



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Legal Aid of Wyoming, Inc.
Case Service Report/Case Management System Review
June 11 – 14, 2012

Recipient No. 951050

I. EXECUTIVE SUMMARY

Finding 1: LAWyoming’s automated case management system (“ACMS”) is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded, but due to human error, information contained in one of the case lists provided prior to the on-site visit was inconsistent with the information disclosed by LAWyoming during the on-site visit.

Finding 2: LAWyoming’s financial eligibility policy is compliant with 45 CFR Part 1611. However, its manner of determining financial eligibility is inconsistent with both its own procedures and LSC regulations.

Finding 3: LAWyoming is in substantial compliance with LSC’s income eligibility documentation requirements.

Finding 4: LAWyoming is in substantial compliance with LSC’s asset eligibility documentation requirements.

Finding 5: LAWyoming is in non-compliance with LSC’s citizenship/alien eligibility documentation requirements.

Finding 6: LAWyoming is in substantial compliance with the requirements of 45 CFR § 1611.9 (Retainer agreements).

Finding 7: LAWyoming is in non-compliance with the requirements of 45 CFR Part 1636.

Finding 8: LAWyoming is in compliance with the requirements of 45 CFR §§ 1620.4 and 1620.6(c).

Finding 9: LAWyoming is in substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6.

Finding 10: LAWyoming’s application of the CSR case closure categories is substantially compliant with Chapter VIII, CSR Handbook (2008 Ed., as amended 2011)

Finding 11: LAWyoming is in substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 “Timely Closing of Cases”.

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

Finding 13: LAWyoming is in compliance with the requirements of 45 CFR Part 1604 (Outside practice of law).

Finding 14: LAWyoming is in compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: LAWyoming is in compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: A review of LAWyoming's accounting and financial records evidenced substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 17: LAWyoming is in substantial compliance with 45 CFR Part 1614 (Private Attorney Involvement) .

Finding 18: LAWyoming is in compliance with 45 CFR § 1627.4(a) (Membership fees or dues) .

Finding 19: LAWyoming is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 20: LAWyoming is in compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 21: LAWyoming is in compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 22: LAWyoming is in 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: LAWyoming is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 24: LAWyoming is in compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

Finding 26: LAWyoming is in compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 27: LAWyoming is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

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

Finding 29: LAWyoming is in compliance with the requirements of LSC statutory prohibitions against abortion related legal assistance (42 USC 2996f § 1007 (a) (8) , school desegregation litigation (42 USC 2996f § 1007(a)(9) and military selective service act or desertion related legal assistance (42 USC 2996f § 1007(a)(10)).

Finding 30: LAWyoming utilizes accounting software which may not be satisfactory for fund based accounting, and allows entries to be changed directly rather than requiring changes to be made and documented through journal entries.

Finding 31: LAWyoming is in substantial compliance with the Accounting Guide for LSC Recipients (2010 Ed.) (“Accounting Guide”) as it maintains adequate supporting documentation of payments and corresponding reviews and approvals. However, deficiencies in its internal controls were noted.

II. BACKGROUND OF REVIEW

On June 11 through 14, 2012, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site visit at Legal Aid of Wyoming, Inc. ("LAWyoming"). The purpose of the visit was to assess the recipient's compliance with the LSC Act of 1974, as amended, (the "LSC Act"), regulations, and other applicable LSC guidance such as Program Letters, the Accounting Guide for LSC Recipients (2010 Ed.) (the "Accounting Guide"), and the Property Acquisition and Management Manual ("PAMM"). The visit was conducted by a team of three (3) attorneys and two (2) fiscal analysts. Two (2) of the attorneys and one (1) of the fiscal analysts were OCE staff members; one (1) of the attorneys and the remaining fiscal analyst were temporary employees.

The on-site visit was designed and executed to assess LAWyoming's compliance with basic client eligibility, intake, case management, regulatory and statutory requirements and to ensure that LAWyoming has correctly implemented the CSR Handbook (2008 Ed., as amended 2011). Specifically, the review team assessed LAWyoming's compliance with the regulatory requirements of: 45 CFR Part 1611 (Financial eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1604 (Outside practice of law); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement) ("PAI"); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees)¹; 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR 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).

LAWyoming is a non-profit legal services organization that provides free civil legal services to eligible clients in LSC service areas WY-45 and NWY-1, consisting of the State of Wyoming. According to LSC's Recipient Information Network ("RIN"), the service area is 97,818 square miles, with a poverty population totaling 54,777. LAWyoming is headquartered in Cheyenne and maintains field offices in Casper, Lander, and Ft. Washakie. See www.newrin.lsc.gov.

In 2010, LAWyoming received funding from LSC totaling \$782,452.00; total LSC funding in 2011 was \$750,383.00; and in 2012, total LSC funding is \$754,617.00.² In addition to its LSC

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

² In 2010, LAWyoming received an LSC basic field award in the amount of \$569,030.00; a Native American grant for \$199,098.00; and a Migrant grant for, \$14,324.00. In 2011, it received an LSC basic field award in the amount of \$555,667.00; a Native American grant for \$191,143.00; and a Migrant grant for \$3,573.00. In 2012, it received

funding, LAWyoming receives grant and contract support from local, state and federal, and/or private sources. Accordingly, LSC and non-LSC grant support totaled \$869,784.00 in 2010 and \$1,802,283.00 in 2011.

LAWyoming is staffed by an Executive Director, a Deputy Director, a bookkeeper, a PAI coordinator/administrative assistant, one (1) attorney supervisor, a tribal advocate, two (2) staff attorneys, two (2) intake specialists, and two (2) paralegal/legal assistants.

Prior to the on-site visit, LAWyoming provided a copy of its priorities and case acceptance policy. The case priorities are stated as domestic relations, public benefits, consumer litigation, housing litigation, Native American rights, senior services, taxpayer assistance, and Title 20 involuntary commitment defenses.

For 2010, LAWyoming reported 1,063 closed cases, including 35 PAI cases. Family law accounted for approximately 65% of all closed cases; consumer, 15%; housing, 10%; miscellaneous, 4%; income maintenance, 2%; juvenile, 2%; and employment, 1%. Education, health, and individual rights combined for approximately 1%. Approximately 93% of all closed cases were closed after counsel and advice or limited action; 4% were court decision; 2% were settled; less than 1% were agency decisions; and less than .5% were extensive service. In that same year, LAWyoming reported an error rate of 7.8%. Exceptions were noted with respect to CSR Handbook (2008 Ed.), §§ 5.5 and 5.6.

For 2011, LAWyoming reported 1,007 closed cases, including 35 PAI cases. Family law accounted for 55% of all closed cases; consumer, 20%; housing, 10%; miscellaneous, 8%; income maintenance, 3%; juvenile, 2%; and employment, 1%. Education, health and individual rights combined for approximately 1%. Approximately 89% of all closed cases were closed after counsel and advice or limited action; 6% were court decision; 4% were settled; less than .5% were agency decisions; and less than 1% were extensive service. In that same year, LAWyoming reported an error rate of 3.7%. Exceptions were noted with respect to CSR Handbook (2008 Ed., as amended 2011), §§ 5.4, 5.5 and 5.6.

In preparation for the visit, OCE requested that LAWyoming provide, among other things, a list of all cases reported to LSC in its 2010 CSR data submission ("closed 2010 cases"), a list of all cases reported to LSC in its 2011 CSR data submission ("closed 2011 cases"), a list of all cases closed between January 1 and April 15, 2012 ("closed 2012 cases"), and a list of all cases which remained open as of April 15, 2012 ("open cases"). OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by one of LAWyoming's staff or by a private attorney pursuant to 45 CFR Part 1614. LAWyoming 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). LAWyoming was requested to promptly notify OCE, in writing, if it believed

basic field in the amount of \$591,865.00 and Native American in the amount of \$162,752.00. For 2012, LAWyoming's Migrant grant was folded into its basic field award.

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

LAWyoming responded that it would afford OCE access through the use of staff intermediaries. In other words, LAWyoming would maintain possession of its case cases and disclose to OCE, via the intermediary, client names, case numbers, financial eligibility information, citizenship/alien eligibility information, retainer agreements, Part 1636 statements, and materials otherwise available in the public record. LAWyoming further agreed to disclose both the general nature of the client's legal problem and the general nature of the legal assistance provided.

Thereafter, LAWyoming provided the requested materials. OCE then selected a sample of 293 cases to be reviewed during the visit. An effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was distributed proportionally among open and closed cases, as well as among LAWyoming's various field office locations. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, application of the CSR case closure categories, and duplicate reporting.

In the course of the visit, OCE visited three (3) of LAWyoming's four (4) field office locations.³ The team also interviewed members of LAWyoming's upper and middle management, staff attorneys, and support personnel. In the course of the visit, OCE reviewed 288 cases, including 85 open cases, 85 closed 2012 cases, 62 closed 2011 cases, and 56 closed 2010 cases.⁴ Among the cases that were examined during the on-site visit, 220 were randomly selected and 68 were selected to test for compliance with specific sections of the CSR Handbook (2008 Ed., as amended 2011).

LAWyoming afforded access to the information in the cases through the use of intermediaries. Specifically, in the course of the on-site visit, LAWyoming used its ACMS to access the case information required by OCE in assessing recipient compliance with LSC's regulatory and reporting requirements. Although on some occasions, LAWyoming consulted the hard copy file, generally, most of the information disclosed during the case review was accessed via the ACMS. LAWyoming disclosed the client names, eligibility information, the problem code, and the nature of the legal assistance provided. During the visit, OCE was allowed to view retainer agreements, as well as the Part 1626 documentation, the Part 1636 statements, and information otherwise available in the public record. LAWyoming did not withhold any information requested by OCE during the on-site visit.

By letter dated August 3, 2012, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. LAWyoming was asked to review the DR and provide written comments within 30 days. By letter dated August 31, 2012, LAWyoming submitted its comments to the DR. LAWyoming commented relative to Finding 1, but otherwise found no objection to the DR.

