



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

Community Law Office, Inc.
October 25-29, 2010
Case Service Report/Case Management System Review

Recipient No. 253030

I. EXECUTIVE SUMMARY

Finding 1: Sampled cases evidenced that CLO's automated case management system (ACMS) is not sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Several cases were noted where the information in the case file did not match the information in the ACMS.

Finding 2: CLO's intake procedures do support the program's compliance related requirements. However, conflict and duplicate checks need to be conducted consistently by the program.

Finding 3: The sampled cases evidenced that CLO maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG).

Finding 4: Sampled cases evidenced that CLO maintains asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

Finding 5: Sampled cases evidenced compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

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

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

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

Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided).

Finding 10: Sampled cases evidenced that CLO's application of the CSR case closure categories are substantially consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.) § 3.3 as there were three (3) case files reviewed that were dormant or closed in an untimely manner.

Finding 12: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 15: A limited review of CLO's accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities.

Finding 16: CLO's PAI policies and procedures are standardized and are in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases. However CLO is not in compliance with the requirements of 45 CFR § 1614.3(e)(1)(i).

Finding 17: The review of documentation related to CLO's compliance with 45 CFR § 1627.4(a) indicates that non-LSC funds are being used to pay for non-mandatory membership fees or dues to one or more private or non-profit organizations, indicating compliance with 45 CFR § 1627.4(a) (Subgrants and membership fees or dues).

Finding 18: The sample documentation reviewed indicates CLO is not in full compliance with the requirements of 45 CFR Part 1635 (Timekeeping requirement).

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

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

Finding 29: CLO is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decision, to sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

Finding 30: From a limited review of CLO's fiscal documentation and interviews with its management, the program could further strengthen its fiscal internal control by fully implementing additional internal controls that are detailed in the Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.

Finding 31: Review of the bank reconciliations for the months of August and September 2010 evidenced that they are not signed or dated by the reviewer.

II. BACKGROUND OF REVIEW

During the week of October 25-29, 2010, staff of the Office of Compliance and Enforcement (OCE) conducted a Case Service Report/Case Management System (CSR/CMS) review at the Community Law Office (CLO). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable laws. The visit was conducted by a team of two (2) attorneys and one (1) fiscal analyst.

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

The OCE team interviewed members of CLO's upper and middle management, staff attorneys, and support staff. CLO's case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, a case file review was conducted. The sample case review period was from January 1, 2008 through September 1, 2010. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed 140 case files, which included some targeted files.

CLO is one of two (2) LSC programs in Puerto Rico. The program has two (2) field offices, both of which are located in San Juan. The main office is on the campus of The Interamerican University Law School, the other office, a domestic violence clinic, is located at the San Juan Judicial Center. CLO has 14 staff members, six (6) of which are attorneys. The domestic violence clinic is staffed with one (1) attorney, and a secretary.

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

CLO received grant awards from LSC in the amount of \$333,542 for 2008, \$366,792 for 2009, and \$394,600 for 2010. In its 2009 submission to LSC, the program reported 1,399 closed cases. CLO'S 2009 self-inspection certification revealed a 0% error rate in CSR reporting.

By letter dated August 2, 2010, OCE requested that CLO provide a list of all cases reported to LSC in its 2008 CSR data submission (closed 2008 cases), a list of all cases reported in its 2009 CSR data submission (closed 2009 cases), a list of all cases closed between January 1, 2010 and September 1, 2010 (closed 2010 cases), and a list of all cases which remained open as of September 1, 2010 (open cases). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by CLO staff and the other for cases handled through CLO's PAI component. CLO 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* (January 5, 2004) protocol. CLO was requested to notify OCE promptly, in writing, if it believed that providing the requested material in the specified format would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, an effort was made to create a representative sample of cases that the team would review during the on-site visit. The sample was developed proportionately among 2008, 2009, and 2010 closed and 2010 open cases. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and CLO agreement of October 6, 2010, CLO staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.²

CLO's management and staff cooperated fully in the course of the review process. As discussed more fully below, CLO was made aware of compliance issues during the on-site visit. This was accomplished by informing intermediaries, as well as Managing Attorneys, and the Executive Director, of any compliance issues uncovered during case review.

At the conclusion of the visit, OCE conducted an exit conference during which CLO was made aware of the areas in which a pattern of non-compliance was found. With the exception of the inversed dates entered in 2009 case files, no significant distinction between 2008, 2009, and 2010 cases were found. OCE cited instances of non-compliance in the areas of automated case management system, 45 CFR § 1614.3(e)(1)(i), and 45 CFR Part 1635. They were found in

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

substantial compliance in the areas of intake, documentation of legal advice, application of closing codes, timely case closure, duplicate case reporting, internal control policies, and bank reconciliations. CLO was advised that they would receive a Draft Report that would include all of OCE's findings, and that they would have 30 days to submit written comments in response. Thereafter, a Final Report would be issued that would include CLO's comments.

By letter dated December 30, 2010, OCE issued a Draft Report (DR) detailing its findings, recommendations, and required corrective actions. CLO was asked to review the DR and provide written comments. By letter dated February 14, 2011, CLO submitted its comments to the DR. CLO has taken several corrective measures in response to the DR, which have been detailed in their comments to the DR. OCE has carefully considered CLO's comments and has either accepted and incorporated them within the body of the report or responded accordingly. CLO's comments, in their entirety, are attached to this Final Report.

III. FINDINGS

Finding 1: Sampled cases evidenced that CLO's automated case management system (ACMS) is not sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Several cases were noted where the information in the case file did not match the information in the ACMS.

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

CLO has installed a new ACMS since OCE's last CSR/CMS review called APLICA. CLO does not have an updated version of this new ACMS. As such, CLO's version is not compliant with the requirements of the CSR Handbook (2008 Ed.), § 3.1. The ACMS does not allow management to timely access accurate information and meet time keeping requirements. The APLICA system does not conduct duplicate or conflict checks unless a client's full social security number is entered. Thus, if an applicant does not have a social security number or does not provide their entire social security number a duplicate check is not conducted. This is an issue because in some instances CLO does not obtain/document the clients entire social security number.³

³ When OCE visited CLO in 2005 the program did not have an ACMS. All intake and timekeeping was conducted by hand (2005 CSR/CMS Final Report). CLO was awarded a LSC TIG grant with Puerto Rico Legal Service (PRLS) and PRLS' Pro Bono entity to create an integrated intake system that would include centralized intake. The formation of the integrated system and the centralized intake never came to fruition. PRLS and its Pro Bono entity formerly used APLICA but now utilize another intake system that is web based. After the current on-site visit, LSC's TIG department was made aware of CLO's issues regarding their ACMS and was asked to contact CLO to assist in obtaining a new ACMS or assisting in obtaining the necessary tools to aid in the upgrading of their current ACMS.

Additionally, APLICA does not allow CLO to print all of a client's intake information or case data. Consequently, CLO does not enter all of the case file information into APLICA. The majority of case file information is kept in a hardcover file. Furthermore, APLICA does not have proper built in reports functionality which is necessary for proper time keeping.

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, CLO's ACMS is not sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Several of the sampled cases reviewed evidenced instances in which the information in the case files were inconsistent with the information in the ACMS.

