that as of October 2011 one (1) staff attorney's salary was funded at least 50% using LSC funds. As of October 2011, this staff attorney's year-to-date salary was \$35,583.38, of which \$17,791.69 or 50% was paid using LSC funds. LSLA should determine whether LSC funds attribute to 50% or more of this attorney's annual income as declared on their federal tax return. If LSLA determines that LSC funds do attribute to 50% or more of this attorney's annual income as declared on their federal tax return, then LSLA must ensure that HVLP excludes those PAI funded salaries from its total PAI expenditures in 2011 and going forward. Additionally, cases handled by this PAI attorney would not count as PAI cases.

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.

From a limited review of the chart of accounts, invoices, cash disbursement journals, journal entries, general ledger, and 2010-2012 state bar dues excel spreadsheet, LSLA used LSC funds for non- mandatory membership fees and dues from January 1, 2009 through October 15, 2011. According to LSLA's policy, the program will pay all dues levied on attorneys by the State Bar of Texas plus the dues for one local bar association. Also, their policy states that the assessments and section dues are not paid by LSLA. An examination of the financial

data show payments being made by LSLA using LSC funds to cover local bar dues and section dues. These type dues are not mandated by the State Bar of Texas or any governmental organization but are strictly voluntary. Based on a recalculation of these voluntary dues and fees paid with LSC funds, LSLA overcharged the LSC fund by \$4,785 from 2009 – 2011.

LSLA should ensure that they follow their policy as it relates to paying dues levied on attorneys by the State Bar of Texas and only use LSC funds as outlined in 45 CFR Part 1627.4(a) of the regulation.

The DR directed that LSLA should ensure that \$3,360 is transferred back to the LSC fund for 2009-2010 (using an inter-fund transfer) and re-class \$1,425 for 2011 (using a journal entry or inter-fund transfer based on the timing of the completion of their 2011 annual audited financial statements).

In its response to the DR, LSLA stated that their management had transferred \$3,360.00 to LSC funds from unrestricted funds and provided evidence of the transfer. LSLA also stated that their management has transferred \$1,425.00 to LSC funds from unrestricted funds and provided evidence of the transfer. Confirming journal entries were included with LSLA's comments.

Finding 19: LSLA is in compliance with 45 CFR Part 1635 (Timekeeping requirements). However no liability for the accrued vacation of the employees is recorded in the general ledger or in the Annual Financial Statements as required by Generally Accepted Accounting Principles (GAAP).

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

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

The timekeeping system must be able to aggregate time record information on both closed and pending cases by legal problem type. Recipients shall require any attorney or paralegal who

works part-time for the recipient and part-time for an organization that engages in restricted activities to certify in writing that the attorney or paralegal has not engaged in restricted activity during any time for which the attorney or paralegal was compensated by the recipient or has not used recipient resources for restricted activities.

A review of 13 LSLA advocates' timekeeping records was conducted. The advocates were selected from LSLA offices for the pay period ending August 31, 2011 and September 30, 2011, and it was determined that the records are electronically and contemporaneously kept. The time spent on each case, matter, or supporting activity is accurately recorded in compliance with 45 CFR §§ 1635.3(b) and (c).

LSLA is in compliance with 45 CFR § 1635.3(d). It is not required to maintain a file of corresponding Quarterly Certifications for Part-time Case Handlers, since such part-time case handlers do not work for organizations that engage in restricted activities, as identified in 45 CFR § 1635.3(d).

Vacation earned and vested by employees should be recorded currently (on a monthly basis). Additionally, a note should be disclosed in the Annual Financial Statements that discloses the amount of the liability for vested employee benefits (accrued vacation) at the financial statement date. GAAP (FASB ASC 710 Compensation – General (statement No. 43) requires the recording of vested benefits currently and the disclosure of the amount of the liability in the notes to the annual financial statements. The LSC Accounting Guide for Recipients (Section 2-3.3) also requires current recording and disclosure in the financial statements notes of vested employee benefits.

A review of the accrued vacation disclosed that LSLA does not record the earned and vested vacation of employees on an accrual method of accounting, which requires that the expense and liability associated with the benefits that have been vested with the employee be recorded currently. This procedure is required for financial statements prepared in accordance with GAAP (FASB ASC 710 Compensation – General (Statement No. 43)). In addition there should be a note to the financial statements that discloses the amount of the liability for vested employee benefits at the financial statement date. The accounting for employee benefits is covered by the LSC Accounting Guide for LSC Recipients (2010 Edition), Section 2-3.3.

The DR directed that LSLA should ensure that vacations earned and vested by employees are recorded currently.

In its response to the DR, LSLA stated:

“LSLA has contracted with Gainer, Donnelly, & Desroches (GDD), our independent external auditors, to review our payroll and benefit processes. Part of this review will examine the vacation record keeping procedures and make recommendations to correct identified issues. LSLA management will ensure that vacations earned and vested by employees are properly and currently recorded.”

Finding 20: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the recipient. *See* 45 CFR § 1642.3.²⁸ 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 30, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys' fees.

Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys' fees for work performed, regardless of when such work was performed. 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).²⁹

Sampled cases evidenced two (2) cases in which a prayer for attorneys' fees, however no attorneys' fees were awarded. *See* Case No. 0906-013587, a closed 2010 case involving a motion for support in a custody suit opened on July 8, 2009. According to the intermediary, the standard form required by the court contained a standard request for attorneys' fees and LSLA mistakenly failed to delete the language; and Case No. 0907-017321, a closed 2010 case involving an application to the court for support opened on August 19, 2009. Once again, a pleading with a standard request for attorneys' fees and LSLA mistakenly failed to delete the language. In each case, the inclusion of the fee request was inadvertent and no attorneys' fees were in fact awarded. As such LSLA is in compliance with the requirements of former 45 CFR Part 1642 (Attorneys' fees).

A limited review of the cash receipts log, chart of accounts, general ledger, financial statements, evidenced that there were no attorneys' fees awarded, collected, and retained for cases serviced directly by LSLA that would violate 45 CFR Part 1642. Interviews with staff revealed that from January 1, 2009 through October 15, 2011, interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 21: Sampled cases and policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

²⁸ The regulations define "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. *See* 45 CFR § 1642.2(a).

²⁹ 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.

However, review of financial documents and interviews with staff revealed that LSLA engaged in legislative and rulemaking activities in November and December of 2010, and June of 2011 and failed to maintain separate accounting records showing the expenditures incurred relating to these activities. LSLA used LSC funds instead of non LSC funds to cover the costs related to these activities, in violation of the regulation.

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.

Sampled cases and policies reviewed evidenced compliance with the requirements of 45 CFR Part 1612. However, review of financial documents and interviews with staff revealed that LSLA engaged in legislative and rulemaking activities in November and December of 2010 and June of 2011 and failed to maintain separate accounting records showing the expenditures incurred relating to these activities. Review also revealed that LSLA and they used LSC funds instead of non LSC funds to cover the costs related to these activities.

Interviews with the Executive Director, and Director of Litigation, revealed that LSLA (during the months of November and December of 2010 and June 2011) engaged in legislative and rulemaking activities. In November of 2011, the Director of Litigation, was asked to appear at a meeting by Texas state Representative to discuss the effect of language in some payday lending bills about to be filed; and in June of 2011, a supervising attorney participated in a conference call meeting with HUD officials regarding demolition rules and regulations. LSLA submitted to OCE semi-annual reports describing their legislative activities pursuant to section 1612.6 together with supporting documentation as specified by the Corporation. However, LSLA failed to maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 1612.6.

The DR directed that LSLA should ensure that they maintain separate records documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 1612.6 of the regulation.

In its response to the DR, LSLA stated that their management will ensure that separate records are maintained documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6 of the regulation.

Additionally, in reviewing the semi-annual reports, time records, and payroll registers, it was determined that LSLA's Director of Litigation and Supervising Attorney spent time working on legislative and rulemaking activities and were paid \$282 and \$42 respectively in 2010 and 2011 with LSC funds totaling \$324.00. Section 1612.6 of the regulation does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any activity listed in this section of the code.

The DR directed LSLA to transfer back to the LSC fund \$282 for 2010 (using an inter-fund transfer, and re-class \$42 for 2011 (using a journal entry or inter-fund transfer based on the timing of the completion of their 2011 annual audited financial statements).

In its response to the DR, LSLA stated that they have transferred \$282.00 to LSC funds from unrestricted funds and provided evidence of the transfer. LSLA also stated that their management transferred \$42.00 to LSC funds from unrestricted funds and provided evidence of the transfer. Confirming journal entries were submitted with LSLA's comments.

The DR directed that LSLA should ensure compliance with 45 CFR § 1612.6 of the regulation which does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any legislative and rulemaking activity.

In its response to the DR, LSLA stated that their management will ensure compliance with 45 CFR § 1612.6.

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

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

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys, and review of the recipient's policies, also confirmed that LSLA is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations 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).³⁰

None of the sampled files reviewed involved initiation or participation in a class action. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies and fiscal records, also confirmed that LSLA is not involved in this prohibited activity.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

None of the sampled files reviewed revealed participation in litigation related to redistricting. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further corroborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

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

None of the sampled files reviewed involved defense of any such eviction proceeding. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's

³⁰ 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).

Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 26: Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

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

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.³¹ This restriction has been contained in all subsequent appropriations acts.³² 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."

None of the sampled files, including documentation, such as community education materials and program literature, indicated program involvement in such activity. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership

³¹ *See* Section 504(a)(18).

³² *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

Team, and three (3) Staff Attorneys and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No 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.

None of the sampled files reviewed involved such activity. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further collaborated this finding.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

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

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

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews with the Executive Director, Director of Advocacy, three (3) members of LSLA's Senior Leadership Team, and three (3) Staff Attorneys and review of the recipient's policies, further evidenced and confirmed that LSLA was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 30: LSLA is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decisions, sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

Interviews with the Executive Director evidenced that LSLA is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decision, to sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency. The Executive Director provided the signed agreements for review during the onsite visit.

There are no recommendations or corrective actions required.

In its response to the DR, LSLA did not offer a comment on this Finding.

Finding 31: A limited review of LSLA's internal control policies and procedures demonstrated there are four (4) areas where there is a lack of segregation of duties within the financial operations of LSLA.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines,

instructions, and other directives of the LSC, including, but not limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide For LSC Recipients (2010 Ed.), the CSR Handbook, the LSC Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

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

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

LSLA management, as part of the CSR/CMS visit, completed the LSC Internal Control Worksheet, a matrix of the financial duties performed by the employees, designed to reveal internal control deficiencies within the financial operations. A review performed of the completed worksheet disclosed that there are four areas where there is a lack of segregation of duties within the financial operations of LSLA.