³ Cases and materials from the Ft. Washakie field office were reviewed in the Lander office.

⁴ There were no missing files. Rather, one (1) member of the team inadvertently neglected to review the five (5) files selected for review from the closed 2012 Lander Staff non-CSR Reportable case list.

OCE has carefully considered LAWyoming's comments and has either accepted and incorporated them within the body of the report, or responded accordingly. LAWyoming's comments, in their entirety, are attached to this Final Report.

III. FINDINGS

Finding 1: LAWyoming’s automated case management system (“ACMS”) is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded, but due to human error, information contained in one of the case lists provided prior to the on-site visit was inconsistent with the information disclosed by LAWyoming during the on-site visit.

Recipients are required to utilize an 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.

Additionally, the CSR Handbook (2008 Ed., as amended 2011), § 3.5, requires that recipients establish a method in their ACMS that will enable them to identify and de-select cases that are not reportable to LSC. Any system that accomplishes the goal of easily de-selecting any cases opened as LSC reportable that are not eligible to be closed as CSR “cases” from the recipients’ CSR data submission is sufficient.

LAWyoming uses PIKA software for its ACMS. LAWyoming advised that PIKA provides a web-based, centralized ACMS. A brief demonstration of the system revealed that it is capable of storing case information and generating a variety of reports, *e.g.*, according to staff, open date, problem code, etc., necessary to effective case management and attorney supervision.

LAWyoming’s system of de-selecting cases is generally effective. The cases that had been identified for de-selection generally involved applicants who failed to maintain contact with LAWyoming.⁵ However, based on discussions with LAWyoming, a review of the ACMS, and a comparison of the information yielded by the ACMS to information contained in the cases sampled, LAWyoming’s ACMS may be insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

As noted previously, prior to the on-site visit LAWyoming provided OCE with lists of open, closed 2012, closed 2011, and closed 2010 cases. In a comparison of the information yielded by the ACMS to the information contained in the case lists, OCE noted 10 instances in which the information contained in the case lists provided prior to the on-site visit was inconsistent with the information disclosed by LAWyoming during the on-site visit. All 10 of the cases appeared on the lists of lists of open PAI cases, and in each such instance, the case number contained on the case lists was different from the case number assigned to the file, as disclosed by LAWyoming. For example, the case list reported Cheyenne open PAI File No. 10-01-02329. However, using

⁵ Three (3) of the cases that were examined during the on-site visit appeared to have been de-selected in error. *See* Casper closed 2012 File No.12-02-05033 (client was eligible, case was within LAWyoming’s, and permissible legal assistance was provided). The other two (2) cases are discussed at footnote 26.

its ACMS, the case number disclosed by LAWyoming was File No. 10-05-00185. *See also*, Cheyenne open PAI File No. 10-01-02512 (case number disclosed by LAWyoming was File No. 11-01-04045); Cheyenne open PAI File No. 10-01-02591 (case number disclosed by LAWyoming was File No. 11-02-04842); Cheyenne open PAI File No. 10-05-00185 (case number disclosed by LAWyoming was File No. 11-02-04844); Cheyenne open PAI File No. 11-01-02750 (case number disclosed by LAWyoming was File No. 10-01-02529); Casper open PAI File No. 11-02-02696 (case number disclosed by LAWyoming was File No. 10-01-02027); Casper open PAI File No. 11-02-03480 (case number disclosed by LAWyoming was 12-01-05333); Casper open PAI File No. 11-02-04842 (case number disclosed by LAWyoming was File No. 10-01-02202); Casper open PAI File No. 11-02-04844 (case number disclosed by LAWyoming was File No. 10-01-02381); and Lander open PAI File No. 12-03-05510 (case number disclosed by LAWyoming was File No. 10-01-02591). As well, closed 2012 File Nos. 12-03-05233, 12-03-05279, and 12-03-05280 appeared on both the Lander and Ft. Washakie case lists.

OCE did not request and LAWyoming did not offer an explanation for these inconsistencies during the on-site visit, but in response to this Draft Report, OCE requests that LAWyoming address these inconsistencies.

In its comments to the DR, LAWyoming objected to Finding 1 and stated that it provided the case information requested by OCE in over 30 Microsoft Excel spreadsheets and the list of open PAI cases was the only report that had problems.

LAWyoming's comments explained that the information provided was generated from PIKA, and then exported into Microsoft Excel. While trying to sort the cases in Microsoft Excel, there was a human error which caused the case numbers to shift making the list inconsistent with the case numbers that were actually assigned. If the report was generated from PIKA and not exported to Microsoft Excel, the information would have been accurate.

LAWyoming further stated that this issue was discussed with the OCE team at the time of the visit. It was explained that it was human error when the Excel spreadsheet was incorrectly sorted and not a problem with the case management system.

OCE has carefully considered LAWyoming's comment and has revised the Final Report accordingly.

Finding 2: LAWyoming's financial eligibility policy is compliant with 45 CFR Part 1611. However, its manner of determining financial eligibility is inconsistent with both its own procedures and LSC regulations.

LSC regulations require that the governing body of a recipient adopt policies consistent with 45 CFR Part 1611 for determining the financial eligibility of applicants and groups. At a minimum, each recipient's financial eligibility policy must: (1) specify that only individuals and groups determined to be financially eligible under the recipient's financial eligibility policies and LSC regulations may receive legal assistance supported with LSC funds; (2) establish an annual

income ceiling not to exceed 125% of the Federal Poverty Guidelines (“FPG”); (3) establish asset ceilings; and (4) specify that, notwithstanding any other provisions of the regulation or the recipient’s financial eligibility policies, in assessing the financial eligibility of an individual known to be a victim of domestic violence, the recipient shall consider only the income and assets of the applicant and shall not consider any assets jointly held with the abuser. *See* 45 CFR § 1611.3; *see also*, 70 *Federal Register* 45545, at 45550 (August 8, 2005).

As part of its financial eligibility policy, recipients may adopt authorized exceptions to its annual income ceiling consistent with 45 CFR § 1611.5. *See* 45 CFR § 1611.3(c)(2). The policy may also authorize the Executive Director, or his/her designee, to waive the recipient’s asset ceilings for specific applicants under unusual circumstances. When the asset ceiling is waived, recipients are required to document the reasons for the waiver and maintain such records as are necessary to inform LSC of the reasons for such waiver. *See* 45 CFR § 1611.3(d)(2).

Additionally, the policy may permit financial eligibility to be determined by reference to an applicant’s receipt of benefits from a governmental program for low-income individuals or families, provided that the recipient has determined that the income standards of the governmental program are at or below 125% of the FPG and that the governmental program has eligibility standards which include an asset test. *See* 45 CFR §§ 1611.3(f) and 1611.4(c); *see also*, 70 *Federal Register* at 45553.

Prior to the on-site visit, LAWyoming provided a copy of its financial eligibility policy. The policy was approved by LAWyoming’s governing body on June 30, 2010. The policy meets each of the minimum regulatory requirements. It establishes an annual income ceiling of 125% of the FPG, and an asset ceiling of \$5,000.00 for individuals and an additional \$3,000.00 for each member of the household. The policy also contains statements that are consistent with 45 CFR §§ 1611.3(b) and (e), 1611.4(c), 1611.7(d), and 1611.8. As well, the policy addresses group representation in a manner consistent with 45 CFR § 1611.6.

The policy instructs staff to make reasonable inquiry regarding the sources of an applicant’s income, the applicant’s income prospects, and the applicant’s assets. It incorporates each of the authorized exceptions to the annual income ceiling enumerated at 45 CFR § 1611.5. All such exceptions must be approved by the Executive Director, in writing, prior to case acceptance using LAWyoming’s “Over/Income/Asset Waiver” form. The form granting the exception must be included in the client’s file. However, the Deputy Director stated that LAWyoming generally limits legal assistance to those at or below its annual income ceiling and that the authorized exceptions are rarely applied.

Although the asset exclusions as stated in the policy are not inconsistent with LSC regulations, they are inconsistent with the “Legal Aid of Wyoming, Inc. Intake Manual” (2010 Edition) (the “Intake Manual”). The policy excludes the applicant’s principal residence, one (1) vehicle per licensed driver, and property that is exempt from attachment under state law. The Intake Manual excludes “vehicles used for transportation and assets used in producing income.” LAWyoming is advised that LSC regulations place no limit on the number of vehicles used for transportation that may be excluded. As well, recipients may exclude income producing assets, and other property that is exempt from attachment under both state *and* federal law.

Indeed, LAWyoming may, consistent with LSC regulations, limit the number of vehicles used for transportation. It may also choose not to exclude assets used in producing income, or those that are exempt from attachment under federal law. However, the policy and the Intake Manual should be consistent in their treatment of assets. LAWyoming must take appropriate action to make its financial eligibility policy and its Intake Manual consistent on the subject of assets.

The policy authorizes the Executive Director or his designee to waive the asset ceiling under unusual circumstances. Such waiver must be in writing and must be obtained prior to case acceptance using LAWyoming's "Exception to Maximum Asset Ceiling" form. The form must be included in the client's file.

Accordingly, LAWyoming's financial eligibility policy is consistent with 45 CFR Part 1611.

In making financial eligibility determinations regarding individual applicants, LSC regulations require that recipients make reasonable inquiry regarding sources of the applicant's income, income prospects and assets. *See* 45 CFR §§ 1611.7(a)(1). For each case reported to LSC, recipients are required to record the applicant's household size, total household income and the total value of the household's assets. The information may be recorded on a form adopted by the recipient to obtain the information necessary to the determination, or it may be recorded electronically in the recipient's ACMS. *See* CSR Handbook (2008 Ed., as amended 2011), §§ 5.1, 5.3 and 5.4.