See e.g. Case Nos. 35012009020097 - The date that the case was open in the ACMS is February 1, 2009, however the file notes that the case was opened on September 17, 2008; 35002008070014 - This case was closed on July 2, 2008 but was still open in the ACMS on the date of review; 35002008070014- This case was closed on July 2, 2008, but was still open in the ACMS on the date of review; 35002004050621- This case was closed in September 16, 2008, but was still open in the ACMS; and 35052010010002 - The date of acceptance in the ACMS was January 26, 2010. However, the case file had February 1, 2010 as the date opened.

Also, pattern of errors were noted regarding the dates that were entered in the ACMS. It appeared as though the intake processor entered the date in Spanish (day/month/year) at times and in English (month/day/year) at others. This issue was mostly prevalent in the closed 2009 case sample. *See e.g.* Case Nos. 21095 - closing date in file is 3/10/09 but the date entered in the ACMS is 10/3/09; 20596 - open date documented in the file is 02/06/07 but date entered in ACMS is 06/02/07; and 21020 - open date in ACMS is 1/4/08 and in file is 4/1/08.

CLO should ensure that the correct case file information is entered and recorded in the automated case management system. CLO must either update APLICA or purchase a new ACMS that will allow timely access to accurate information and provide CLO the capacity to meet LSC reporting requirements.

In response to the DR, CLO stated as follows:

“On 2008, CLO installed an ACMS called *APLICA*. Up to 2009, we were in the process of improving this Case Management System. Unfortunately, we have no contact with *APLICA*'s developer and the original compilation and generation scripts and most of the source codes are not available to us anymore. Thus, CLO cannot implement any changes or enhancements to the System. We have considered the acquisition of other ACMS, but we submitted a technology proposal to the Legal Services Corporation (LSC), and it was not approved.

On 2010, Puerto Rico Legal Services (PRSL) established a new ACMS called ProMac. Presently, we are in conversations with Charley Hey, Executive Director of PRLS, to acquire the new ACMS, ProMac.

In our evaluation, we are taking into consideration the costs of customizing the software to CLO's operation. It is also necessary to evaluate the impact of technical assistance and the acquisition of new equipment for the new ACMS will have on the office's budget.

While we buy and establish the new case management software, we have instructed our clerical personnel on the importance of performing a careful, thorough and rigorous data entry process, in order to minimize errors in the ACMS data.

Our short-term goal is, as mentioned to you, to purchase a new ACMS as soon as possible; this action will allow CLO to have accurate information in the system and it will also provide the ability to meet LSC's requirements. The impact of this project is to position CLO to leverage the ACMS to its maximum potential with the development of new management reports and tools and to enable the adjustment of the system to CLO's specific requirements.”

Finding 2: CLO’s intake procedures do support the program’s compliance related requirements. However, conflict and duplicate checks need to be conducted consistently by the program.

CLO’s intake staff was interviewed regarding the implementation of CLO intake procedures and LSC’s requirements. The interviews comprised of inquiries regarding the program’s intake screening process, and the staff’s understands of the program’s income and asset policies, and intake procedures. Copies of forms used during the screening and intake process were obtained. CLO’s case management system was also tested to ensure compliance with LSC’s requirements.

A review of CLO’s intake case acceptance and case management practices revealed that, at the time of the OCE on-site visit, client information regarding eligibility was recorded consistently and accurately as required by 45 CFR Part 1611, 45 CFR Part 1626, and the LSC CSR Handbook.

CLO’s intake is conducted in two steps. Intake is conducted manually and then entered into the ACMS. Intake is conducted in person and by phone by CLO’s administrative staff and advocates. Walk-in clients and phone applicants are first greeted by the receptionist. CLO does not have voice mail. The receptionist keeps a daily client log of all in coming calls and walk-in applicants. The client log documents the name, type of case and residence of each client. The receptionist fills out a manual intake sheet for each walk-in and telephone applicant. The receptionist documents information regarding the applicant’s name, address, issue, citizenship status, household, public benefits, and employment status. The receptionist enters the manual intake information into the ACMS and documents the case number generated from the ACMS onto the manual intake form. Applicants are then interviewed by advocates either by phone or in person. Advocates screen applicants for asset and income information. That information is then documented in the applicant’s file. If the applicant is eligible for service, their file is then discussed at the weekly staff meeting during which it is decided if the case should be accepted.

Once a decision is made the case it is given to the legal secretary who opens the case and forwards the case file to the assigned attorney or to the PAI coordinator. According to the

secretary they review an APLICA generated client log that contains the list of all of current clients to check for duplicates. A letter is sent to the client informing them that their case has been accepted. Rejected files are forwarded to the receptionist who sends a letter to the applicant informing them that their file was not accepted. Once a case is closed it is reviewed by the Executive Director and closed by the legal secretary. The legal secretary enters the closing information into APLICA and closes the file.

The CLO receptionist and advocates were knowledgeable of CLO's eligibility guidelines. Advocates screen for income, prospective income, assets and citizenship. The CLO advocates and the PAI coordinator were aware of the over-income, government benefit, and VOWA exemptions. CLO maintains the required documentation for their over income clients.

However, duplicate checks and conflict checks are not conducted program wide. As discussed in Finding No. One (1), duplicate checks can only be conducted if the applicant provides their full social security number. Conflict checks are also conducted manually but not consistently. One of the reasons conflicts are not checked in every case is because CLO has a high volume of notary cases. The Executive Director advised that many clients could be conflicted out due to the fact that they have had a document notarized by CLO. CLO was advised that a conflict and duplicate check should be conducted using the client and adverse party's name. CLO was also advised that at intake the applicant's and adverse party's name should be compared to the printed client list to ensure that there are no duplicates or conflicts.

Law School Clinic

The American University of Puerto Rico, School of Law is part of CLO's PAI program. The law school runs a clinic which is supervised by a law professor. The law professor is CLO's former Executive Director. Interview with the professor revealed that they are provided training regarding LSC updates and received training regarding the 2008 revision of the CSR Handbook. The clinic consists of third year law students who are trained for two to three weeks prior to the opening of the clinic. The law students see clients on Tuesday and Friday under the supervision of the law professor. The law students interview clients using CLO's intake forms. After a client is determined to be eligible for service, they are asked to discuss their issue. Before the client leaves the student has the supervising professor review the intake sheet. If no other information is needed, the applicant is advised that they will receive a letter advising them if their case has been accepted. The law student's then prepare a case memo and present the facts of the cases at CLO's staff meeting and participate in the discussions of the merits of the case. If the case is accepted it is given to either the law student, a CLO's advocate, or a PAI attorney. If the case is given to a student they are supervised throughout the process. When a case is completed, the students prepare a closing memorandum and the case file is reviewed by the supervising law professor before it is closed.

Interviews with the supervising attorney revealed that he was not aware of the VOWA exemptions. In addition, students are not allowed to use the government benefit's exemption. All clinic clients are screened for assets regardless of the program's policy.

Domestic Violence

Domestic Violence (DV) clients are screened at the court house. The DV clinic uses the same intake forms used at CLO's office and the DV clinic computers are equipped with the APLICA case management system. However, the DV computer is not networked to the CLO's main server. The DV clinic conducts intake from 8:00 am to 4:00 pm. The majority of the clients are walk-in applicants. Although not required, all clinic clients are asked to sign a citizenship attestation or verify their alien status. The CLO intake form is used to interview clinic applicants. The form is reviewed by an attorney and entered into the computer. Conflict checks are conducted by utilizing a client list containing only of the DV clients. According to the managing attorney sometimes they will call CLO's legal secretary to check conflicts. Once the file is completed the file is forwarded to the Deputy Director for a review and then given to the legal secretary who enters the information into ACMS. The managing attorney at the DV clinic was aware of the VOWA exemption but stated that she is not familiar with the government exemption since they screen every client in order to obtain the required information to maintain client statistics.