The LSC Internal Control Worksheet was completed by the Financial Director who serves as the Controller for LSLA. The worksheet was reviewed and the review disclosed internal control deficiencies; a lack of segregation of duties, within the following fiscal operations:

1. The Financial Director (Controller) prepares and approves the Bank Reconciliations.
2. The Building Engineer and the Director of Information Services both originate purchase orders, receives shipments of goods, compare the purchase orders to the invoices and maintain the goods.
3. The accountant maintains property records, takes the physical inventory of property and equipment and reconciles the property records to the General Ledger.
4. Surprise audits of the field offices petty cash funds are not conducted.

There is lack of financial staff at LSLA which causes the lack of segregation of duties within the financial operation.

The DR directed that LSLA must ensure that internal controls are improved in the following four (4) areas by segregating each individual duty to an employee independent of the other duties noted: 1) Controller should not perform both duties of performing the bank reconciliations and approving the bank reconciliations; 2) The duties of originating purchase orders, the receiving of goods, the matching of purchase orders to invoices, and the physical possession of the goods

should each be performed an employee independent of the other duties; 3) The duties maintaining of the property records, taking the physical inventory of property and equipment and the reconciliation of property records to the general ledger should each be performed by an employee independent of the other duties; and 4) Surprise audits of the petty cash funds should be performed and documented at least once a year by an employee independent of the petty cash function.

In its response to the DR, LSLA stated:

“LSLA management has implemented the following modifications in its procedures for internal control.

1.) The CFO will prepare bank reconciliations. Since the CFO will not have check signing authority or the ability to make wire transfers, this function does not compromise internal controls. The director of accounting will review the reconciliations on a monthly basis;

2.) In the future, no person shall have the ability to perform more than one of the following tasks: request a purchase, approve a purchase, order items requested, and receive items requested. This principle is in place and corrections to the purchasing process were implemented; and

3.) LSLA is implementing procedures where the individual who keeps the accounting records for equipment is not involved in the process of tracking inventory. LSLA is considering hiring temporary personal to perform physical inventories.”

Based on the information provided to LSC thus far the new procedures appear to be sufficient.

Additionally, from a limited review of the cash receipts logs, monthly deposits, cash receipts journal, bank statements, general ledger, financial statements, 2011 cash donors list, and interviews with staff, it was determined that on October 20, 2011, LSLA received a check in the amount of \$220,000 from a CY Pres Charitable Distribution (awarded in reference to a class action settlement). According to management, once this check was received, it was taken directly to the bank and deposited without being recorded in the cash receipts. A review of LSLA’s accounting manual revealed that there is no written policy for the processing of cash receipts. However there appears to be an unwritten process.

The DR directed that LSLA should develop a written policy for the processing of cash receipts, and ensure that all cash receipts received in the mail are recorded in the cash receipts log before they are deposited in the bank in order to comply with the fundamental criteria set forth in the LSC Accounting Guide, Appendix A.

In its response to the DR, LSLA stated:

“LSLA management has implemented procedures to improve internal controls over cash and check receipts. Specifically, we have implemented a receipt log that provides documentation

about the presence of two people during the opening of mail. This receipt log requires the initials of both parties present at the opening of incoming mail. This receipt log will subsequently provide supporting documentation for bank deposit transactions.”

Based on the information provided to LSC thus far the new procedures appear to be sufficient.

It is recommended that LSLA, in preparing its monthly bank reconciliations, compare its cash receipts log to its cash receipts journal to help identify those cash receipts that were deposited in the bank before being posted to the cash receipts log. Also, LSLA should consider posting all cash receipts related to its operating account to its cash receipts log.

Finding 32: The follow up review of the OIG fiscal comments disclosed that LSLA has instituted a procedure to have non-exempt employees follow proper overtime request procedures and obtain permission from management prior to working overtime, however contract employees do not always have current employment contracts with LSLA.

A review was made of the procedure by which non-exempt employees follow to request overtime (employee must complete an Overtime Request Form (ORF) and have it signed by his/her immediate supervisor and fax it to the Human Resources Department, which is to obtain the approval of the Chief Operating Officer and inform the non-exempt employee that permission to work overtime has been granted). Three (3) ORFs were reviewed and proper procedures were noted to have been followed.

A review was made of a sample of current contract employees’ contracts. The review disclosed that one of current contract employees did not have a contract, another did not sign the contract, and a third had management’s signature on the contract consisting of a rubber stamp in print form of the manager’s name affixed to the contract. LSA has not implemented the recommendation of OIG that all current contract employees have a proper contract.

The DR directed that LSLA should ensure that all contract workers at LSLA have properly executed contracts as required by the LSC’s OIG.

In its response to the DR, LSLA stated that their management has, and will continue to, ensure(d) that all contract workers at LSLA have properly executed contracts as recommended by LSC’s OIG.

Finding 33: From a limited review of LSLA’s financial documents it was revealed that the program received a Cy Pres Award on September 30, 2010 in the amount of \$53,655.17 and failed to disclose this information in their 2010 audited financial statements.