LAWyoming operates a centralized intake system. The system does not provide legal assistance; it merely collects intake information. Applicants may apply by telephone on Monday, Wednesday and Friday between 9:00 AM and 2:00 PM, or on-line 24 hours per day. All such applications are processed through the Cheyenne office. The Cheyenne office also accepts walk-ins and applications by mail, but no intake is conducted in the field offices. Walk-ins to the field offices are directed contact the toll-free intake line, while some are afforded access to a laptop to log onto the on-line application process.

It was not clear whether applicants who access the toll-free intake line from one of the field offices, or who are afforded access to LAWyoming's on-line application process from the field offices, are required to attest to their citizenship, or submit documentation verifying their alien eligibility, but LAWyoming is reminded that recipients are required to obtain signed citizenship attestations or verify alien eligibility status through the review of appropriate documentation for all applicants who appear in person to seek services from the recipient. *See* OLA Advisory Opinion AO-2009-1002 (June 10, 2009).

Prior to the on-site visit, LAWyoming submitted a copy of its "Legal Aid of Wyoming, Inc. Intake Manual" (2010 Edition). It was approved by LAWyoming's governing body on November 18, 2010. The Manual provides a step-by-step guide to staff in the collection of information necessary to both eligibility determinations and case acceptance decisions. The Manual covers such topics as prohibited cases, conflicts, priorities, duplication, financial eligibility, and citizenship/alien eligibility.

According to the Intake Manual, the intake specialists are instructed to first screen applicants for case type and conflicts. The conflicts check is performed by entering the name of the opposing party. PIKA will run a program-wide conflicts check and the intake specialists will indicate whether or not a conflict exists. Once it is determined that the applicant has the type of case that LAWyoming can take and that there is no conflict, information, including the client's name, address, and telephone number, ethnicity, language, etc., is entered into PIKA. A new client record is created and the intake specialists are prompted to enter information concerning assets, income, and household size. The system will then calculate percentage of poverty. This information is saved and the Intake Manual instructs the intake specialists relative to citizenship/alien eligibility determinations.

The next step, according to the Intake Manual, instructs the intake specialist to enter case information, including problem code, funding code, and case notes. The Intake Manual does not instruct the intake specialists to inquire as to an individual applicant's income prospects.⁶

As noted previously, applicants may also log-on to LAWyoming's website and submit an on-line application for legal assistance. On-line applicants are asked to complete a questionnaire that includes citizenship, household size, household income, source(s) of income, household assets, opposing party, and information concerning the nature of the applicant's legal issue. On-line applicants are also asked to identify type and amount of any benefits received, including food stamps. Again, the on-line application makes no inquiry concerning the applicant's income prospects. On-line applicants are advised that if LAWyoming is unable to contact the applicant, their application may be rejected.

For walk-ins and applications by mail, LAWyoming has also adopted a paper form. There is English and a Spanish version. The form is similar to the on-line application and requests identifying information, citizenship information, household size, source(s) of income, household income, the value of household assets, opposing party information, and a brief description of the nature of the applicant's legal issue.

Applicants who appear in person who claim US citizenship are requested to execute a citizenship attestation that is compliant with CSR Handbook (2008 Ed., as amended 2011), § 5.5. The attestation is placed in the case file and scanned into PIKA. LAWyoming has developed a form for use by aliens seeking representation which requests that the alien provide information concerning their eligibility. As required by 45 CFR § 1626.7(a), aliens who appear in person are required to submit appropriate documentation to verify their eligibility. A photocopy is made and placed in the case file.

OCE also interviewed LAWyoming's two (2) intake specialists. Both intake specialists stated that they received training on intake and both were familiar with LAWyoming's financial eligibility policy and the Intake Manual.

The intake specialists advised that telephone applicants are first questioned about the type of legal assistance they require. If the request for legal assistance is not prohibited and is within LAWyoming's priorities, the applicant is questioned concerning household size, sources of

⁶ The Intake Manual does, however, instruct the intake specialists to inquire as to a group's income prospects.

income, and household income. This information, including the value of the applicant's food stamp allotment, is entered onto an Excel spreadsheet and a determination is made relative to income eligibility. If the applicant is income eligible, only then is the information entered into PIKA. The intake specialists advised that they make no specific inquiry into income prospects.

The intake specialists further advised that once a new client record is opened, the applicant is queried relative to assets and citizenship/alien eligibility and then such information is entered into PIKA. The intake specialists advised that a conflicts check is not performed until after the system has determined that the applicant is financially eligible.

Both intake specialists advised that financially ineligible applicants, applications for legal assistance that is prohibited, and those that are outside LAWyoming's priorities are promptly notified and referred to the state bar. The intake specialists stated that they provide no legal assistance whatsoever. All applications are forwarded to the Executive Director or Deputy Director.

The Executive Director and Deputy Director were interviewed and stated that all applications are reviewed daily. Once they are received they are placed in a "pending" box for review. Those that are eligible are screened for a second time by the Executive Director and/or Deputy Director to ensure that all of the necessary information is present. The application is then referred to a field office, or the PAI coordinator, for further assistance. Applicants are notified of LAWyoming's decision within ten (10) days. The case handlers in the field office will then contact the applicant and, as appropriate, provide the necessary level of level assistance, or schedule an appointment with the applicant.

Based on information provided by LAWyoming, its telephone intake practices are not entirely consistent with the Intake Manual and LSC regulations. First, although LSC regulations and LAWyoming's financial eligibility policy states that staff shall make reasonable inquiry into the applicant's income prospects, neither the Intake Manual, the on-line application, or the paper application make inquiry into the applicant's income prospects. Moreover, the intake specialists stated that they do not make such inquiry. LAWyoming is advised that LSC regulations require reasonable inquiry into the income prospects of all applicants for legal assistance. *See* Office of Legal Affairs ("OLA") Advisory Opinion AO 2009-1006 (September 3, 2009). Accordingly, LAWyoming is required to take such measures as to ensure that applicants are questioned concerning their income prospects.

Similarly, although LSC regulations and LAWyoming's financial eligibility policy exclude non-cash benefits from their definitions of income, the intake specialists advised that the value of the applicant's food stamp allotment is calculated as income. *See, e.g.*, Cheyenne closed 2012 File No. 11-01-04497, Cheyenne closed 2012 File No. 12-01-05183, Casper open File No. 12-02-05499, Casper closed 2012 File No. 11-01-04497, etc.. LAWyoming is advised that the value of benefits received under the food stamps program, whether through coupons, access devices, or otherwise may not be considered income or resources for any purpose under any federal, state, or local laws. *See* 7 USC § 2017(b). Accordingly, LAWyoming is required to take such measures as will ensure that the value of food stamps is not used in the calculation of income.

The information provided by the intake specialists raised other concerns as well. Specifically, it is not entirely clear how LAWyoming provides notice of its procedures for review of complaints concerning denial of requests for legal assistance. Notice of the grievance procedure does not appear to be provided to on-line applicants, and the intake specialists advised that applicants who express their dissatisfaction are referred to either the Executive Director or the Deputy Director.

LSC regulations require that recipients establish a simple procedure for review of complaints by applicants about decisions to deny their request for legal assistance. At a minimum, the procedure must include a practical method for the recipient to give applicants adequate notice of the complaint procedure and how to make such a complaint, and an opportunity for applicants to confer with the Executive Director or his/her designee. *See* 45 CFR § 1621.3. Accordingly, LAWyoming is required to take such measures as to ensure adequate notice of its complaint procedures to on-line and telephone applicants.

Additionally, although the Intake Manual instructs the intake specialists to screen for conflicts before screening for eligibility, the intake specialists stated that a conflicts check is not performed until after eligibility has been established. Timeliness in identifying potential or actual conflicts of interests are key to ensuring that recipient activities are carried out in a manner consistent with the recipient's professional responsibilities. Without presuming to know Wyoming law, collecting financial eligibility information before determining whether a potential or actual conflict exists might prove problematic. Accordingly, it is recommended that LAWyoming consult its local ethical rules to ensure that conflicts checks are performed in a manner consistent therewith.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 3: LAWyoming is in substantial compliance with LSC's income eligibility documentation requirements.

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.⁷ *See* 45 CFR § 1611.3(c)(1) and CSR Handbook (2008 Ed., as amended 2011), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.2.

In those instances in which the applicant's household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (FPG) and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of

⁷ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2008 Ed., as amended 2011), § 5.3.

the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b) and CSR Handbook (2008 Ed, as amended 2011.), § 5.3.

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

With one (1) exception, the LSC funded cases that were examined during the on-site visit, contained income eligibility determinations that were consistent with LSC’s regulatory and reporting requirements.⁸ The one (1) exception was Casper closed 2010 File No. 10-02-00644, where the client’s income exceeded LAWyoming’s annual income ceiling, but lacked documentation of LAWyoming’s consideration of any of the authorized exceptions. Accordingly, this case should have been excluded from LAWyoming’s 2010 CSR data submission.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 4: LAWyoming is in substantial compliance with LSC’s asset eligibility documentation requirements.

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.⁹ *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).

⁸ OCE examined several non-LSC funded cases involving financially ineligible clients. *See* Cheyenne open File Nos. 12-01-05207, 12-01-05192, 12-01-05899 and 12-01-05633, Casper open File Nos. 12-02-05558, 12-02-05523, 12-02-05712 and 12-02-05497, Cheyenne open PAI File No. 11-01-02750, Casper open PAI File Nos. 12-02-05623 and 12-02-05285, Lander open File Nos. 12-03-05324, 12-03-05583, 12-03-05654, 12-03-05746 and 11-03-04203, Ft. Washakie open File No. 12-03-052373, Lander closed 2012 PAI File No. 11-03-02768, and Cheyenne closed 2011 File Nos. 11-01-03387 and 11-01-03621. However, consistent with CSR Handbook (2008 Ed., as amended 2011), § 3.5, each such file had been identified for de-selection prior to the on-site visit.

⁹ A numerical total value must be recorded, even if it is zero or below the recipient’s guidelines. *See* CSR Handbook (2008 Ed.), § 5.4.