Based on our review it was recommended that CLO review its code of ethics regarding conflicts cases to see if they are conflicted out when they assist a client by notarizing a document. It was also recommended that the DV staff call the CLO office and have a staff member check for duplicates and conflicts manually and the domestic violence client names should be updated daily to ensure that the client case list is current.

In response to the DR, CLO stated as follows:

“After your teams visited CLO, we established a procedure to conduct a program wide duplicate check and conflict checks. This procedure consist of sending each day a list of the open and closed cases in the Program of the case load to the personnel of the Domestic Violence Project, located at the San Juan Judicial Center. This list is reviewed by the receptionist, who verifies that the person who is going to be interviewed by a lawyer has no conflict with our office. Likewise, she verifies that the petition is not duplicated.

Cases served by the Domestic Violence Project are immediately incorporated to the system; since the Domestic Violence Project's receptionist sends CLO the information of the cases served by them. Said information is entered to APLICA, so the next day those cases are included in the case's index as viewed by the Domestic Violence Project's personnel.

To avoid conflicts, we have reminded the Program's Staff, that it is important to include the information of the adverse party both in the interview sheet and in digital system *APLICA*. This information must be completed in the process of the initial interview, since it helps us to identify conflict of interests in the cases.

As you recommended, we are comparing the information of the applicant and the adverse party's name with the information in the abovementioned list to ensure that there are no duplicates or conflicts.

We hope that this mechanism, though rudimentary, allow us to minimize the duplicity and to avoid conflicts in the service petitions, while we acquire a new digital system that allows to detect these situations.”

Finding 3: The sampled cases evidenced that CLO maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income exceeds 125% of the Federal Poverty Guidelines (FPG).

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.⁴ *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

In those instances in which the applicant’s household income before taxes is in excess of 125% but no more than 200% of the applicable Federal Poverty Guidelines (FPG) and the recipient provides legal assistance based on exceptions authorized under 45 CFR § 1611.5(a)(3) and 45 CFR § 1611.5(a)(4), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

CLO’s income and asset policy where in compliance with the requirements of 45 CFR Part 1611. CLO utilizes a spend-down method when determining the eligibility of over income applicant. If the applicant is still over income after a spend down has been conducted or if the applicant’s income is over 200% the Executive Director’s waiver must be obtained. The sample case files reviewed contained the required documentation and were in compliance with LSC’s income and asset eligibility requirements.

⁴ A numerical amount must be recorded, even if it is zero. *See* CSR Handbook (2001 Ed.), ¶ 5.3 and CSR Handbook (2008 Ed.), § 5.3.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 4: Sampled cases evidenced that CLO maintains the asset eligibility documentation as required by 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

As part of its financial eligibility policies, recipients are required to establish reasonable asset ceilings in order to determine an applicant's eligibility to receive legal assistance. *See* 45 CFR § 1611.3(d)(1). For each case reported to LSC, recipients must document the total value of assets except for categories of assets excluded from consideration pursuant to its Board-adopted asset eligibility policies.⁵ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

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

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

All sample case files reviewed contained the required documentation to comply with LSC's income and asset eligibility requirements. However, the case sample evidenced that majority of the clients had zero assets. It is recommend that CLO ask and documents the amount of cash the applicant has on hand to ensure assets are being properly screened.

There are no corrective actions required.

There was no response to this Finding.

⁵ A numerical total value must be recorded, even if it is zero or below the recipient's guidelines. *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008 Ed.), § 5.4.

Finding 5: Sampled cases evidenced compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

The level of documentation necessary to evidence citizenship or alien eligibility depends on the nature of the services provided. With the exception of brief advice or consultation by telephone, which does not involve continuous representation, LSC regulations require that all applicants for legal assistance who claim to be citizens execute a written attestation. *See* 45 CFR § 1626.6. Aliens seeking representation are required to submit documentation verifying their eligibility. *See* 45 CFR § 1626.7. In those instances involving brief advice and consultation by telephone, which does not involve continuous representation, LSC has instructed recipients that the documentation of citizenship/alien eligibility must include a written notation or computer entry that reflects the applicant’s oral response to the recipient’s inquiry regarding citizenship/alien eligibility. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5; *See also*, LSC Program Letter 99-3 (July 14, 1999). In the absence of the foregoing documentation, assistance rendered may not be reported to LSC. *See* CSR Handbook (2001 Ed.), ¶ 5.5 and CSR Handbook (2008 Ed.), § 5.5.

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse’s or parent’s family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁶ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient’s CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, “Violence Against Women Act 2006 Amendment” (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

Sampled cases did not reveal any case files that were not compliant with the requirements of 45 CFR § 1626.6.

There are no recommendations or corrective actions required.

There was no response to this Finding.

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

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

⁶ *See* Kennedy Amendment at 45 CFR § 1626.4.

problem for which representation is sought, and the nature of the legal service to be provided. *See* 45 CFR § 1611.9(a).

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁷ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

CLO is in substantial compliance although there were two (2) cases reviewed from the sample that lacked a sufficient retainer agreement when required.

In response to the DR, CLO stated as follows:

“After the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed the new eligibility form. We also reviewed the federal regulations about the service and case's acceptance process. One of the issues discussed with the attorneys and the Pro-bono Professors was the importance to execute the retainer agreements when presentation commences or soon thereafter.”

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

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

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

Case files reviewed indicated that CLO is in compliance with the requirements of 45 CFR Part 1636.

There are no recommendations or corrective actions required.

There was no response to this Finding.

⁷ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient's risk management.

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

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

Prior to the visit, OCE was provided a list of CLO's priorities. CLO is in compliance with 45 CFR Part 1620. None of the case sample files reviewed revealed legal issues that were outside of CLO's priorities.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided).

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

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

Recipients are instructed to record client *and* case information, either through notations on an intake sheet or other hard-copy document in a case file, or through electronic entries in an ACMS database, or through other appropriate means. For each case reported to LSC such information shall, at a minimum, describe, *inter alia*, the level of service provided. *See* CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

CLO is in substantial compliance as there were only two (2) cases reviewed from the sample that failed to contain a description of the legal assistance provided.

See Case No. 35002009090147- There was no legal advice provided in this case. This was a discrimination case and the program directed the client to the correct office to file their

complaint; and Case No. 3500-2010-02-0026 – The client was only advised of cost of paternity test however, no legal advice was provide over phone or in letter sent to client.⁸

CLO should ensure that each case reported to LSC contains a description of the legal assistance provided to the client.

In response to the DR, CLO stated as follows:

“After the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed about the new eligibility form and we reviewed the federal regulations about the service and case's acceptance process. Other issues discussed with the attorneys and the Pro-bono Professors were the importance of keeping a record of the clients and case information in the case's file during the intake process. We argued about the importance to include a brief description of the legal assistance provided. We also clarified that if the applicant needs only a referral or an advice (not legal), we should close the applicant's case, because no legal advice was provided.”

Finding 10: Sampled cases evidenced that CLO’s application of the CSR case closure categories are substantially consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

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

The files reviewed demonstrated that CLO’s application of the CSR case closing categories are substantially consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.). The case sample evidenced a few instances of incorrect application of closing codes but no pattern was found. *See e.g.* Case No. 21095, file was closed as B but should have been closed as I(b); and Case No. 3502-2009-02-0083 closed as L should have been closed as B (closed 2009).