Cy Pres Awards are proceeds of class action litigation that are awarded to non- profit organizations with missions in line with the purpose of the litigation. From a limited review of the cash receipts logs, monthly deposits, cash receipts journal, bank statements, general ledger, financial statements, 2010 cash donors list, and interviews with staff, it was

determined that in September 2010, LSLA received a check in the amount of \$53,655.17 from a Cy Pres Charitable Distribution (awarded in reference to a class action settlement). LSLA failed to disclose this Cy Pres Award in the notes to the 2010 Audited Financial Statements as required by the fundamental criteria set in the LSC Accounting Guide, Appendix VII, H8, H1,1 and H12.

LSLA was directed to instruct their Independent Public Accountant Firm to disclose any future Cy Pres Awards in the notes to the financial statements.

In its response to the DR, LSLA stated that their management has asked their auditors to provide, in its notes to future financial statements, comments disclosing all Cy Pres Awards and any other similar awards.

IV. RECOMMENDATIONS³³

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

1. Reassess its policy of coding cases as PR and retrain staff, particularly in light of the clarification of the CSR timely closure requirements;

In its response to the DR, LSLA stated that they have reviewed the use of the PR category and moved PR cases to other categories, and will restrict use of the PR category henceforth. LSLA further stated that they will also amend training materials to incorporate this practice.

2. Train their intake workers on the applicability of the Violence Against Women Act 2006 Amendments, and its effects on otherwise ineligible aliens seeking legal assistance;

In its response to the DR, LSLA stated that their training and training materials will reemphasize this recommendation.

3. Conduct training of AVDA staff on LSC closing codes;

In its response to the DR, LSLA stated that they provided this training to AVDA managers and will schedule training for AVDA case handlers to take place in 2012.

4. Revise the asset section of the written intake form (the "Street Sheet") to be consistent within itself, and either ask only about countable assets or all assets;

In its response to the DR, LSLA that they have revised the "Street Sheet" regarding assets.

5. Consider adding the factor "current income prospects, taking into account seasonal variations in income" to the ACMS drop-down box as it is listed on the written form as an expense;

In its response to the DR, LSLA stated that their management will add the "current income prospects, taking into account seasonal variations in income" factor to the ACMS.

³³ 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.

6. Conduct training of HVLP staff including citizenship and eligible alien screening, documentation of legal assistance, and timeliness requirements;

In its response to the DR, LSLA stated that they provided training on this recommendation to the new HVLP Executive Director and managers, and scheduled training for case handlers to take place on July 12, 2012.

7. Conduct periodic reviews of case management and case status reports on open and closed PAI cases to ensure that: all PAI cases are timely closed, only timely closed cases are reported to LSC; and all case information relating to the provision of legal assistance is included in each file;

In its response to the DR, LSLA stated that, starting in 2012, LSLA will conduct quarterly case reviews for PAI cases. LSLA further stated that selected files will be reviewed monthly to reinforce training.

8. Request that an employee independent of the petty cash function perform and document an annual surprise audit of the petty cash funds; and

In its response to the DR, LSLA stated that their Chief Financial Officer will request that other management staff perform and document an annual surprise audit of petty cash funds in 2012, and thereafter.

9. Review all case files required to have a retainer agreement to verify that all agreements are properly executed and contain a detailed scope and subject matter of the representation.

In its response to the DR, LSLA stated that all case files which were required to have a retainer agreement were reviewed for 2011, and they will continue to review all such files in the future to verify that all agreements are properly executed and contain a detailed scope and subject matter of representation.

V. REQUIRED CORRECTIVE ACTIONS

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

1. Ensure it closes its PAI cases in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely closing of cases);

In its response to the DR, LSLA stated that their management will ensure it closes its PAI cases in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases).

2. Ensure that HVLP open case lists are accurate. Action should include a regular review of the HVLP generated case lists against the LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, and implementation of measures to ensure timely closure in the future;

In its response to the DR, LSLA stated that their management will ensure that HVLP open case lists are accurate by conducting a regular review of the HVLP generated case lists against LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, and will take measures to ensure timely closure in the future.

3. Ensure that AVDA and HVLP screen for income prospects during eligibility screening, and they do not include food stamps in the calculation of eligibility either by electronically removing them from the ACMS' or by instructing staff not to count them;

In its response to the DR, LSLA stated that their management will ensure that AVDA and HVLP screen for income prospects during eligibility screening, and they will ensure that they do not include food stamps in the calculation of eligibility either by electronically removing them from the ACMS or by instructing staff not to count them.

4. Ensure that HVLP cases are screened in accordance with the LSC Requirements and the LSLA Financial Eligibility Policy. HVLP must revise its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations, and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011);

In its response to the DR, LSLA stated that their management will ensure that HVLP cases are screened in accordance with LSC requirements and LSLA's Financial Eligibility Policy. LSLA further stated that HVLP, with LSLA's assistance, has revised its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations, and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011).

5. Conduct an additional review of Ethics Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas, to determine whether it

relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting;

In its response to the DR, LSLA stated the following:

“LSLA management has reviewed Ethic Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas to determine whether it relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting and has determined it does not relieve the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting. LSLA will develop an appropriate policy and procedures to relieve conflict check responsibilities for pro bono attorneys providing legal assistance in a clinic setting.”

6. Ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients;

In its response to the DR, LSLA stated that their management will ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients.