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.

With three (3) exceptions, the LSC funded cases that were examined during the on-site visit, contained asset eligibility determinations that were consistent with LSC's regulatory and reporting requirements. In the first exception, the client's assets exceeded LAWyoming's asset ceiling and lacked a waiver. *See* Cheyenne open File No. 11-X-04520. In the second exception, the asset field remained blank. *See* Lander closed 2011 PAI File No. 10-03-00917. In the third exception, the client's assets exceeded LAWyoming's ceilings and lacked documentation of an asset waiver. *See* Casper closed 2010 File No. 10-02-00644. Accordingly, the first exception should be excluded from LAWyoming's future CSR data submission, and the second and third exceptions were previously reported in error.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 5: LAWyoming is in non-compliance with LSC's citizenship/alien eligibility documentation requirements.

The level of documentation necessary to evidence citizenship or alien eligibility depends, in part, 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.¹⁰ 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.

Consistent with 45 CFR § 1626.12, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1626. The policy and procedure were approved by the LAWyoming governing body on July 15, 2010. Each staff member is required to attest that they have read and understand the policy and procedure.

The Executive Director stated that each field office maintains a folder containing the various policies and procedures. They are also available to staff on-line. Some policies are used for trainings during LAWyoming's retreats.

LAWyoming's policy and procedure is consistent with Part 1626. However, during the on-site visit OCE examined 12 cases that lacked the requisite citizenship/alien eligibility documentation.¹¹ *See* Cheyenne open File Nos. 12-01-05804, 11-01-03247 (file contained a signed retainer), 12-01-05207 and 12-01-05192, Cheyenne open PAI File Nos. 11-01-03816 and 11-01-03818, Lander open File No. 12-03-05226, Ft. Washakie open File Nos. 12-03-05273 (file indicated LAWyoming met with client) and 11-03-04864, and Lander closed 2011 File Nos. 11-03-03316, 11-03-02651 and 11-03-03064. In six (6) other instances, although there was no clear indication of in-person contact with the client, the service provided went beyond "brief advice and consultation by telephone". *See* Cheyenne open File No. 12-01-05207 (file indicated extensive foreclosure work); Lander open File No. 12-03-05226 (file contained several documents related to probate work on behalf of client); Ft. Washakie File No. 11-03-04864 (file indicated LAWyoming appeared on behalf of client at hearings); Lander closed 2011 File Nos. 11-03-03316 and 11-03-02651 (cases indicated several exchanges of correspondence between LAWyoming and client); and Lander closed 2011 File No. 11-03-03064 (file indicated reviewed and filed documents on behalf of client).¹²

As previously noted, LSC regulations require a citizenship attestation, or the submission of appropriate documents to verify alien eligibility, except when the only service provided is brief advice and consultation by telephone which does not include continuous representation. *See* 45 CFR § 1626.6(a) and 1626.7(a). According to LSC Program Letter 99-3 (July 14, 1999)

¹⁰ *See* Kennedy Amendment at 45 CFR § 1626.4.

¹¹ Five (5) additional cases were reviewed that lacked the necessary Part 1626 documentation. However, LAWyoming had already identified each of these cases for de-selection prior to the on-site visit. *See* Cheyenne closed 2012 PAI File No. 10-01-02090, Lander closed 2012 PAI File Nos. 11-03-03982, 11-03-04231 and 11-03-04106, and Lander closed 2010 File 09-05-99000660. Another file that lacked the necessary Part 1626 documentation was identified for de-selection during the on-site visit. *See* Cheyenne open PAI File No. 12-01-05435. LSC funds must not be used to support these cases or others like them.

¹² Additionally, Cheyenne closed 2010 File No. 10-01-01521 contained a citizenship attestation that did not technically conform to CSR Handbook (2008 Ed., as amended 2011), § 5.5.

In other words, where the *only* contact between the recipient and the applicant for legal assistance is by telephone, and the LSC funded legal assistance provided by the recipient does not exceed advice or brief service, the documentation requirements set forth at 45 CFR §§ 1626.6(a) and 1626.7(a) are inapplicable. (Emphasis added.)

Similarly, the CSR Handbook (2008 Ed., as amended 2011), § 5.5, instructs

For cases involving Counsel and Advice or Limited Action (CSR Closure Categories A and B) provided *exclusively* over the telephone, the documentation of eligibility shall include a written notation or computer entry which reflects the client's oral response to the program's inquiry as to whether the client is a US citizen or an eligible alien. (Emphasis added.)¹³

Accordingly, LAWyoming is advised that, regardless of whether there is in-person contact with the client, where the service provided to the client extends beyond brief advice and consultation by telephone, LSC regulations and the CSR instructions require that recipients obtain a citizenship attestation, or the submission of appropriate alien eligibility documentation.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 6: LAWyoming is in substantial compliance with the requirements of 45 CFR § 1611.9 (Retainer agreements).

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

¹³ The *CSR Frequently Asked Questions* (July 2011), page 16, contains the following:

Question 3 – If only Counsel and Advice (CSR Closure Category A) or Limited Action (CSR Closure Category B) services are provided to a client and if the office has no in-person contact with the client, but the office mails or faxes the client a questionnaire to complete and return to the office prior to a telephone interview, must the office also mail or fax a citizenship attestation form (or documentation of alien eligibility form) to be signed by the client, or is the oral declaration of the client as to citizenship/alien eligibility sufficient?

Answer – In this instance with no in-person contact, the oral declaration of the client is sufficient, irrespective of whether your program faxed the client a questionnaire. Should the case come to involve more extended representation, the program would be required to obtain a signed citizenship form as required by 45 CFR § 1626.6 or obtain the documentation of eligible alien status under 45 CFR § 1626.7.

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.¹⁴ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

During the on-site visit, OCE reviewed approximately 70 cases that required a retainer agreement. Six (6) such cases lacked the required retainer agreement. *See* Cheyenne open File Nos. 12-01-05804, 12-01-05207,¹⁵ and 12-01-05192 (non-LSC funded), Ft. Washakie open File Nos. 11-03-04747 and 11-03-04864, Cheyenne closed 2011 File No. 11-01-03464, and Ft. Washakie closed 2012 File No. 11-03-04709.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 7: LAWyoming is in non-compliance with the requirements of 45 CFR Part 1636.

LSC regulations require that recipients identify by name each plaintiff it represents in any complaint it cases, 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). The requirements of Part 1636 apply equally to cases initiated by recipient staff and cases initiated by private attorneys who are compensated by the recipient. *See* 45 CFR § 1636.4.

Consistent with 45 CFR § 1636.5, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1636. The policy and procedure were approved by the LAWyoming governing body on July 15, 2010.

While the policy and procedure are consistent with Part 1636, six (6) of the approximately 40 compensated PAI cases that were examined during the on-site visit that required a Part 1636 statement lacked one. *See* Lander open PAI File Nos. 12-03-05626, 12-03-05859, and 12-03-05860, Lander closed 2012 PAI File No. 11-03-03588, Lander closed 2011 PAI File No. 10-03-01809, and Casper closed 2011 PAI File No. 11-02-03229.

¹⁴ 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.

¹⁵ During the on-site visit, LAWyoming advised OCE that this file has been identified for de-selection for other reasons.

LAWyoming is advised that the requirements of Part 1636 apply to cases handled by private attorneys who are compensated by the recipients. *See* 45 CFR § 1636.4; *see also*, 62 *Federal Register* 19418, 19420 (April 21, 1997).

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 8: LAWyoming is in compliance with the requirements of 45 CFR §§ 1620.4 and 1620.6(c).

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 on-site visit LAWyoming provided a copy of its priorities. As noted previously, the priorities are stated as domestic law, consumer litigation, housing, Social Security, employment, migrant, Native American rights, and senior services. Without exception, the cases that were examined during the on-site visit were within LAWyoming's priorities.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 9: LAWyoming is in substantial compliance with the requirements of CSR Handbook (2008 Ed., as amended 2011), § 5.6.

LSC regulations specifically define “case” as a form of program service in which the recipient provides legal assistance to one or more specific clients. *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 recipient has not provided any type of legal assistance, it should not report its efforts 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 its 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.

With seven (7) exceptions, the cases that were examined during the on-site visit contained a description of the legal assistance provided to the client.¹⁶ The exceptions were Cheyenne open File Nos. 10-01-02133 and 11-X-04520, and Lander open File Nos. 10-03-01682 and 10-03-02401. These cases should be excluded from LAWyoming's future CSR data submissions. *See also*, Casper closed 2011 File Nos. 10-02-02580 and 11-02-04318, and Lander closed 2010 File No. 10-03-01076. These latter cases were reported in error.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 10: LAWyoming's application of the CSR case closure categories is substantially compliant with Chapter VIII, 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.

Only nine (9) of the approximately 200 closed cases that were examined during the on-site visit contained CSR case closure categories that were inconsistent with Chapter VIII, CSR Handbook (2008 Ed., as amended 2011). *See* Cheyenne closed 2012 PAI File No. 11-01-04062 (closed as "negotiated settlement without litigation", but information in file indicated a level of assistance more consistent with "uncontested court decision"); Ft. Washakie closed 2012 File No. 12-03-05174 (closed as "uncontested court decisions", but information in the file was more consistent with "negotiated settlement with litigation"); Ft. Washakie closed 2012 File No. 11-03-04668 (closed as "contested court decisions", but information in the file was more consistent with "negotiated settlement with litigation"); Lander closed 2012 File No. 12-03-05233, Casper closed 2012 PAI File No. 11-02-04509, and Cheyenne closed 2010 File No. 09-05-000353 (closed as "negotiated settlement without litigation", but information in the files was more consistent with "negotiated settlement with litigation"); Cheyenne closed 2010 File No. 09-05-10000780 (closed as "limited action", but information in the file indicated a level of assistance more consistent with "extensive service"); and Casper closed 2010 File No. 10-02-01687 (closed as "limited action", but information in the file was more consistent with "counsel and advice").