Additionally, the PAI coordinator stated that CLO staff was informed during the training regarding the revised CSR Handbook (2008 Ed.) that all cases involving the preparation of a will are to be closed as L. However, a review of the case files revealed that not all wills prepared by the PAI attorneys are extensive service. The PAI coordinator was advised that cases involving

⁸ Case No. 3500-2010-04-0035 did not lack a description of the legal advice provided; however, the client letter stated that the client’s case was not accepted because the case was not in CLO’s priorities. The case was not accepted for extended service but for limited service and the client was provided advice in the client letter. CLO was advised that advice letters should not include the language that a client’s case was rejected. In accordance with the CSR Handbook (2008 Ed.), § 2.1 in order for a case file to be reported to LSC the case has to be accepted. Rejection of a file means a case was not accepted and, thus, cannot be reported to LSC.

wills should be reviewed on a case by case basis. *See* Case Nos. 3502-2008-07-0002 and 3502-2008-07-003 closed as L but should have been closed as B due to the level of service provided.

CLO must ensure that in all cases in which the L closing code is applied, the assistance provided is extensive and complex as required by the CSR Handbook (2008 Ed.), § 6.1.

In response to the DR, CLO stated as follows:

“On September 2010, CLO's staff had a meeting to discuss all closing categories and the importance to close the case on a timely basis. We gave the training with the information included in the Handbook and the regulations. We had a very productive discussion on what we should close as L and when does the case should be closed. We talked about the importance of the assistance to be provided and how extensive does the assistance should be to close the case as an L.

We talked about the extensive and complex legal work that we have done to be able to close a case as an L. We stressed that this analysis should be made on a case-by-case basis.

In addition, after the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed the new eligibility form and we reviewed the federal regulations about the service, case's acceptance process and closing categories.

CLO established as an internal policy that every three months a report of open and closed cases will be sent to each attorney and Pro-bono Professor. This will allow each attorney to know which cases he or she keeps open and if the legal service has finished, will be reminded that he or she should close them immediately.”

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as there were three (3) case files reviewed that were dormant or closed in an untimely manner.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, limited action, or a referred after legal assessment (CSR Categories, A, B, and C), should be reported as having been closed in the year in which the counsel and advice, limited action, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).⁹ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook

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

(2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

CLO is in substantial compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a) as there were three files reviewed that were dormant or closed in an untimely manner. *See* Case Nos. 35002007010631- this case was deselected in 2008 because the client failed to return the requested documents to the office however it was left open in the ACMS; 35002007110899 - the last date of service provided to the client note in the file was in 2008, interrogatories were sent in 2009, and several letters were sent to the client with no response. This case should have been closed in 2009 when the program lost contact with the client; and 35022010010053 - the case notes indicate that the file should have been closed in 2009 however, case is still opened (PAI Open).

CLO should ensure that all cases are timely closed by conducting periodic reviews of case management reports on closed cases, particularly those limited service files that remained open for an extended period of time.

See CLO's response to DR which is incorporated in Finding No.10.

Finding 12: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 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 (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

When a recipient provides more than one type of assistance to the same client during the same reporting period, in an effort to resolve essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient may report only the highest level of legal assistance provided. *See* CSR Handbook (2001 Ed.), ¶ 6.2 and CSR Handbook (2008 Ed.), § 6.2.

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems

presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

CLO is in compliance with the requirements of CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 regarding duplicate cases. The case sample included targeted files to test possible duplicate files. *See* Case Nos. 3502-2009-05-0057-00-000 and 3502-2009-0500570- The case sample disclosed one set of duplicate files a foreclosure and a bankruptcy. Only one case should have been opened for this client under the bankruptcy problem code file.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 13: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

Sampled files reviewed indicate that CLO is not involved in such activity.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or

recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

Sampled cases and interview with the Executive Director evidenced compliance with the requirements of 45 CFR Part 1609.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 15: A limited review of CLO's accounting and financial records, observations of the physical locations of program field offices, and interviews with staff indicated compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity) in reference to sharing physical space with a non-LSC entity engaged in restricted activities.

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

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

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

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

- i) the existence of separate personnel;
- ii) the existence of separate accounting and timekeeping records;
- iii) the degree of separation from facilities in which restricted activities occur, and the extent of such restricted activities; and

- iv) the extent to which signs and other forms of identification distinguish the recipient from the other organization.

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

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

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

Based on a limited review of the program's fiscal records, observations of the physical locations of all program field offices, and interviews with staff, CLO does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 16: CLO's PAI policies and procedures are standardized and are in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases. However CLO is not in compliance with the requirements of 45 CFR § 1614.3(e)(1)(i).

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

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

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

CLO's PAI program consists of two (2) components. The first is the pro-bono cases handled by the third year American University of Puerto Rico Law School students and their supervising professor. The manner in which these cases are handled is outlined in Finding No. Two (2).¹⁰

The second is the reduced-fee cases which are handled by a panel of private attorneys. CLO's PAI procedures are in its Referral to Private Attorney Outline. All compensated PAI files go through general intake and are forwarded to staff for review during the weekly case acceptance meetings. If a case is accepted for compensated PAI assistance it is forwarded to the PAI coordinator. Cases in areas such as family law, bankruptcy (Chapter 7 and 13), public housing, and foreclosures are forwarded for PAI assistance. When the PAI Coordinator receives the cases she calls the client and reviews the intake information. Then the PAI Coordinator attempts to place the case with a PAI attorney. Once an attorney accepts the case, letters and forms are sent to the PAI attorney and the client. Oversight is conducted every month either by phone, email or letter. When a case is completed the PAI attorneys are required to submit an itemized bill, a case closing form and copies of supporting documentation as proof of assistance. The PAI Coordinator reviews the file to ensure that all the required documentation has been submitted and that the closing code is correct. The Executive Director reviews the file before it is closed and a check is issued to the private attorney.

The case sample evidenced no patterns of dormancy or lack of oversight. The Executive Director was very knowledgeable of the CSR requirements.

However, the Audited Financial Statements (AFS) for 2009 indicates that the total expenditures reported as dedicated to the PAI effort totaled \$51,320 or 14.2% of the total basic field grant of \$365,459. The review of attorney salaries allocated as a cost to PAI \$31,125 for 2009, includes the salary of the PAI coordinator \$30,427.56 or 24% and one attorney based on a percentage basis of yearly workable hours (1950). The review of records and documentations, and interview with management indicates that CLO incorrectly allocates salary costs related to the PAI effort. Attorneys' salaries are allocated on a percentage basis without any reasonable operating data as the base, CLO uses an estimated percentage and applies it to the yearly workable hours (1950), the percentages used have been the same for the past three(3) years. CLO should take corrective action and have the attorney's salaries calculated on actual time as reported on time records for time spent on PAI activities, as required by 45 CFR § 1614.3(e)(1)(i).