7. Ensure that all case files contain timely executed written citizenship attestations, or verifications of alien eligibility, pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate;

In its response to the DR, LSLA stated that their management will ensure that all case files contain timely executed written citizenship attestations or verifications of alien eligibility pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

8. Ensure that HVLP cases reported by LSLA has documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6;

In its response to the DR, LSLA stated that their management will ensure that HVLP cases reported by LSLA have documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

9. Ensure that subgrantee cases are closed with correct closure codes in accordance with CSR Handbook (2008 Ed., as amended 2011), Chapter VIII;

In its response to the DR, LSLA stated that their management will ensure that subgrantee cases are closed with correct closure codes in accordance with CSR Handbook (2008 Ed., as amended 2011), Chapter VIII.

10. Provide funders who contribute \$250 or more with written notification of the prohibitions and conditions which apply to those funds, and ensure that in the future, funders who

did not receive written notification are identified and provided with Thank You Letters informing them of LSC's requirements;

In its response to the DR, LSLA stated:

"LSLA management will provide donors who contribute \$250 or more with written notification of the prohibitions and conditions which apply to those funds, and ensure that in the future, donors who did not receive written notification are identified and provided with "Thank You Letters" informing them of LSC's requirements. LSLA sent such letters to all funders, grantors, and donors in February 2012."

11. Ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charge by attorneys and paralegals to all staff cases during the year;

In its response to the DR, LSLA stated:

"LSLA management will ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charged by attorneys and paralegals to all staff cases during the year."

12. Ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI;

In its response to the DR, LSLA stated that their management will ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI.

13. Ensure that vacations earned and vested by employees are recorded currently;

In its response to the DR, LSLA stated:

"LSLA has contracted with Gainer, Donnelly, & Desroches (GDD), our independent external auditors, to review our payroll and benefit processes. Part of this review will examine the vacation record keeping procedures and make recommendations to correct identified issues. LSLA management will ensure that vacations earned and vested by employees are properly and currently recorded."

14. Ensure that internal controls are improved in the following four areas by segregating each individual duty to an employee independent of the other duties noted: 1) Controller

should not perform both duties of performing the bank reconciliations and approving the bank reconciliations; 2) The duties of originating purchase orders, the receiving of goods, the matching of purchase orders to invoices, and the physical possession of the goods should each be performed an employee independent of the other duties; and 3) The duties maintaining of the property records, taking the physical inventory of property and equipment and the reconciliation of property records to the general ledger should each be performed by an employee independent of the other duties;

In its response to the DR, LSLA stated:

“LSLA management has implemented the following modifications in its procedures for internal control.

1.) The CFO will prepare bank reconciliations. Since the CFO will not have check signing authority or the ability to make wire transfers, this function does not compromise internal controls. The director of accounting will review the reconciliations on a monthly basis;

2.) In the future, no person shall have the ability to perform more than one of the following tasks: request a purchase, approve a purchase, order items requested, and receive items requested. This principle is in place and corrections to the purchasing process were implemented; and

3.) LSLA is implementing procedures where the individual who keeps the accounting records for equipment is not involved in the process of tracking inventory. LSLA is considering hiring temporary personal to perform physical inventories.”

15. Ensure that separate records are maintained documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6 of the regulation;

In its response to the DR, LSLA stated that their management will ensure that separate records are maintained documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6 of the regulation.

16. Ensure that all contract workers at LSLA have properly executed contracts as required by LSC's OIG;

In its response to the DR, LSLA stated that their management has, and will continue to, ensure(d) that all contract workers at LSLA have properly executed contracts as required by LSC's OIG.

17. Ensure compliance with 45 CFR § 1612.6 of the regulation which does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any legislative and rulemaking activity;

In its response to the DR, LSLA stated that their management will ensure compliance with 45 CFR § 1612.6 of the regulation which does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any legislative and rulemaking activity.

18. Ensure that \$282 is transferred back to the LSC fund for 2010 (using an inter-fund transfer), for using LSC funds for legislative and rulemaking activities;

In its response to the DR, LSLA stated that they transferred the charge of \$282.00 to LSC funds from unrestricted funds and provided evidence of transfer.

19. Ensure that \$42 is re-classified for 2011 (using a journal entry or inter-fund transfer based on the timing of the completion of the 2011 annual audited financial statements), for using LSC funds for legislative and rulemaking activities;

In its response to the DR, LSLA stated that their management transferred the charge of \$42.00 to LSC funds from unrestricted funds and provided evidence of transfer.

20. Ensure that LSLA, HVLP, and AVDA disclose in a footnote in their December 31, 2011 audited financial statements, the nature of their relationship;

In its response to the DR, LSLA stated that their management has asked their auditor, HVLP, and AVDA to provide in its notes to future financial statements, comments disclosing the fiscal relationship between LSLA, HVLP, and AVDA.

21. Ensure that HVLP provide their 2010 audited financial statements no later than February 28, 2012;

In its response to the DR, LSLA stated that HVLP provided their 2011 audited financial statements to LSLA and LSC in a timely manner.

22. Ensure that \$3,360 is transferred back to the LSC fund for 2009-2010 (using an inter-fund transfer), for over charging the LSC fund for non-mandatory membership dues and fees;

In its response to the DR, LSLA stated that their management transferred the charges totaling \$3,360.00 to LSC funds from unrestricted funds and provided evidence of transfer.

23. Ensure that \$1,425 is re-classified for 2011 (using a journal entry or inter-fund transfer, based on the timing of the completion of the 2011 annual audited financial statements), for over charging the LSC fund for non-mandatory membership dues and fees;

In its response to the DR, LSLA stated that their management transferred the charges of \$1,425.00 to LSC funds from unrestricted funds and provided evidence of transfer.