LAWyoming offered no comments to this Finding in its response to the DR.

¹⁶ Eleven (11) of the cases that were reviewed that lacked a description of the legal assistance provided to the client had already been identified by LAWyoming for de-selection prior to the on-site visit for other reasons. *See* Cheyenne open File Nos. 12-01-0560 and 12-01-05699, Cheyenne open PAI File No. 12-01-05435, Casper open File Nos. 12-02-05732, 12-02-05712, 12-02-05499 and 12-02-05623, and Lander closed 2012 PAI File Nos. 11-03-03982, 12-03-05330, 11-03-04231, and 11-03-04106. LAWyoming explained that in some instances, the client was financially ineligible. In others, the client failed to maintain contact.

Finding 11: LAWyoming is in substantial compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.3 “Timely Closing of Cases”.

To the extent practicable, recipients shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice or limited action (CSR Categories A and B), should be reported as having been closed in the grant year in which the case was opened. *See* CSR Handbook (2008 Ed., as amended 2011), § 3.3(a).¹⁷ 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).¹⁸ 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 two (2) exceptions, the cases that were examined during the on-site visit were either active, or timely closed. The two (2) exceptions were Lander open File Nos. 10-03-01682 and 10-03-02401. Both cases appeared to be inactive. The only activity reflected in either file was the intake in 2010. These cases should be administratively closed in such a manner as to ensure exclusion from LAWyoming’s future CSR data submission.

LAWyoming offered no comments to this Finding in its response to the DR.

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

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

When a recipient provides more than one 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.

¹⁷ 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).

¹⁸ The CSR Handbook (2008 Ed., as amended 2011), § 10.3, also makes an exception for PAI cases.

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 to report related legal problems of an eligible client as single case when the recipient attempts to resolve the related legal problems simultaneously through a single legal process. *See* CSR Handbook (2008 Ed., as amended 2011), § 6.4.

OCE identified five (5) sets of duplicates among the cases that were examined during the on-site visit. *See* Cheyenne closed 2012 File Nos. 11-01-04497 and 12-01-05183 and Lander closed 2012 File Nos. 12-03-05279 and 12-03-05280. Two (2) of these cases should be excluded from LAWyoming's CSR data submission for 2012. *See also*, Cheyenne closed 2011 File Nos. 10-01-02533 and 11-01-03621; Casper closed 2011 File Nos. 11-02-02800 and 11-02-02836; and Casper closed 2010 File Nos. 10-02-00517 and 10-02-01588. Three (3) of these cases were previously reported in error.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 13: LAWyoming 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 interfere with the 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.

Consistent with 45 CFR § 1604.3(a), LAWyoming has developed a policy and procedure governing outside employment, including the outside practice of law. The policy and procedure were approved by the LAWyoming governing body on September 30, 2010. Staff members are required to attest that they have read and understand the policy and procedure.

Subject to approval by the Executive Director, the policy and procedure permits full-time attorneys to engage in the outside practice of law in those instances set forth at 45 CFR §§ 1604.4(b)(1), (2), and (3). It also permits full-time attorneys to engage in:

Litigation or negotiations on a non-fee basis concerning an issue of public concern in circumstances similar to those under which members of the private bar undertake to provide professional services on a *pro bono* basis.

This exception is not among the permissible activities enumerated at 45 CFR § 1604.4 and it is unclear precisely what situations LAWyoming is attempting address by this exception. LAWyoming may wish to consider adoption of the exception enumerated at 45 CFR §

1604.4(c)(4). Otherwise, LAWyoming should be directed to provide an explanation for this exception in its response to the Draft Report.

In any event, LAWyoming must revise its policy and procedure to include language prohibiting its full-time attorneys from intentionally identifying LAWyoming with the particular case or matter.

LAWyoming's Executive Director stated that none of LAWyoming's full-time attorneys are engaged in the outside practice of law.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 14: LAWyoming is in 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 Executive Director indicated his awareness of LSC Program Letter 11-1 (September 14, 2011). He stated that LAWyoming is not involved in any political activities.

OCE reviewed the materials that LAWyoming makes available to the public in each of its field offices. *See* Appendix 1, "LAWyoming Publications." A review of these materials, LAWyoming's financial records, and cases, as well as discussions with LAWyoming staff indicates that LAWyoming is in compliance with the requirements of 45 CFR Part 1608. Additionally, an internet search utilizing selected major search engines for published news articles referencing LAWyoming, found none which indicated any prohibited activity by LAWyoming, or referencing employee activities which could be considered as such.

Similarly a review of LAWyoming's 2010 and 2011 General Ledger payables and examination of its vendor list - which in Quickbooks represents all payees to whom checks have been written - found no indication of expenditures with the appearance of being political in nature.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 15: LAWyoming is in compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Except as provided by LSC regulations, recipients may not provide LSC funded 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).

Consistent with 45 CFR § 1609.6, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1609.¹⁹ The policy and procedure was approved by the LAWyoming governing body on May 18, 2011.

LAWyoming's policy and procedure contains a flat restriction on providing legal assistance in fee-generating cases, except under circumstances that mirror those enumerated at 45 CFR §§ 1609.3(a) and (b). As such, the policy and procedure is consistent with Part 1609. However, LAWyoming is advised that effective May 27, 2011, LSC limited the applicability of Part 1609 to the use of LSC funds.

According to the Intake Manual, fee-generating cases, except in limited circumstances, are listed among the prohibited cases. None of the cases that were examined during the on-site visit involved legal assistance with respect to a fee-generating case.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 16: A review of LAWyoming's accounting and financial records evidenced substantial compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

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

¹⁹ The policy and procedure also address 45 CFR Part 1642.

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 LAWyoming's accounting and financial records indicate general compliance with 45 CFR Part 1610. The recipient received 10% of its 2010 funding from non-LSC sources,

23% in 2011 and anticipates nearly 40% for current year (2012). Its Chart of Accounts provides for the separate accounting for the receipt and expenditure of non LSC funds as required by 45 CFR § 1610.9.

The Executive Director indicated that LAWyoming has no business relationships with any organization that engages in prohibited activity, and is financially and physically separate from any such organization. As well, there was no indication of LAWyoming's use of LSC funds to subsidize restricted activities.²⁰ By certification dated December 28, 2011, LAWyoming's governing body has certified the recipient's compliance with Part 1610.

Although LAWyoming has increased its revenue streams and has conducted several fund raising campaigns, it has not established a policy or process to meet the requirements of 45 CFR § 1610.5. The Executive Director has indicated that corrective action will be initiated.

As part of its response this Draft Report, LAWyoming is directed to submit a description of the corrective action to be taken, including a copy of the policy and procedure established to ensure compliance with 45 CFR § 1610.5 and a copy of its proposed donor notification letter.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 17: LAWyoming is in substantial compliance with 45 CFR Part 1614 (Private Attorney Involvement).

LSC regulations require that LSC recipients devote an amount equal to 12.5% of its LSC annualized basic field award to the involvement of private attorneys in the delivery of legal assistance to eligible clients.²¹ 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. For compensated models, the regulations state that attorney's fees

²⁰ LAWyoming subleases office space located on a separate floor to a solo practitioner. The space is a single room located on the roof of the building and is accessible by a common stairway. There is a written sublease and office services agreement. The term of the lease is September 1, 2009 through September 30, 2012, and provides for two (2) renewal options at progressive rent increases. The rent appears to be market rate considering the unusual format of the space. Office services consist of the use of LAWyoming's photocopier at 10 cents per page and postage meter use at cost. The Program has on one occasion used the practitioner to provide training for the LAWyoming Board.

²¹ The term "private attorney" is defined as an attorney who is not a staff attorney. See 45 CFR § 1614.1(d).

may not exceed 50% of the local prevailing market rate for that type of service. *See* 45 CFR § 1614.3(e)(3).

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.

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

The CSR Handbook defines a PAI case as the provision of permissible legal assistance by a private attorney participating in the recipient's PAI program to an eligible client with a legal issue (or set of closely related issues) accepted for assistance in accordance with the requirements of the LSC Act, regulations and other applicable law. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.1. Recipients may record and report the provision of legal assistance by a private attorney as a case only if all of the provision of Chapter II of the CSR Handbook (2008 Ed., as amended 2011) and the requirements of 45 CFR § 1614.3(d) are met, and the legal assistance to the client is provided by a private attorney participating in the recipient's PAI program. *See* CSR Handbook (2008 Ed., as amended 2011), § 10.1(a).

LAWyoming has very few pro bono participating attorneys; its PAI is primarily a compensated model.²² Generally, LAWyoming contracts with participating attorneys to provide legal assistance in each of its priority areas. According to the PAI Coordinator, cases are designated by the Deputy Director and are typically those cases that staff is unable to handle, either because of specialized issues or existing caseloads. Once the PAI Coordinator receives an intake from the Deputy Director, the PAI Coordinator sends an introductory letter to the applicant explaining LAWyoming's PAI model. The letter contains the Part 1626 documentation and a release, and instructs the applicant to execute both and return them to LAWyoming. Once the applicant responds, the PAI Coordinator attempts to match the applicant with one of the participating contract attorneys. If LAWyoming is unable to match the applicant with a participating attorney after 10 days, the intake is closed and the applicant is referred to the state bar.

On the other hand, if LAWyoming is successful in placing the client's case with one of its participating attorneys, a contract is forwarded to the participating attorney and a letter is sent to the client identifying the participating attorney and instructing the client to contact the attorney to make an appointment.