¹⁰ During OCE's last CSR/CMS review CLO was notified that the cases handled by the clinic law professors had to be closed as PAI not staff. CLO has made this correction

Additionally, payments to the only two (2) contract attorneys from the general ledger of 2009 and 2010 were reviewed. Payments to the two (2) attorneys consisted of invoices for several cases (eight (8) for 2009 and five (5) for 2010) that were submitted, and paid. The review was to determine if the corresponding documentation, approvals, etc. follow the requirements of the agreement, and letter of confirmation and the guidelines of the accounting guide and kept in their accounting pay files and corresponding client case files. The sample reviewed disclosed that payments to private attorneys are being properly executed, and documented in the sample of selected case files, in compliance with 45 CFR § 1614.3(e)(1)(ii). However, LSC recommends that CLO revise their contracts by including the following two (2) paragraphs to clarify the intended compliance with the requirements of two LSC regulations:

- 1) 45 CFR Part 1600; This contract is conditioned upon the attorney or law firm that the dollar amount of contract or total payments derived from this contract is less than 50% of the attorney or law firm projected annual professional income; and
- 2) 45 CFR § 1627.2(b)(1); This contract is on the condition that if payments exceed \$25,000 in a year, attorneys or law firm will engage in a subgrant agreement that will need LSC's approval.

Based on the above stated findings CLO should clearly document the methodology of allocating PAI common costs as required by 45 CFR § 1614.3(e)(1)(i), and incorporate in their accounting manual, as required in chapter 3-4 of the Accounting Guide.

In response to the DR, CLO stated as follows:

“Considering CLO's size and its budget, we understand that the methodology that we have been using for the attorneys' salaries is reasonable, as well as the common costs. Nonetheless, we accept your recommendation to document and modify the methodology used, both for the attorneys' salaries allocation and for the common costs. We will, as well, review our accounting manual to incorporate the changes in methodology, which at least, will include the following:

The costs of the attorneys' salaries, PAI Coordinator or those attorneys that spend time on PAI activities, will be allocated based on the time dedicated to PAI cases, according with their timekeeping records. Certain modifications have been made to the timekeeping records, and the personnel has been specially instructed likewise, so that we are sure that we will get the information, the necessary and accurate data to determine the allocation to be made. Based on this data, the percentage of time dedicated by the attorneys to PAI cases, cases of the main program and other funds will be identified, The percentage of time dedicated to PAI cases will be used to determine the salary costs assigned to PAI activities. This allocation will be performed, at least, quarterly, and it will be prepared and reviewed by personnel from the Accounting and Administration Department.

Common and indirect costs will be allocated, mainly, taking into account what percentage from the total of cases served by CLO are PAI cases. To determine this percentage, last year's final statistic will be used as basis, which could be reviewed, if it seems that the statistics of actual cases, this year, could significantly change versus the closing of the previous year.

On the other hand, the recommendation that CLO reviews PAI's contracts, by including two additional paragraphs; 45 CFR Part 1600 and 45 CFR § 1627.2 (b)(1), we accept your recommendation and CLO is in the process of reviewing and sign all PAI contracts again, including the aforementioned paragraphs.”

Finding 17: The review of documentation related to CLO’s compliance with 45 CFR § 1627.4(a) indicates that non-LSC funds are being used to pay for non-mandatory membership fees or dues to one or more private or non-profit organizations, indicating compliance with 45 CFR § 1627.4(a) (Subgrants and membership fees or dues).

LSC regulation 45 CFR § 1627.4(a) requires that:

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

The review of accounting records and detailed general ledger for the year ending January 1, 2009 through September 30, 2010 disclosed that CLO uses non-LSC funds to pay for membership fees or dues to any private or nonprofit organization, whether on behalf of a recipient or an individual.

There was no response to this Finding.

Finding 18: The sample documentation reviewed indicates CLO is not in full compliance with the requirements of 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.

CLO's timekeeping records are not being kept adequately. PRLS implemented CLO's timekeeping system, and currently maintains this system. In many instances, CLO's timekeeping does not specifically state the work being done by the advocate; rather they use case action codes or names i.e. phone calls, meetings, etc.

LSC recommends that CLO advocates complete the description column on the timekeeping records, rather than using an action code, in order to have a more accurate reflection of the work done, and that CLO implement a new Case Management System which will allow the program to keep proper timekeeping records.

In response to the DR, CLO stated as follows:

“On 2008, CLO finally was able to include the timekeeping records in an electronic program. With this program, CLO is able to aggregate time records information on both closed and pending cases. The problem is that this program doesn't provide for preparing reports other than printing the timekeeping records. We are aware that the information included in the program is not accurate or an exact reflection of the work done by the attorneys and paralegals.

As we mentioned at the beginning, CLO is in the process of an evaluation of a new Case Management System, Pro Mac. This system has an application of timekeeping records that is integrated with the casework. If CLO can implement a new Case Management System, it will allow the program to keep proper timekeeping records.

Until we can afford a new ACMS, we have instructed all attorneys to include in the description column of the timekeeping records the work they have done, rather than using an action code, in order to have a more accurate reflection of the work done.”

Finding 19: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees).

Prior to December 16, 2009, except as otherwise provided by LSC regulations, recipients could not claim, or collect and retain attorneys' fees in any case undertaken on behalf of a client of the

recipient. *See* 45 CFR § 1642.3.¹¹ However, with the enactment of LSC’s FY 2010 consolidated appropriation, the statutory restriction on claiming, collecting or retaining attorneys’ fees was lifted. Thereafter, at its January 23, 2010 meeting, the LSC Board of Directors took action to repeal the regulatory restriction on claiming, collecting or retaining attorneys’ fees. Accordingly, effective March 15, 2010 recipients may claim, collect and retain attorneys’ fees for work performed, regardless of when such work was performed. Enforcement action will not be taken against any recipient that filed a claim for, or collected or retained attorneys’ fees during the period December 16, 2009 and March 15, 2010. Claims for, collection of, or retention of attorneys’ fees prior to December 16, 2009 may, however, result in enforcement action. *See* LSC Program Letter10-1 (February 18, 2010).¹²

The sampled files reviewed did not contain a prayer for attorney fees as such CLO is in complaint with the requirements of 45 CFR Part 1642. Additionally, a limited review of the CLO fiscal records, and interviews with management evidenced that there were no attorney fees awarded, nor received for the year beginning January 1, 2009 through September 30, 2010.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 20: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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

None of the sampled files and documents reviewed, including the program’s legislative activity reports, evidenced any lobbying or other prohibited activities.

There are no recommendations or corrective actions required.

There was no response to this Finding.

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

¹² 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.

Finding 21: Sampled cases evidenced compliance with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions collaterally attacking criminal convictions).

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

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

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 22: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define “class action” as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations define “initiating or participating in any class action” as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).¹³

None of the sampled files reviewed involved initiation or participation in a class action.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 23: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1632 (Redistricting).

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

None of the sampled files reviewed revealed participation in litigation related to redistricting.

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

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 24: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

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

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

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 25: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1637 (Representation of prisoners).

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

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

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 26: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.¹⁴ This restriction has

¹⁴ *See* Section 504(a)(18).

been contained in all subsequent appropriations acts.¹⁵ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: “This part is designed to ensure that recipients and their employees do not solicit clients.”

None of the sampled files, including documentation, such as community education materials and program literature indicated program involvement in such activity.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 27: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

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

None of the sampled files reviewed involved such activity.

There are no recommendations or corrective actions required.

There was no response to this Finding.

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

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

¹⁵ *See* Pub. L. 108-7, 117 Stat. 11 (2003) (FY 2003), Pub. L. 108-199, 118 Stat. 3 (2004) (FY 2004), Pub. L. 108-447, 118 Stat. 2809 (2005) (FY 2005), and Pub. L. 109-108, 119 Stat. 2290 (2006) (FY 2006).

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews conducted further evidenced and confirmed that CLO was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

There are no recommendations or corrective actions required.

There was no response to this Finding.