24. Instruct its Independent Public Accountant Firm to disclose any future Cy Pres Awards in the notes to the Financial Statements; and

In its response to the DR, LSLA stated that their management has asked their auditors to provide, in its notes to future financial statements, comments disclosing all Cy Pres Awards and any other similar awards.

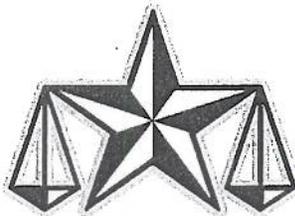
25. Develop a written policy for the processing of cash receipts and ensure that all cash receipts received in the mail are recorded in the cash receipts log before they are deposited in the bank.

In its response to the DR, LSLA stated:

“LSLA management has implemented procedures to improve internal controls over cash and check receipts. Specifically, we have implemented a receipt log that provides documentation about the presence of two people during the opening of mail. This receipt log requires the initials of both parties present at the opening of incoming mail. This receipt log will subsequently provide supporting documentation for bank deposit transactions.”

PAUL FURRH, JR.
Attorney at Law
Chief Executive Officer

DWAYNE BILTON
Attorney at Law
Chief Operating Officer



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Houston, TX 77002
(713) 652-0077 Telephone
(713) 652-2709 Facsimile

Lone Star Legal Aid

July 03, 2012

Ms. Lora M. Rath
Acting Director
Office of Compliance and Enforcement
LEGAL SERVICES CORPORATION
3333 K Street, NW 3rd Floor
Washington, DC 20007-3522

*Re: Response to CSR/CMS Visit of Lone Star Legal Aid, December 5-9, 2011 –
Recipient No. 744060*

Dear Ms. Rath:

Please find attached LSLA's response and comments to the LSC OCE CSR/CMS visit which took place during the week of December 05, 2011. LSLA management has carefully reviewed the report and has taken steps to adopt and implement OCE's recommendations and corrective actions noted on the report.

I appreciate your offer for OCE to be available as a resource, and your agreement to give us extra time to respond. Your team performed an extraordinary job by reviewing just under 2,000 files in thirteen offices in a 70,000 square mile service area in a week. All of your team members were helpful and served as resources during the visit. In particular, team leader Shila Mashhadishafie kept everyone moving at a brisk pace, but was always available to ask questions and serve as a resource to LSLA.

Thank you for all your courtesies in this visit. We learned a great deal from this visit and expect to be a better legal services program because of it.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul E. Furrh, Jr.', with a large, stylized flourish at the end.

PAUL E. FURRH, JR.
Chief Executive Officer

*Ms. Lora M. Rath
Office of Compliance and Enforcement
Legal Services Corporation
July 03, 2012
Page Two*

PEF:rc

Attachment: *LSLA's Response and Comments to CSR/CMS Visit of December 5-9, 2011*

cc: Professor David Swenson (w/attachment)
Chair, Board of Directors

Mr. Dwayne Bilton (w/attachment)
Mr. Ernest W. Brown (w/attachment)
Mr. Clen Burton (w/attachment)
Mr. Richard Tomlinson (w/attachment)
Ms. Debra Wray (w/attachment)

**Response to Draft Report of the
LSC Office of Compliance and Enforcement
Case Service Report/Case Management System Review
of Lone Star Legal Aid, December 5-9, 2011
Recipient No. 74460**

IV. Recommendations

LSLA has taken steps to adopt and implement all of the recommendations listed in one through nine.

1. Reassess its policy of coding cases as PR and retrain staff, particularly in light of the clarification of the CSR timely closure requirements.

Response: LSLA reviewed the use of the PR category and moved 2011 cases to other categories, and will restrict use of PR category henceforth. We also amended training materials to incorporate this practice.

2. Train their intake workers on the applicability of the Violence Against Women Act 2006 Amendments, and its effects on otherwise ineligible aliens seeking legal assistance.

Response: LSLA training and training materials will reemphasize this recommendation.

3. Conduct training of AVDA staff on LSC closing codes.

Response: LSLA provided this training to AVDA managers and will schedule training for case handlers in 2012.

4. Revise the asset section of the written intake form (the "Street Sheet") to be consistent within itself, and either ask only about countable assets or all assets.

Response: LSLA has revised the "Street Sheet" regarding assets.

5. Consider adding the factor “current income prospects, taking into account seasonal variations in income” to the ACMS drop-down box as it is listed on the written form as an expense.

Response: LSLA management will add the “current income prospects, taking into account seasonal variations in income” factor to the ACMS.

6. Conduct training of HVLP staff including citizenship and eligible alien screening, documentation of legal assistance, and timeliness requirements.

Response: LSLA provided training on this recommendation to the new HVLP Executive Director and managers, and has scheduled training for case handlers on July 12, 2012.

7. Conduct periodic reviews of case management and case status reports on open and closed PAI cases to ensure that: (1) all PAI cases are timely closed, (2) only timely closed cases are reported to LSC, and (3) all case information relating to the provision of legal assistance is included in each file.

Response: Starting in 2012, LSLA conducts quarterly case reviews for PAI cases. In addition, selected files will be reviewed monthly to reinforce training.

8. Request that an employee independent of the petty cash function perform and document an annual surprise audit of the petty cash funds.

Response: The Chief Financial Officer will request that other management staff perform and document an annual surprise audit of petty cash funds in 2012, and thereafter.