The PAI coordinator advised that, except for bankruptcies, participating attorneys are paid an hourly rate of \$70.00 per hour, up to a maximum of \$300.00; for bankruptcies, the maximum is \$750.00. The PAI Coordinator recalled that LAWyoming used a survey by the state bar on rates

²² The PAI Coordinator advised that LAWyoming has two (2) participating pro bono attorneys.

charged to ensure that its rate did not exceed 50% of the local prevailing market rate. Most of the rates reported in the survey were \$140.00 per hour.²³

Consistent with 45 CFR § 1614.3(e)(1)(ii), LAWyoming maintains contracts on file with its participating private attorneys. The contract defines the services to be provided by the private attorney and addresses both hourly rates and the maximum allowable fees.²⁴ A review of payments to several private attorneys confirmed that invoices are submitted prior to payment.

The PAI Coordinator advised that LAWyoming attempts to achieve monthly follow-up by telephone or letter. However, it is typically every other month. In any event, LAWyoming receives monthly billings from the participating attorneys.

At the conclusion of each case, the participating attorney submits a final billing identifying the services provided. Upon receipt of the final billing, the PAI Coordinator completes the case closing form and applies the case closure category. Thereafter, the case is reviewed by the Deputy Director.

The Deputy Director reviews the case to ensure that all necessary documentation is present, that legal assistance was provided, that the case closure category accurately reflects the level of assistance provided, and that the billing is consistent with the terms of the participating attorney's contract.

In two (2) of the PAI cases that were examined during the on-site visit LAWyoming disclosed that the legal assistance provided to the client was provided by staff and not by a private attorney. *See* Casper open PAI File No. 12-02-05638 and Cheyenne closed 2011 PAI File No. 10-01-01293. As such, in accordance with CSR Handbook (2008 Ed., as amended 2011), § 10.1(a)(ii), these cases should be designated as staff cases.

Non-personnel costs are allocated in compliance with the requirements of 45 CFR § 1614.3(e)(1)(i). Interviews with the LAWyoming's bookkeeper and contract certified public accountant ("CPA") evidenced that LAWyoming's allocation of overhead is based on reasonable operating data.²⁵

As required by 45 CFR § 1614.4(e)(2), LAWyoming's audited financial statement ("AFS") for fiscal year ending December 31, 2011, reported expenditures dedicated to the PAI effort separately. The AFS reported the 2011 PAI requirement as \$69,458.00 and total PAI expenditures of \$74,560.00. It appears, however, that for 2011 LAWyoming had an adjusted PAI requirement in excess of \$69,458.00.

On October 11, 2010, LAWyoming requested a waiver of its 2009 PAI requirement. By letter dated October 29, 2010, LSC advised LAWyoming that it failed to meet its 2009 PAI

²³ The PAI Coordinator further stated that the private bar in Cheyenne usually charges \$250.00 per hour.

²⁴ OCE also noted that the contract continues to state the prohibition expressed at the former 45 CFR § 1642.5(b). LAWyoming is advised that LSC has repealed Part 1642 and, as such, LAWyoming may wish to amend the language of its contracts accordingly. LAWyoming may also wish to consider adding language consistent with 45 CFR §§ 1614.1(d) and 1627.2(b)(1).

²⁵ The CPA works part-time for LAWyoming and has no relationship with its independent public auditor.

requirement by \$11,696.00 and should have applied for a waiver prior to December 31, 2009. Consequently, the \$11,696.00 shortfall was added to LAWyoming's 2011 PAI requirement. *See* 45 CFR § 1614.7(b). As such, LAWyoming's 2011 adjusted PAI requirement was \$81,154.00 (\$69,458.00 + \$11,696.00 = \$81,154.00).

Nevertheless, LAWyoming exceeded its 2010 PAI requirement by \$12,041.00. Applying the 2010 excess expenditure, OCE concludes that LAWyoming met its 2009, 2010, and 2011 PAI requirements. In the future, LAWyoming must ensure the accurate calculation and reporting of its PAI requirement.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 18: LAWyoming is in compliance with 45 CFR § 1627.4(a) (Membership fees or dues).

LSC has developed rules governing the transfer of LSC funds by recipients to other organizations. *See* 45 CFR § 1627.1. These rules govern subgrants, which are defined as any transfer of LSC funds from a recipient to an entity under a grant, contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities.²⁶ 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).

²⁶ 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.

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.

A limited review of accounting records for the period 2010 through April 2012, disclosed that LAWyoming is in full compliance with 45 CFR § 1627.4. All non-mandatory dues and fees are paid with non-LSC funds.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 19: LAWyoming is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

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

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

LAWyoming has a policy that requires all staff to maintain their timekeeping on the ACMS. Time is recorded in 15 minute increments utilizing the “time slips” function. In addition to case,

matter, supporting and restricted activities, employees record all paid work hours including leave and holidays taken.

A review of a sample of LAWyoming attorney and paralegal, selected from LAWyoming's various offices, timekeeping records for the years 2010, 2011, and through April 2012 revealed that the time records are electronically and contemporaneously kept utilizing the ACMS. The review disclosed no systemic pattern of errors. Accordingly, LAWyoming is in compliance with 45 CFR Part 1635.

However, it was noted that for bi-weekly payroll purposes, each staff member is required to print two (2) reports from PIKA which are then summarized on a manually prepared payroll timesheet. The timesheet is signed by the employee and forwarded to their supervisor for approval. It is then forwarded to the bookkeeper, who verifies data including leave balance and usage, appropriate fund charges, etc. From the bookkeeper it is forwarded to the Executive Director for approval of payment. Payroll preparation meets the standards of the Accounting Guide and the time spent on each case, matter or supporting activity is recorded in substantial compliance with 45 CFR §§ 1635.3(b) and (c), however review of the recipients payroll time records for the period 2010 through April 2012 noted the conversion of PIKA reports to the manual payroll timesheets by staff contained frequent transcription and math errors requiring extensive time expenditure by the bookkeeper to execute the payroll process. It is recommended that the program explore using PIKA to print the required payroll reports directly.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 20: LAWyoming is in compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2010, except as otherwise provided by LSC regulations recipients could not claim, or collect and retain attorneys' fees in any case,. See 45 CFR § 1642.3.²⁷ 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,

²⁷ The regulations defined "attorneys' fees" as an award to compensate an attorney of the prevailing party made pursuant to common law or Federal or State law permitting or requiring the award of such fees or a payment to an attorney from a client's retroactive statutory benefits. See 45 CFR § 1642.2(a).

however, result in enforcement action. *See* LSC Program Letter10-1 (February 18, 2010); *see also*, 75 *Federal Register* 21506 (April 26, 2010).²⁸

Nonetheless, LSC requires that attorneys' fees received be recorded in the accounting period in which it is received and that the fees be allocated proportionately to the funding sources charged for the support of the representation. LSC has also prescribed certain specific recordkeeping requirements for fee-generating cases. The recordkeeping requirements are mandatory. *See* 45 CFR § 1609.4; *see also*, LSC Accounting Guide for LSC Recipients ("Accounting Guide") (2010 Ed.), Section 2-2.6.

LAWyoming has developed a policy and procedure to guide its staff in complying with the former Part 1642. The policy and procedure were approved by the LAWyoming governing body on May 18, 2011.

After March 15, 2010, LAWyoming received fees totaling \$270.00 in four (4) cases where a staff attorney was appointed by a judge to mediate related matters. The costs associated with the mediation were supported in whole or in part with LSC funds. The mediation fees were treated as derivative income and were allocated to the fund in which LAWyoming's LSC grant is recorded in the same proportion that the amount of LSC funds expended bore to the total amount expended by LAWyoming on the mediation. In 2010, LAWyoming also received a \$2,500.00 cy-pres award from a class action settlement. LAWyoming had no involvement in the class action. Similarly, in 2011, LAWyoming netted \$560.00 in attorney fees and costs for legal assistance wholly supported by non-LSC funds. All fees and awards received by LAWyoming were promptly recorded when received as required by 45 CFR Part 1609.4(b).

None of the cases that were examined during the on-site visit indicated any activity inconsistent with Part 1642.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 21: LAWyoming is in compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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

²⁸ 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.

Consistent with 45 CFR § 1612.11, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1612. It was approved by the LAWyoming governing body on September 30, 2010 and is consistent with Part 1612.

The Executive Director and Deputy Director stated that LAWyoming is not involved in activities inconsistent with Part 1612. A reviewed of LAWyoming's semi-annual reports, financial records, and other documents, confirmed that it had no such activity prior to 2012. As of the on-site visit, it had received three (3) written requests to provide testimony or information in 2012. Specifically, LAWyoming received separate requests for information from US Senators Mike Enzi and John Barasso, and a request from US Congresswoman Cynthia Lummis. The Executive Director advised that these requests, as well as LAWyoming's non-LSC funded response, will be reported in its July 2012 semi-annual report.

A review of LAWyoming's case cases and discussions with LAWyoming staff indicates that LAWyoming is in compliance with the requirements of 45 CFR Part 1612.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 22: LAWyoming is in 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.

LAWyoming's Intake Manual lists criminal cases, including traffic tickets, except in Tribal Court, among the prohibited cases. None of the cases that were examined during the on-site visit involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 23: LAWyoming is in compliance with the requirements of 45 CFR Part 1617 (Class actions).

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

counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).²⁹

Consistent with 45 CFR § 1617.4, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1617. It was approved by the LAWyoming governing body on July 15, 2010 and is consistent with Part 1617.

The Executive Director and Deputy Director stated that LAWyoming is not involved in any redistricting litigation. According to the Intake Manual, class actions are listed among the prohibited cases. None of the cases that were examined during the on-site visit involved LAWyoming's initiation of, or participation in a class action.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 24: LAWyoming is in 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.

Consistent with 45 CFR § 1632.4, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1632. The policy and procedure was approved by the LAWyoming governing body on July 15, 2010 and is consistent with Part 1632.

The Executive Director and Deputy Director stated that LAWyoming is not involved in any activity that is inconsistent with 45 CFR § 1632.3. According to the Intake Manual, redistricting cases are listed among the prohibited cases. None of the cases that were examined during the on-site visit indicated LAWyoming's involvement in such activity.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 25: LAWyoming is in 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

²⁹ 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).

the eviction is brought by a public housing agency on the basis that the illegal activity threatens the health or safety or other resident tenants, or employees of the public housing agency. *See* 45 CFR § 1633.3.