Finding 29: CLO is in compliance with the requirements of 45 CFR § 1620.6, which requires staff who handle cases or matters, or make case acceptance decision, to sign written agreements indicating they have read and are familiar with the recipient's priorities, have read and are familiar with the definition of an emergency situation and procedures for dealing with an emergency, and will not undertake any case or matter for the recipient that is not a priority or an emergency.

The review team requested a copy of the signed written agreements in accordance with this requirement during the visit. The Executive Director provided copies of signed statements by the staff in accordance with the requirements of 45 CFR § 1620.6.

There was no response to this Finding.

Finding 30: From a limited review of CLO's fiscal documentation and interviews with its management, the program could further strengthen its fiscal internal control by fully implementing additional internal controls that are detailed in the Accounting Guide for LSC Recipients (2010 Edition) and LSC Program Letter 10-2.

In accepting LSC funds, recipients agree to administer these funds in accordance with requirements of the Legal Services Corporation Act of 1974 as amended (Act), any applicable appropriations acts and any other applicable law, rules, regulations, policies, guidelines, instructions, and other directives of the Legal Services Corporation (LSC), including, but not

limited to, LSC Audit Guide for Recipients and Auditors, Accounting Guide For LSC Recipients (2010 Edition), the CSR Handbook, the LSC Property Manual and the Property Acquisition and Management Manual, and any amendments to the foregoing. Applicants agree to comply with both substantive and procedural requirements, including recordkeeping and reporting requirements.

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

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

CLO has a small administrative staff. However, many of the accounting and administrative functions are being performed by the Administrative Service Director. CLO should take corrective action for better internal controls and segregation of duties by segregating the duties in such a way that the persons responsible for the custody of assets and conduct of operations have no part in the keeping of, and do not have access to, the records which establish accounting control over the assets and the operations. Duties of individuals should be so divided as to minimize the possibility of collusion, perpetration of irregularities, and falsification of the accounts. The objective is to provide the maximum safeguards practicable in the circumstances, giving due consideration to the risks involved and the cost of maintaining the controls.

In response to the DR, CLO stated as follows:

“Last January 14, 2011, we requested the accounting firm JAVA that was the ones that prepared the Administrative and Accounting Guide (Oct. 2009), to review the Accounting Guide for LSC Recipients (AGFLR) 2010 edition. This review is in response to the changes included therein and that shall be incorporated in our Program Manual. At present time, we are in the process of reviewing said Manual. As part of the corrective measures suggested by your team, we have assigned all the accounting duties to our Accountant such as: bank reconciliations, quarterly reports, reports to the Department of State, reports to the Department of Treasury, IRS reports, among others. With this measure, the separation of duties can be corroborated so the Director of Administration, who is responsible of the Program's assets and its administrative operations at the same time would not have access to the records where the accounting control over the Program's assets are established.

By contracting an accountant to perform all duties described in the Administrative and Accounting Guide it will allow to reinforce the internal control of duties performed by the Accountant, the Director of Administration and the Executive Director, all in compliance with

federal regulations. This way, whichever party becomes aware of a mistake or irregularity has to immediately notify it to the Board of Directors. Each party has an essential role in CLO's administration and internal controls process.”

Finding 31: Review of the bank reconciliations for the months of August and September 2010, evidenced that they are not signed or dated by the reviewer.

The review of the bank reconciliations for the months of August and September 2010 disclosed that they reconcile to the General Ledger, and are prepared timely. However, CLO should take corrective action and have the reviewer sign and date the bank reconciliations, as required by the AGFLR.

In response to the DR, CLO stated as follows:

“CLO took corrective measures after your visit in relation to this finding. In September 2010, we met with the Accountant and he was informed of the duties he will be performing from that date on. His duties will no longer be assisting the Director of Administration, but he will perform essential accounting duties. The Director of Administration would perform duties of reviewing the Accountant's work.

From December 2010, the Accountant did all bank reconciliations and therefore, signed them as prepared by him. He also included the date in which he made the bank reconciliations. On the other hand, the Director of administration made sure that said bank reconciliations and the bank accounts balances would correspond.

Once reviewed, the Director of Administration signed and dated them. If a discrepancy emerges, she must notify it to the Executive Director. We are aware that our team has made a big effort to improve every day the program and administrative process. We seek to fully comply with LSC's regulations in order to maximize the office funds to be able to provide a better service to the people we serve.

For that reason, we have had several meetings both with the Program's Staff and the PAI and the Pro-bono attorneys. We have met to discuss LSC regulations, the recent changes in client selection criteria, the issues we have faced with the case management system and our goal of acquiring a new system soon. With our Staff we have discussed how important it is that time and work invested in each case is recorded; also, the importance of registering on time the closing of cases and simultaneously, to register in the timekeeping records the work that has been done. We are aware of the hard work our attorneys do, but we have instructed them to include in their timekeeping records said work so that there is evidence of such.

As to the PAI, we have established a system to corroborate the formula of the percentage of performed work by the PAI Coordinator and the salary she earns from those allocated funds. This formula will be evidenced and corroborated each month with the work performed by the PAI Coordinator, and it will be included in a spreadsheet that was designed for said purpose.

In the administrative area, we have made changes: we have assigned in the accountant the duties in regards to the bookkeeping and all those duties that according to our Administrative and Accounting Guide should be performed by an accountant. On the other hand, the Director of Administration will review the accountant's work. We are a small group, but we have established this separation of duties with an independent contractor (the accountant). In such a way the persons responsible for the custody of assets and conduct of operations of the Program have no part in the keeping of, and do not have access to, the records which establish accounting control over the assets and the operations.”

IV. RECOMMENDATIONS¹⁶

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

1. Review its list of open cases and mark for rejection and exclude from the CSR data submission all dormant, inactive, and files involving ineligible applicants;

In response to the DR, CLO stated that all Recommendations have been considered and will be adopted.

2. Review its code of ethics regarding conflicts cases to see if they are conflicted out when they assist a client by notarizing a document;

In response to the DR, CLO stated that all Recommendations have been considered and will be adopted.

3. Ensure that each case reported to LSC contains a description of the legal assistance provided to the client;

In response to the DR, CLO stated that all Recommendations have been considered and will be adopted.

4. Ensure that advocates complete the description column on the timekeeping records, rather than using an action code, in order to have a more accurate reflection of the work done, and implement a new Case Management System which will allow them to keep proper timekeeping records; and

In response to the DR, CLO stated that all Recommendations have been considered and will be adopted.

5. Revise their contracts by including the following two (2) paragraphs to clarify the intended compliance with the requirements of two (2) LSC regulations:

a) 45 CFR Part 1600; This contract is conditioned upon the attorney or law firm that the dollar amount of contract or total payments derived from this contract is less than 50% of the attorney or law firm projected annual professional income; and

b) 45 CFR § 1627.2(b)(1); This contract is on the condition that if payments exceed \$25,000 in a year, attorneys or law firm will engage in a subgrant agreement that will need LSC's approval.

¹⁶ Items appearing in the "Recommendations" section are not enforced by LSC and therefore the program is not required to take any of the actions or suggestions listed in this section. Recommendations are offered when useful suggestions or actions are identified that, in OCE's experience, could help the program with topics addressed in the report. Often recommendations address potential issues and may assist a program to avoid future compliance errors.

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

In Response to the DR, CLO stated that all Recommendations have been considered and will be adopted.