9. Review all case files required to have a retainer agreement to verify that all agreements are properly executed and contain a detailed scope and subject matter of the representation.

Response: All case files required to have a retainer agreement were reviewed for 2011, and will be in the future to verify that all agreements are properly executed and contain a detailed scope and subject matter of representation.

V. Required Corrective Actions

LSLA hired a Chief Financial Officer in May 2012, and has given him the responsibility and authority to make the corrective actions related to fiscal matters.

1. Ensure it closes its PAI cases in compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases).

***Response:* LSLA management will ensure it closes its PAI cases in compliance with the requirements of CSR Handbook, (2008 Ed., as amended 2011), § 3.3 (Timely Closing of Cases).**

2. Ensure that HVLP open case lists are accurate. Action should include a regular review of the HVLP generated case lists against the LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, and implementation of measures to ensure timely closure in the future.

***Response:* LSLA management will ensure that HVLP open case lists are accurate by conducting a regular review of the HVLP generated case lists against LSLA's database of HVLP cases, closure of dormant cases, periodic review of HVLP case files, and will take measures to ensure timely closure in the future.**

3. Ensure that AVDA and HVLP screen for income prospects during eligibility screening, and they do not include food stamps in the calculation of eligibility either by electronically removing them from the ACMS or by instructing staff not to count them.

***Response:* LSLA management will ensure that AVDA and HVLP screen for income prospects during eligibility screening, and they do not include food stamps in the calculation of eligibility either by electronically removing them from the ACMS or by instructing staff not to count them.**

4. Ensure that HVLP cases are screened in accordance with the LSC Requirements and the LSLA Financial Eligibility Policy. HVLP must revise its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations, and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011).

***Response:* LSLA management will ensure that HVLP cases are screened in accordance with the LSC Requirements and the LSLA Financial Eligibility Policy. HVLP, with LSLA's assistance has revised its procedures to ensure that cases reported to LSC are screened for assets and eligible alien documentation in accordance with LSC regulations,**

and that the citizenship attestation complies with the CSR Handbook (2008 Ed., as amended 2011).

5. Conduct an additional review of Ethics Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas, to determine whether it relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting.

Response: LSLA management has reviewed Ethic Opinion No. 608, August 2011, issued by the Professional Ethics Committee for the State Bar of Texas to determine whether it relieves the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting and has determined it does not relieve the conflict check responsibilities of pro bono attorneys providing legal assistance in a clinic setting. LSLA will develop an appropriate policy and procedures to relieve conflict check responsibilities for pro bono attorneys providing legal assistance in a clinic setting.

6. Ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients.

Response: LSLA management will ensure that an over-income exception approval is obtained for all applicants whose income is over 125% of FPG before they are accepted as clients.

7. Ensure that all case files contain timely executed written citizenship attestations or verifications of alien eligibility pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

Response: LSLA management will ensure that all case files contain timely executed written citizenship attestations or verifications of alien eligibility pursuant to 45 CFR Part 1626 and CSR Handbook (2008 Ed., as amended 2011), § 5.5, where appropriate.

8. Ensure that HVLP cases reported by LSLA has documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

Response: LSLA management will ensure that HVLP cases reported by LSLA have documented legal advice in compliance with the CSR Handbook (2008 Ed., as amended 2011), § 5.6.

9. Ensure that subgrantee cases are closed with correct closure codes in accordance with CSR Handbook (2008 Ed., as amended 2011), Chapter VIII.

Response: LSLA management will ensure that subgrantee cases are closed with correct closure codes in accordance with CSR Handbook (2008 Ed., as amended 2011), Chapter VIII.

10. Provide donors who contribute \$250 or more with written notification of the prohibitions and conditions which apply to those funds, and ensure that in the future, donors who did not receive written notification are identified and provided with “Thank You Letters” informing them of LSC’s requirements.

Response: LSLA management will provide donors who contribute \$250 or more with written notification of the prohibitions and conditions which apply to those funds, and ensure that in the future, donors who did not receive written notification are identified and provided with “Thank You Letters” informing them of LSC’s requirements. LSLA sent such letters to all funders, grantors, and donors in February 2012.

11. Ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charged by attorneys and paralegals to all staff cases during the year.

Response: LSLA management will ensure that indirect expenses (rent, telephone, supplies, etc.) charged to the PAI allocation are based upon operational data such as the percentage of closed PAI cases to all closed cases for the year or the percentage of hours of attorneys and paralegals charged to PAI to the total hours charged by attorneys and paralegals to all staff cases during the year.

12. Ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI.

Response: LSLA management will ensure that the wage rate charged to the PAI allocation is based upon the total potential hours scheduled to work during a year divided into the annual salary for employees that do not devote a 100% of their time to PAI.

13. Ensure that vacations earned and vested by employees are recorded currently.

Response: LSLA has contracted with Gainer, Donnelly, & Desroches (GDD), our independent external auditors to review our payroll and benefit processes. Part of this review will examine the vacation record keeping procedures and make recommendations to correct identified issues. LSLA management will ensure that vacations earned and vested by employees are properly and currently recorded.

14. Ensure that internal controls are improved in the following four areas by segregating each individual duty to an employee independent of the other duties noted: (1) Controller should not perform both duties of performing the bank reconciliations and approving the bank reconciliations; (2) The duties of originating purchase orders, the receiving of goods, the matching of purchase orders to invoices, and the physical possession of the goods should each be performed by an employee independent of the other duties; and (3) The duties maintaining of the property records, taking the physical inventory of property and equipment and the reconciliation of property records to the general ledger should each be performed by an employee independent of the other duties.