Consistent with 45 CFR § 1633.4, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1633. The policy and procedure were approved by the LAWyoming governing body on September 30, 2010.

The policy and procedure contain several statements reflecting LAWyoming's commitment to protecting the legal rights of public housing tenants. Regardless of the statements, LAWyoming affirmatively states that any representation must be consistent with Part 1633. Accordingly, the policy and procedure is consistent with Part 1633.

The Executive Director and Deputy Director stated that LAWyoming is not involved in any such actions. According to the Intake Manual, eviction cases involving drug violations are listed among the prohibited cases. None of the cases that were examined during the on-site visit involved defense of any such eviction proceeding.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 26: LAWyoming is in 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.

Consistent with 45 CFR § 1637.5, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1637. The policy and procedure were approved by the LAWyoming governing body on September 30, 2010 and is consistent with Part 1637.

The Executive Director and Deputy Director stated that LAWyoming is not involved in prisoner litigation. According to the Intake Manual, prisoner cases are listed among the prohibited cases. None of the cases that were examined during the on-site visit involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person.³⁰

³⁰ However, two (2) of the cases that OCE examined during the on-site visit involved representation at involuntary commitment hearings. *See* Cheyenne closed 2012 File No. 12-01-05410 and Ft. Washakie closed 2012 File No. 11-03-04942. LAWyoming had de-selected both cases believing that the assistance provided was inconsistent with Part 1637. LAWyoming is advised that LSC has acknowledged that persons may be arrested and incarcerated, only to be moved to a mental health facility when it is determined that they have mental health issues. *See* 62 *Federal Register* 19421 (April 21, 1997); *see also*, OLA External Opinion 1997-07-29b (May 29, 1997) (representation of persons confined to mental health facilities, regardless of the reason for the confinement, is permitted, provided they are otherwise eligible for assistance).

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 27: LAWyoming is in compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

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

Consistent with 45 CFR § 1638.5, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1638. The policy and procedure were approved by the LAWyoming governing body on July 15, 2010 and is consistent with Part 1638.

The Executive Director and Deputy Director stated that there is no solicitation at LAWyoming. None of the cases that were examined during the on-site visit indicated LAWyoming's involvement in such activity.

LAWyoming offered no comments to this Finding in its response to the DR.

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

No LSC funds may be used to compel any person, institution or governmental entity to provide or fund any item, benefit, program, or service for the purpose of causing the suicide, euthanasia, or mercy killing of any individual. No may LSC funds be used to bring suit to assert, or advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

Consistent with 45 CFR § 1643.5, LAWyoming has developed a policy and procedure to guide its staff in complying with Part 1643. The policy and procedure were approved by the LAWyoming governing body on July 15, 2010 and is consistent with Part 1643.

The Executive Director and Deputy Director stated that LAWyoming is not involved in any such actions. None of the cases that were examined during the on-site visit indicated LAWyoming's involvement in such activity.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 29: LAWyoming is in compliance with the requirements of LSC statutory prohibitions against abortion related legal assistance (42 USC 2996f § 1007 (a) (8), school desegregation litigation (42 USC 2996f § 1007(a)(9)) and military selective service act or desertion related legal assistance (42 USC 2996f § 1007(a)(10)).

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 cases that were examined demonstrated LAWyoming's compliance with the above LSC statutory prohibitions.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 30: LAWyoming utilizes accounting software which may not be satisfactory for fund based accounting, and allows entries to be changed directly rather than requiring changes to be made and documented through journal entries.

Recipients are required to establish and maintain adequate accounting records and fiscal control procedures. Each recipient's governing body has a fiduciary responsibility to the program and is responsible for reviewing and approving accounting and control policies and makes recommendations for changes and improvements. LSC promulgates regulations that govern recipients' use of Corporation funds. These regulations appear in 45 CFR § 1600 et seq. As a condition on their grants, recipients are required to adopt accounting policies and procedures that meet the requirements of these regulations, and to modify those policies and procedures as necessary when any of the regulations are amended or new regulations are issued.

LAWyoming was incorporated in August 2006, and first received LSC funding in late 2008. Since its inception, it has utilized Quickbooks, a popular, low-end accounting software as the central feature of its accounting program. Quickbooks Payroll is also utilized for payroll preparation. Quickbooks has two major weaknesses for use by a LSC funding recipient. First, it is an entry level system designed for ease of use with little fiscal training and as a “feature” it allows the user to make changes or delete entries directly rather than requiring a documented journal entry.³¹ Secondly, the Quickbooks account structure and report capabilities are limited and ill-suited for fund based accounting. The software program is intrinsically limited by the allowable number of levels for sub-accounts, fixed sort capabilities and limited methods of tracking and reporting income, expense and remaining balances by fund sources and projects with multiple fund sources. It was also noted that when LAWyoming was requested to generate an income/expense report for LSC funding for the full period of the review (January 1, 2010 through April 31, 2012), some accounts did not reflect all items in the time period, while if requested to generate each year individually, the items were properly reflected.

LAWyoming should consider replacing the current accounting software with a fund-based accounting software. Due to the limited staffing at LAWyoming, it should include in its software selection criteria the availability of local assistance and training. LAWyoming, due to its size, has limited fiscal staffing, with an on-staff bookkeeper supplemented by a contract CPA providing technical support and performing functions necessary to provide LAWyoming with sufficient internal control through segregation of duties. The CPA is proficient with SAGE MIP fund accounting software, which is in wide use in similar LSC recipient programs.

LAWyoming offered no comments to this Finding in its response to the DR.

Finding 31: LAWyoming is in substantial compliance with the Accounting Guide for LSC Recipients (2010 Ed.) (“Accounting Guide”) as it maintains adequate supporting documentation of payments and corresponding reviews and approvals. However, deficiencies in its internal controls were noted.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the LSC Act, applicable appropriations acts and any other applicable law, regulations, rules, policies, guidelines, instructions, and other directives of LSC, including, but not limited to, the LSC Audit Guide for Recipients and Auditors (the “Audit Guide”), the Accounting Guide, the CSR Handbook, the LSC Property Acquisition and Management Manual (“PAMM”), 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 governing body, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as a process put in place, managed and maintained by the recipient’s governing body and

³¹ Quickbooks does have a rudimentary transaction recording feature which can be activated that tracks all key stroke activity in chronological order. However, it is impractical to use as a security feature since without specific time frames.

management which is designed to provide reasonable assurance of achieving the following objectives: (1) safeguarding of assets against unauthorized use or disposition; (2) reliability of financial information and reporting; and (3) compliance with regulations and laws that have a direct and material effect on the program. *See* Chapter 3 of the Accounting Guide for LSC Recipients (2010 Ed.).

Interviews with the Executive Director and a review of the May 2012 approved budget indicated that LAWyoming has an LSC surplus of \$15,156.00. Program-wide, LAWyoming had a surplus of \$29,593.02 at the time of the on-site visit. Additionally, the Executive Director expects additional grants of \$90,000 and an LSC Technology Initiative Grant (“TIG”) of \$45,000.00.

A limited review of LAWyoming’s Accounting Manual evidenced that it generally meets the requirements of the Accounting Guide. However, while it contains a section on Revenue Recognition that specifies the need to attribute *interest income* to fund sources based on the proportional balances in the accounts generating interest income, it is silent as to other sources of derivative income.³² As such, the Accounting Manual should be updated to incorporate the requirements of 45 CFR Part 1630.12.

Additionally, interviews with the Executive Director, the CPA, and bookkeeper demonstrated that LAWyoming has adequate safety controls of its computer system, including:

- Full system backups scheduled to run nightly. Full system backup takes place electronically and automatically through a digital off-site web based electronic back up.
- Accounting software is password protected and only authorized personnel have access to the password portion of the program.
- No remote access to the accounting software is allowed.
- Employees are prohibited from loading any unauthorized software on the network or any LAWyoming owned computer.
- Any disc, jump drive or other electronic portable technology, which has been used off site, must be scanned for viruses every time before use on LAWyoming owned computers.

The Executive Director and bookkeeper also advised that there have been no salary advances. A review of the General Ledger and other accounting documents confirmed that there were no salary advances provided to staff during the period 2010 through May 2012.

Furthermore, LSC’s October 29, 2010 letter instructed LAWyoming that an inter-fund transfer of \$8,771.00 from its non-LSC fund to its LSC fund should be recognized and reported in its 2010 AFS to show the use of non-LSC funds to partially liquidate a previous deficit in its LSC fund. The current review revealed that LAWyoming did report the \$8,771.00 of non-LSC funds in its 2010 AFS.

³² Discussion with the bookkeeper indicated LAWyoming’s awareness of the need to attribute income in accordance with 45 CFR § 1630.12, and examination of the LSC fund indicated other derivative income has been credited as derivative to LSC.

A review of LAWyoming's internal controls and accounting processes, and interviews with the Executive Director, CPA part-time Accountant, and bookkeeper evidenced weaknesses in its segregation of duties and other concerns as follows:

Bank Reconciliations

Bank reconciliations are being performed by a part-time accountant. Prior to reconciliation, the bank statements are required to be delivered unopened to the individual preparing the reconciliation or to management. However, during the on-site visit, OCE discovered that this is not being done. The bank statements are being opened prior to being reviewed by the Executive Director for reconciliation. LAWyoming should take corrective action and have the bank statements delivered unopened to the Executive Director as required by the Accounting Guide.

The bank reconciliations for the 2012 working, client trust, payroll and saving accounts appeared to be timely reconciled and contained the required corresponding reviews and approvals. However, they were not dated as required by the Accounting Guide, Section 3-5.2(d), Reconciliations. LAWyoming should take corrective action by documenting the reconciliations with the appropriate signature and date.