V. REQUIRED CORRECTIVE ACTIONS

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

1. Ensure that the correct case file information is entered and recorded in the automated case management system;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

2. Ensure that all cases are timely closed by conducting periodic reviews of case management reports on closed cases, particularly those limited service files that remained open for an extended period of time;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

3. Ensure that APLICA is compliant with the requirements of CSR Handbook (2008 Ed.) § 3.1;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

4. Ensure that CLO's ACMS is able to conduct duplicate and conflict checks using the client's and adverse party's names;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

5. Ensure that in all cases in which the L closing code is applied, the assistance provided is extensive and complex as required by the CSR Handbook (2008 Ed.), § 6.1;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

6. Ensure that the reviewer sign and date the bank reconciliations, as required by the AGFLR;

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

7. Ensure better internal controls and segregation of duties by segregating the duties in such a way that the persons responsible for the custody of assets and conduct of operations have no part in the keeping of, and do not have access to, the records which establish accounting control over the assets and the operations. Duties of individuals should be so divided as to minimize the possibility of collusion, perpetration of irregularities, and falsification of the accounts. The objective is to provide the maximum safeguards practicable in the

circumstances, giving due consideration to the risks involved and the cost of maintaining the controls; and

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.

8. Clearly document the methodology of allocating PAI common costs as required by 45 CFR § 1614.3(e)(1)(i), and incorporate in their accounting manual, as required in chapter 3-4 of the Accounting Guide.

In response to the DR, CLO stated that all Corrective Actions have been considered and will be adopted.



February 14, 2011

Mr. Danilo Cardona
Director
Office of Compliance and Enforcement
Legal Services Corporation

RE: CSR/CMS Visit, Recipient No. 253030

Dear Mr. Cardona:

After reviewing your Draft Report for on site *Case Service Report/Case Management System* review of Community Law Office, Inc. (CLO), we submit the following comments:

Finding 1: Sampled cases evidenced that CLO's automated case management system (ACMS) is not sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Several cases were noted where the information in the case file did not match the information in the ACMS.

On 2008, CLO installed an ACMS called *APLICA*. Up to 2009, we were in the process of improving this Case Management System. Unfortunately, we have no contact with *APLICA*'s developer and the original compilation and generation scripts and most of the source codes are not available to us anymore. Thus, CLO cannot implement any changes or enhancements to the System. We have considered the acquisition of other ACMS, but we submitted a technology proposal to the Legal Services Corporation (LSC), and it was not approved.

On 2010, Puerto Rico Legal Services (PRSLs) established a new ACMS called ProMac. Presently, we are in conversations with Charley Hey, Executive Director of PRLS, to acquire the new ACMS, ProMac.

In our evaluation, we are taking into consideration the costs of customizing the software to CLO's operation. It is also necessary to evaluate the impact of technical assistance and the acquisition of new equipment for the new ACMS will have on the office's budget.

While we buy and establish the new case management software, we have instructed our clerical personnel on the importance of performing a careful, thorough and rigorous data entry process, in order to minimize errors in the ACMS data.

Áreas de Servicio:
El Gandul (Santurce)
Montellones
Sagrado Corazón
Boninquen
Martín Peña
Barrio Obrero
Las Palmas
Buena Vista (Santurce)
Los Pinos
Cantera, Península
de Cantera
Bitumul
Buena Vista (Hato Rey)
Barriada Israel
Las Monjas
Pda. 27
La Cerámica
Hato Rey Centro
Eleanor Roosevelt
(Urb. Roosevelt)
Cuevas Padilla
Héctor Piñero
Dávila Uteriza
Rosa Fonalledas
Juan B. Huyke
Puerto Nuevo
Caparra Terrace
Caparra Heights
Puerto Nuevo Norte
Las Casas, Ext. Las Casas
Las Margaritas
Nemesio R. Canales
Las Gladiolas I y II
Villa Kennedy
El Mirador Apartments
Cond. La Morada
Alturas de San Juan
Ciudad del Retiro

Our short-term goal is, as mentioned to you, to purchase a new ACMS as soon as possible; this action will allow CLO to have accurate information in the system and it will also provide the ability to meet LSC's requirements.

The impact of this project is to position CLO to leverage the ACMS to its maximum potential with the development of new management reports and tools and to enable the adjustment of the system to CLO's specific requirements.

Finding 2: CLO's intake procedures do support the program's compliance related requirements. However, conflict and duplicate checks need to be conducted consistently by program.

After your teams visited CLO, we established a procedure to conduct a program wide duplicate check and conflict checks. This procedure consist of sending each day a list of the open and closed cases in the Program of the case load to the personnel of the Domestic Violence Project, located at the San Juan Judicial Center. This list is reviewed by the receptionist, who verifies that the person who is going to be interviewed by a lawyer has no conflict with our office. Likewise, she verifies that the petition is not duplicated.

Cases served by the Domestic Violence Project are immediately incorporated to the system; since the Domestic Violence Project's receptionist sends CLO the information of the cases served by them. Said information is entered to APLICA, so the next day those cases are included in the case's index as viewed by the Domestic Violence Project's personnel.

To avoid conflicts, we have reminded the Program's Staff, that it is important to include the information of the adverse party both in the interview sheet and in digital system *APLICA*. This information must be completed in the process of the initial interview, since it helps us to identify conflict of interests in the cases.

As you recommended, we are comparing the information of the applicant and the adverse party's name with the information in the abovementioned list to ensure that there are no duplicates or conflicts.

We hope that this mechanism, though rudimentary, allow us to minimize the duplicity and to avoid conflicts in the service petitions, while we acquire a new digital system that allows to detect these situations.

Law School Clinic

In this part of the report you stated that law students see clients on Tuesdays and Wednesdays under the supervision of the law professor. Instead of Wednesdays you should say Fridays. On Wednesdays, CLO's attorney staff takes affidavits as a brief service to clients.

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

After the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed the new eligibility form. We also reviewed the federal regulations about the service and case's acceptance process.

One of the issues discussed with the attorneys and the Pro-bono Professors was the importance to execute the retainer agreements when representation commences or soon thereafter.

Finding 9: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), § 5.1 and CSR Handbook (2008 Ed.) , § 5.6 (Description of legal assistance provided)

After the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed about the new eligibility form and we reviewed the federal regulations about the service and case's acceptance process.

Other issues discussed with the attorneys and the Pro-bono Professors were the importance of keeping a record of the clients and case information in the case's file during the intake process. We argued about the importance to include a brief description of the legal assistance provided. We also clarified that if the applicant needs only a referral or an advice (not legal), we should close the applicant's case, because no legal advice was provided.

Finding 10: Sampled cases evidenced that CLO's application of the CSR case closure categories are substantially consistent with Section VIII, CSR Handbook (2001 ED.) and Chapters VIII and IX, CSR Handbook (2008 Ed.)

Finding 11: Sampled cases evidenced substantial compliance with the requirements of CSR Handbook (2001 Ed.), 3.3 and CSR Handbook (2008 Ed.), §3.3 as there were three case files reviewed that were dormant or closed in an untimely manner.

On September 2010, CLO' s staff had a meeting to discuss all closing categories and the importance to close the case on a timely basis. We gave the training with the

information included in the Handbook and the regulations. We had a very productive discussion on what we should close as L and when does the case should be closed. We talked about the importance of the assistance to be provided and how extensive does the assistance should be to close the case as an L.

We talked about the extensive and complex legal work that we have done to be able to close a case as an L. We stressed that this analysis should be made on a case-by-case basis.