Response: LSLA management has implemented the following modifications in its procedures for internal control.

- 1.) The CFO will prepare bank reconciliations. Since the CFO will not have check signing authority or the ability to make wire transfers, this function does not compromise internal controls. The director of accounting will review the reconciliations on a monthly basis;
 - 2.) In the future, no person shall have the ability to perform more than one of the following tasks: request a purchase, approve a purchase, order items requested, and receive items requested. This principle is in place and corrections to the purchasing process were implemented; and
 - 3.) LSLA is implementing procedures where the individual who keeps the accounting records for equipment is not involved in the process of tracking inventory. LSLA is considering hiring temporary personal to perform physical inventories.
15. Ensure that separate records are maintained documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6 of the regulation.

Response: LSLA management will ensure that separate records are maintained documenting the expenditure of non-LSC funds for legislative and rulemaking activities permitted by 45 CFR § 1612.6 of the regulation.

16. Ensure that all contract workers at LSLA have properly executed contracts as required by LSC's OIG.

Response: LSLA management has and will ensure that all contract workers at LSLA have properly executed contracts as required by LSC's OIG.

17. Ensure compliance with 45 CFR § 1612.6 of the regulation which does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any legislative and rulemaking activity.

Response: LSLA management will ensure compliance with 45 CFR § 1612.6 of the regulation which does not allow LSC funds to be used to pay for administrative overhead or related costs associated with any legislative and rulemaking activity.

18. Ensure that \$282 is transferred back to the LSC fund for 2010 (using an inter-fund transfer) for using LSC funds for legislative and rulemaking activities.

Response: LSLA has transferred \$282.00 from LSC funds to unrestricted funds. See attached journal entry.

19. Ensure that \$42 is reclassified for 2011 (using a journal entry or inter-fund transfer based on the timing of the completion of the 2011 annual audited financial statements), for using LSC funds for legislative and rulemaking activities.

Response: LSLA management has transferred \$42.00 from LSC funds to unrestricted funds. See attached journal entry.

20. Ensure that LSLA, HVLP, and AVDA disclose in a footnote in their December 31, 2011 audited financial statements, the nature of their relationship.

Response: LSLA management has asked our Auditor, HVLP, and AVDA to provide in its notes to future financial statements, comments disclosing the fiscal relationship between LSLA, Houston Volunteer Lawyers Program (HVLP), and Aid to Victims of Domestic Abuse (AVDA).

21. Ensure that HVLP provide their 2010 audited financial statements no later than February 28, 2012.

Response: HVLP has provided their 2010 audited financial statements to LSLA and LSC.

22. Ensure that \$3,360 is transferred back to the LSC fund for 2009-2010 (using an inter-fund transfer), for overcharging the LSC fund for non-mandatory membership dues and fees.

Response: LSLA management has transferred \$3,360.00 from LSC funds to unrestricted funds. See attached journal entry.

23. Ensure that \$1,425 is reclassified for 2011 (using a journal entry or inter-fund transfer, based on the timing of the completion of the 2011 annual audited financial statements), for overcharging the LSC fund for non-mandatory membership dues and fees.

Response: LSLA management has transferred \$1,425.00 from LSC funds to unrestricted funds. See attached journal entry.

24. Instruct its Independent Public Accountant Firm to disclose any future *Cy Pres Awards* in the notes to the Financial Statements.

Response: LSLA management has asked our Auditors to provide in its notes to future financial statements comments disclosing all *Cy Pres Awards* and any other similar awards.

25. Develop a written policy for the processing of cash receipts and ensure that all cash receipts received in the mail are recorded in the cash receipts log before they are deposited in the bank.

Response: LSLA management has implemented procedures to improve internal controls over cash and check receipts. Specifically, we have implemented a receipt log that provides documentation about the presence of two people during the opening of mail. This receipt log requires the initials of both parties present at the opening of incoming mail. This receipt log will subsequently provide supporting documentation for bank deposit transactions.

**ATTACHMENT TO REQUIRED CORRECTION
ACTION NUMBERS 18, 19, 22 AND 23**

ACCOUNTS CODE	DESCRIPTION	DEBIT	CREDIT
Required Corrective Action 18			
28-00-00-3001	Unrestricted Fund Balance	\$282.00	
01-00-00-3001	LSC Fund Balance		\$282.00
Transfer disallowed legislative and rulemaking activities cost from LSC to unrestricted fund for 2010			
Required Corrective Action 19			
28-00-00-3001	Unrestricted Fund Balance	\$42.00	
01-00-00-3001	LSC Fund Balance		\$42.00
Transfer disallowed legislative and rulemaking activities cost from LSC to unrestricted fund for 2011			
Required Corrective Action 22			
28-00-00-3001	Unrestricted Fund Balance	\$3,360.00	
01-00-00-3001	LSC Fund Balance		\$3,360.00
Transfer disallowed LSC non-mandatory membership dues and fees cost to unrestricted fund for 2009-10			
Required Corrective Action 23			
28-00-00-3001	Unrestricted Fund Balance	\$1,425.00	
01-00-00-3001	LSC Fund Balance		\$1,425.00
Reclassify disallowed LSC non-mandatory membership dues and fees cost to unrestricted fund for 2011			
	Total	\$5,109.00	\$5,109.00