Credit Card Use

A limited review of credit card payments for years 2011 through April 2012 disclosed that LAWyoming follows its policy on credit card usage. Payments that were charged to LSC funds evidenced no exceptions and were adequately documented with the corresponding review and approval. However, to avoid the possibility of duplicate payments, supporting documents should be stamped as "paid". See Accounting Guide, Section 3-5.4, Cash Disbursements of the Accounting Guide.

Journal Entries

Journal entries do not contain the adequate supporting documentation or the corresponding approvals. LAWyoming should take corrective action and have the journal entries adequately supported and documented with corresponding approvals as required by the Accounting Guide, Section 3.5-6, General Journal.

Cash Receipts Log

LAWyoming does not maintain a cash receipt log. LAWyoming should take corrective action verifying the amount of cash receipts recorded in the general ledger and deposited in the bank. The log should list the cash received, payee, check number and amount, as required by the Accounting Guide, Section 3-5.4, Cash Receipts.

LAWyoming offered no comments to this Finding in its response to the DR.

IV. RECOMMENDATIONS³³

In view of the foregoing, OCE makes the following recommendations LAWyoming should:

1. consult its local ethical rules to ensure that conflicts checks are performed in a manner consistent with its professional responsibilities;
2. create a uniform naming system for its documents, especially the documents required for LSC compliance, *e.g.*, citizenship attestations, alien eligibility documentation, retainers, Part 1636 statements, etc.;
3. review its Part 1604 policy and consider adoption of the exception enumerated at 45 CFR § 1604.4(c)(4);
4. review its Part 1609 policy and consider whether it wishes to limit the applicability of the policy to LSC funded fee-generating cases;
5. review with the staff the requirements of 45 CFR § 1611.9;
6. revise its PAI contracts consistent with the action taken by LSC relative to attorneys' fees
7. revise its PAI contracts to include language consistent with 45 CFR § 1627.2(b)(1);
8. revise its PAI contracts to include language consistent with 45 CFR § 1614.1(d);
9. review with staff the requirements of 45 CFR § 1636.4;
10. explore using PIKA to print the required payroll reports directly; and
11. consider replacing the current accounting software with a fund-based accounting software.

LAWyoming's comments to the DR did not address any of the Recommendations contained in the DR.

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.

V. REQUIRED CORRECTIVE ACTIONS

Consistent with the Findings of this report, LAWyoming is required to take the following corrective actions:

- 1.
2. ensure that the content of its Intake Manual is consistent with its financial eligibility policy;

LAWyoming offered no comments to Finding 2, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming revise its Intake Manual consistent herewith and submit a copy of the revised Intake Manual for OCE review.

3. ensure compliance with OLA Advisory Opinion AO-2009-1002 (June 10, 2009);

LAWyoming offered no comments to Finding 2, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure compliance with OLA Advisory Opinion AO-2009-1002 (June 10, 2009).

4. ensure that staff make reasonable inquiry into the applicant's income prospects and that it maintains sufficient record of such inquiry;

LAWyoming offered no comments to Finding 2, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure that staff make reasonable inquiry into the applicant's income prospects and that it maintains sufficient record of such inquiry.

5. ensure that the value of food stamps is not used in the calculation of income;

LAWyoming offered no comments to Finding 2, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure that the value of food stamps is not used in the calculation of income.

6. ensure that all applicants receive adequate notice of LAWyoming's client grievance procedure;

LAWyoming offered no comments to Finding 2, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure that all applicants receive adequate notice of its client grievance procedure.

7. ensure compliance with 45 CFR §§ 1626.6 and 1626.7, and CSR Handbook (2008 Ed., as amended 2011), § 5.5;

LAWyoming offered no comments to Finding 5, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how

it intends to ensure compliance with 45 CFR §§ 1626.6 and 1626.7, and CSR Handbook (2008 Ed., as amended 2011), § 5.5.

8. ensure compliance with 45 CFR § 1636.4;

LAWyoming offered no comments to Finding 7, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure compliance with 45 CFR § 1636.4.

9. ensure compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.2;

LAWyoming offered no comments to Finding 12, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure compliance with CSR Handbook (2008 Ed., as amended 2011), § 3.2.

10. revise its outside practice of law policy consistent with 45 CFR § 1604.4(b);

LAWyoming offered no comments to Finding 13, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming revise its outside practice of law policy consistent herewith and submit a copy of the revised policy for OCE review.

11. establish a policy and procedure to ensure compliance with 45 CFR § 1610.5;

LAWyoming offered no comments to Finding 16, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming establish a policy and procedure to ensure compliance with 45 CFR § 1610.5 and submit same for OCE review.

12. update its Accounting Manual to incorporate the requirements of 45 CFR § 1630.12;

LAWyoming offered no comments to Finding 31, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming update its Accounting Manual to incorporate the requirements of 45 CFR § 1630.12 and submit a copy of the updated Accounting Manual for OCE review.

13. ensure proper segregation of duties; and

LAWyoming offered no comments to Finding 31, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure segregation of duties.

14. ensure compliance with the Accounting Guide, Sections 3-5.2(d), 3-5.4, and 3-5.6.

LAWyoming offered no comments to Finding 31, nor did it state how it intends to address this Required Corrective Action. Accordingly, OCE requires that LAWyoming advise OCE how it intends to ensure compliance with the Accounting Guide, Sections 3-5.2(d), 3-5.4, and 3-5.6.

APPENDIX 1

LAWyoming PUBLICATIONS

1. “General Information”, published by LAWyoming
2. “Work at Home Schemes”, published by LAWyoming
3. “Identity Theft”, published by LAWyoming
4. “Robo de Identidad”, published by LAWyoming
5. “Elder Abuse”, published by LAWyoming
6. “Abuso de Ancianos”, published by LAWyoming
7. “Avoid Foreclosure Scams”, published by LAWyoming
8. “Directivas Avanzadas del Cuidado de la Sud”, published by LAWyoming
9. “Evite Estafas de Ejecución Hipotecaria”, published by LAWyoming
10. “Abuse/Neglect of Persons with Disabilities”, published by unknown
11. “Participación De Abogados Privados”, published by LAWyoming
12. “Esquemas del trabajo en casa”, published by LAWyoming
13. “Procedimiento de Quejas del Cliente”, published by LAWyoming
14. “Poder Notarial (POA)”, published by LAWyoming
15. “Información Sobre La Bancarrota”, published by LAWyoming KidCare CHIP”, published by Wyoming Department of Health
16. “Wyoming’s Aging and Disability Resource Center”, published by Wyoming Department of Health
17. “Wyoming Quit Tobacco Program”, published by Wyoming Department of Health
18. “Adult Protective Services”, published by Wyoming Department of Health
19. “”Servicios Protectores para los Adultos”, published by Wyoming Department of Family Services
20. “Troublesome Tax Issues?”, published by US Department of the Treasury
21. “Tips for Teens”, published by US Department of Health and Human Services
22. “Keep Your Family Safe”, published by US Consumer Product Safety Commission
23. “Ten Things You Can Do to Avoid Fraud”, published by Federal Trade Commission
24. “Who’s Calling? Recognize and Report Phone Fraud”, published by Federal Trade Commission
25. “Beware of Foreclosure Rescue and Loan Modification Scams, published by Federal Deposit Insurance Corporation
26. “Why call PAIC?, published by Parents Information Center
27. “Section 404 of the Vocational Rehabilitation Act of 1973”, published by Parent Information Center
28. “You are not alone on the emotional rollercoaster”, published by Parent Information Center
29. “Educational Surrogate Parents”, published by Parent Information Center
30. “Sensory Disorders”, published by Parent Information Center
31. “Seizure Disorders”, published by Parent Information Center
32. “Positive Behavior Intervention and Supports”, published by Parent Information Center
33. “Down Syndrome”, published by Parent Information Center
34. “Shaken Baby Syndrome”, published by Parent Information Center
35. “Natural Environments”, published by Parent Information Center
36. “Solving Problems at School”, published by Parent Information Center
37. “What to do if you’re stopped by police, immigration agents or the FBI?”, published by American Civil Liberties Union
38. “Uplift”, Wyoming Federation of Families for Children’s Mental Health

39. "Are You Having Trouble Paying for Prescription Drugs?," published by Wyoming Senior Citizens, Inc.
40. "Dispute Solutions: Education for Families in Transition," published by Center for Dispute Solutions, Inc.
41. "Long Term Care Planning", published by Long, Reimer, Winegar, Beppler, LLP
42. "Dealing with Debt Collection Harassment", published by National Consumer Law Center
43. "Credit Reporting 101," published by unknown



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August 31, 2012

Lora M. Rath
Acting Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K. Street, NW 3rd Floor
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RE: Case Service Report/Case Management System Review Visit, Recipient No. 951050

Dear Ms. Rath,

In response to your August 3, 2012 letter regarding the Case Service Report/Case Management System Review Visit Draft Report, we are objecting to the following finding:

Finding 1: LAWyoming's automated case management system ("ACMS") is insufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

LSC requested from LAWyoming, a list of all cases reported in its 2010 CSR data, all cases reported in its 2011 CSR data, all cases closed between 1/1/2012 and 4/15/2012, all cases open as of 4/15/2012. LAWyoming provided this information in over 30 excel spreadsheets and the list of open PAI cases was the only report that had problems.

The information provided was generated from the Case Management System, PIKA, and then exported into Microsoft Excel. While trying to sort the cases in Microsoft Excel, there was a human error, this caused the case numbers to shift making it inconsistent with the case numbers that were actually assigned. If the report was generated from PIKA and not exported to Microsoft Excel, the information would have been accurate.

LAWyoming will further state that this issue was discussed with the OCE team at the time of the visit. It was explained that it was human error when the excel spreadsheet was incorrectly sorted and not a problem with the case management system.

We respectfully request that Finding 1 be changed accordingly and find no other objections to the draft report.

Sincerely,

Raymond D. Macchia
Executive Director