In addition, after the exit conference, all CLO's staff had a meeting in which I informed all the findings and recommendations that your staff stated during the conference. At the beginning of 2011, with the changes in CLO's policies about economic eligibility, our attorney's staff had another meeting in which we discussed the new eligibility form and we reviewed the federal regulations about the service, case's acceptance process and closing categories.

CLO established as an internal policy that every three months a report of open and closed cases will be sent to each attorney and Pro-bono Professor. This will allow each attorney to know which cases he or she keeps open and if the legal service has finished, will be reminded that he or she should close them immediately.

Finding 16: CLO's PAI policies and procedures are standardized and are in compliance with 45 CFR § 1614.3 (d)(3), which requires oversight and follow-up of the PAI cases. However CLO is not in compliance with the requirements of 45 CFR § 1614.3 (e) (1)(i).

LSC recommends that CLO should clearly document the methodology of allocating PAI common costs as required by 45 CFR § 164.3(e)(1)(i), and incorporate in their accounting manual, as required in chapter 3-4 of the Accounting Guide.

Considering CLO's size and its budget, we understand that the methodology that we have been using for the attorneys' salaries is reasonable, as well as the common costs. Nonetheless, we accept your recommendation to document and modify the methodology used, both for the attorneys' salaries allocation and for the common costs. We will, as well, review our accounting manual to incorporate the changes in methodology, which at least, will include the following:

The costs of the attorneys' salaries, PAI Coordinator or those attorneys that spend time on PAI activities, will be allocated based on the time dedicated to PAI cases, according with their timekeeping records. Certain modifications have been made to the timekeeping records, and the personnel has been specially instructed likewise, so that we are sure that we will get the information, the necessary and accurate data to determine the allocation to be made.

Based on this data, the percentage of time dedicated by the attorneys to PAI cases, cases of the main program and other funds will be identified, The percentage of time dedicated to PAI cases will be used to determine the salary costs assigned to PAI activities. This allocation will be performed, at least, quarterly, and it will be prepared and reviewed by personnel from the Accounting and Administration Department.

Common and indirect costs will be allocated, mainly, taking into account what percentage from the total of cases served by CLO are PAI cases. To determine this percentage, last year's final statistic will be used as basis, which could be reviewed, if it seems that the statistics of actual cases, this year, could significantly change versus the closing of the previous year.

On the other hand, the recommendation that CLO reviews PAI's contracts, by including two additional paragraphs; 45 CFR Part 1600 and 45 CFR § 1627.2 (b)(1), we accept your recommendation and CLO is in the process of reviewing and sign all PAI contracts again, including the aforementioned paragraphs.

Findings 18: The sample documentation reviewed indicates CLO is not in full compliance with the requirements of 45 CFR Part 1635 (Timekeeping).

On 2008, CLO finally was able to include the timekeeping records in an electronic program. With this program, CLO is able to aggregate time records information on both closed and pending cases. The problem is that this program doesn't provide for preparing reports other than printing the timekeeping records. We are aware that the information included in the program is not accurate or an exact reflection of the work done by the attorneys and paralegals.

As we mentioned at the beginning, CLO is in the process of an evaluation of a new Case Management System, ProMac. This system has an application of timekeeping records that is integrated with the casework.

If CLO can implement a new Case Management System, it will allow the program to keep proper timekeeping records.

Until we can afford a new ACMS, we have instructed all attorneys to include in the description column of the timekeeping records the work they have done, rather than using an action code, in order to have a more accurate reflection of the work done.

Finding 30: From a limited review of CLO's fiscal documentation and interviews with its management, the program could further strengthen its fiscal internal control by fully implementing additional internal controls that are detailed in the Accounting Guide for LSC Recipients (2010 Edition) and LSC Programa Letter 10-2.

Last January 14, 2011, we requested the accounting firm JAVA that was the ones that prepared the Administrative and Accounting Guide (Oct. 2009), to review the Accounting Guide for LSC Recipients (AGFLR) 2010 edition. This review is in response to the changes included therein and that shall be incorporated in our Program Manual. At present time, we are in the process of reviewing said Manual.

As part of the corrective measures suggested by your team, we have assigned all the accounting duties to our Accountant such as: bank reconciliations, quarterly reports, reports to the Department of State, reports to the Department of Treasury, IRS reports, among others. With this measure, the separation of duties can be corroborated so the Director of Administration, who is responsible of the Program's assets and its administrative operations at the same time would not have access to the records where the accounting control over the Program's assets are established. By contracting an accountant to perform all duties described in the Administrative and Accounting Guide it will allow to reinforce the internal control of duties performed by the Accountant, the Director of Administration and the Executive Director, all in compliance with federal regulations. This way, whichever party becomes aware of a mistake or irregularity has to immediately notify it to the Board of Directors.

Each party has an essential role in CLO's administration and internal controls process.

Finding 31: Review of the bank reconciliation for the months of August and September 2010, evidenced that they are not signed or dated by the reviewer.

CLO took corrective measures after your visit in relation to this finding. In September 2010, we met with the Accountant and he was informed of the duties he will be performing from that date on. His duties will no longer be assisting the Director of Administration, but he will perform essential accounting duties. The Director of Administration would perform duties of reviewing the Accountant's work.

From December 2010, the Accountant did all bank reconciliations and therefore, signed them as prepared by him. He also included the date in which he made the bank reconciliations. On the other hand, the Director of Administration made sure that said bank reconciliations and the bank accounts balances would correspond. Once reviewed, the Director of Administration signed and dated them. If a discrepancy emerges, she must notify it to the Executive Director.

We are aware that our team has made a big effort to improve every day the program and administrative process. We seek to fully comply with LSC's regulations in order to maximize the office funds to be able to provide a better service to the people we serve.

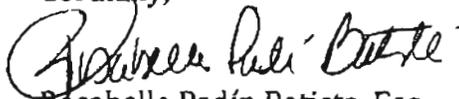
For that reason, we have had several meetings both with the Program's Staff and the PAI and the Pro-bono attorneys. We have met to discuss LSC regulations, the recent changes in client selection criteria, the issues we have faced with the case management system and our goal of acquiring a new system soon. With our Staff we have discussed how important it is that time and work invested in each case is recorded; also, the importance of registering on time the closing of cases and simultaneously, to register in the timekeeping records the work that has been done. We are aware of the hard work our attorneys do, but we have instructed them to include in their timekeeping records said work so that there is evidence of such.

As to the PAI, we have established a system to corroborate the formula of the percentage of performed work by the PAI Coordinator and the salary she earns from those allocated funds. This formula will be evidenced and corroborated each month with the work performed by the PAI Coordinator, and it will be included in a spreadsheet that was designed for said purpose.

In the administrative area, we have made changes: we have assigned in the accountant the duties in regards to the bookkeeping and all those duties that according to our Administrative and Accounting Guide should be performed by an accountant. On the other hand, the Director of Administration will review the accountant's work. We are a small group, but we have established this separation of duties with an independent contractor (the accountant). In such a way the persons responsible for the custody of assets and conduct of operations of the Program have no part in the keeping of, and do not have access to, the records which establish accounting control over the assets and the operations.

Finally, we would like to thank you and your team for delivering the draft report and for submitting to us valuable recommendations in order to fully comply with LSC's regulations. Such recommendations and all corrective actions have been considered and will be adopted by our Program. Please let me know if you need any additional information.

Cordially,


Rosabelle Padín Batista, Esq.
Executive Director

c. Sheila Mashhadishafte