



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

Southwestern Pennsylvania Legal Services, Inc.
November 1-4, 2010
Case Service Report/Case Management System Review

Recipient No. 339080

I. EXECUTIVE SUMMARY

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

Finding 2: SWPLS's intake procedures generally support the program's compliance requirements.

Finding 3: SWPLS 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 does not exceed 125% of the Federal Poverty Guidelines.

Finding 4: SWPLS 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: SWPLS is in compliance with certain documentation requirements of 45 CFR Part 1626 (Restrictions on legal assistance to aliens)

Finding 6: SWPLS is in compliance with the retainer requirements of 45 CFR § 1611.9.

Finding 7: SWPLS is in 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: SWPLS is in compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided).

Finding 10: SWPLS's application of the CSR case closure categories is consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

Finding 11: SWPLS is in substantial compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3. However, a number of cases reviewed were untimely closed.

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

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

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

Finding 15: A review of SWPLS's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 16: SWPLS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. In addition, SWPLS is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

Finding 17: SWPLS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

Finding 18: SWPLS is in compliance with 45 CFR Part 1635 (Timekeeping requirement).

Finding 19: Cases reviewed evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' Fees).

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

Finding 21: Cases reviewed 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: Cases reviewed evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

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

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

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

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

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

Finding 28: Cases reviewed 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: Bank reconciliations for May 2010 were reviewed for all bank accounts and were found to be performed timely and accurate, however, their corresponding approvals were not adequate and there were instances where outstanding checks were included in the reconciliation.

Finding 30: SWPLS's Financial Management Policy Modification generally meets the requirements of the Accounting Guide for Legal Services Corporation Recipients.

Finding 31: SWPLS's Internal Control Worksheet revealed adequate segregation of duties and/or internal controls.

Finding 32: A review of the use of the company credit card disclosed no internal control deficiencies and that all charges were proper and supported by adequate documentation.

Finding 33: The review disclosed that SWPLS policy allows payroll advances to employees only with the written permission of the Executive Director.

Finding 34: SWPLS is in compliance with the "Special Grant Conditions" attached to its 2009 LSC grant. SWPLS has implemented most of the Financial Management Policy Modification recommendations for improving internal controls. However, the recommendation requiring a credit check and criminal background check for new hires was not fully implemented.

II. BACKGROUND

On November 1 through November 4, 2010, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site visit at Southwestern Pennsylvania Legal Services, Inc. ("SWPLS"). 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 four (4) attorneys, one (1) consultant and one (1) fiscal analyst. Three (3) of the attorneys were OCE staff members; the remaining attorney was a consultant.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, and case management, regulatory and statutory requirements and to ensure that SWPLS has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed SWPLS for compliance with regulatory requirements 45 CFR Part 1611 (Financial Eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); 45 CFR § 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 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement); 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 Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of SWPLS's upper and middle management, staff attorneys and support staff. SWPLS'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 30, 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 approximately 270 case files which included targeted files.

SWPLS is an LSC recipient that operates four (4) offices in southwestern Pennsylvania. The main office is located in Washington, Pennsylvania. The executive staff consists of an Executive Director and Accountant. SWPLS received a total grant award from LSC in the amount of \$536,752 for 2008; \$590,703 for 2009 and \$637,805 for 2010. For 2009, SWPLS reported 3,709 closed cases in its CSR data. SWPLS's 2009 self-inspection report indicated a 0.0 % error rate with no exceptions noted out of 150 reviewed.

By letter dated September 14 , 2010, OCE requested that SWPLS 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 30, 2010 ("closed 2010 cases"), and a list of all cases which remained open as of September 30, 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 SWPLS staff and the other for cases handled through SWPLS's PAI component. SWPLS 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. SWPLS was requested to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

Thereafter, an effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was created proportionately among 2008, 2009, 2010 closed and 2010 open cases, as well as a proportionate distribution of cases from SWPLS offices. 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 SWPLS agreement signed on September 28, 2010 and a telephone conversation between the Team Leader and SWPLS Executive Director, SWPLS 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. SWPLS's management and staff cooperated fully in the course of the review process. As discussed more fully below, SWPLS was made aware of any compliance issues during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review as well as the Executive Director.

At the conclusion of the visit on November 4, 2010, OCE conducted an exit conference during which SWPLS was made aware of the areas in which a pattern of non-compliance was found. No distinction between, 2008, 2009, and 2010 cases was found. OCE cited instances of non-compliance in the areas of application of closing codes and dormancy/untimely closed cases.

By letter dated December 10, 2010, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions regarding the November 1-4, 2010 CSR/CMS visit. SWPLS was asked to review the DR and provide written comments. By letter dated January 25, 2011, SWPLS' comments were received. The comments have been incorporated into this Final Report, where appropriate, and are affixed as an exhibit.

II. FINDINGS

Finding 1: SWPLS's automated case management system ("ACMS") is generally sufficient to ensure that information necessary for the effective management of cases is accurately recorded.

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

In general, SWPLS's ACMS software generally ensures that relevant screening and case information is accurately recorded.

Based on a comparison of the information yielded by the ACMS to information contained in the case files sampled, SWPLS's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 2: SWPLS's intake procedures generally support the program's compliance requirements.

SWPLS's intake procedures were assessed by interviewing the primary intake staff persons at all SWPLS offices who are responsible for conducting intake. The interviews revealed that intake procedures performed by intake staff support the program's compliance related requirements with respect to obtaining written citizenship attestations for walk-in clients, performing conflict and duplicate checks during the intake process, inquiring as to the applicant's income prospects and considering all authorized exceptions and factors when screening an applicant for income eligibility.

The majority of intake is conducted by telephone. Intake is also conducted in-person when an applicant walks into the office. The telephone intake procedure is as follows: first, the intake coordinator verifies that the applicant has a legal problem that is within their program priorities. Then, the intake staff person obtains all of the information necessary to complete the Telephone Inquiries Form and completes the form manually. It is at this time that the applicant's income/asset eligibility, citizenship status and legal issue(s) are verified. If the applicant appears eligible for services, the intake staff person accepts the case, enters the information into Kemps, SWPLS's Automated Case Management System ("ACMS") and creates a physical case file with the corresponding ACMS case number. Once the file has been created, the intake staff person schedules an appointment for the applicant to meet with a staff attorney to discuss their legal problem in further detail.

Upon scheduling the appointment with the staff attorney and creating the physical case file, the applicant information that is entered into the ACMS. The client's information is provided to the attorney for review prior to the appointment with the client. When the staff attorney meets with the client, a Program Retainer Agreement is completed and signed by the client, detailing the scope and subject matter of the program's representation of the client. At that time, a written statement of facts, outlining the particular circumstances of the client's case, is also completed and signed. Lastly, at the initial interview, the client confirms their citizenship status with the program attorney by either signing a citizenship attestation, or providing documentation required pursuant to the SWPLS's Alien Eligibility Form. If the client's case concerns a housing complaint, then the staff attorney may obtain one or all of the following: a completed Housing Information Questionnaire; a completed Housing Counseling and Services Plan; and a Combined Housing Counseling Interview.

Once the staff attorney concludes the appointment with the client and work on the case has been completed, the attorney closes the case. Attorneys closed their own cases. Cases are closed by completing a case closure form. In addition to completing the case closure form, the Managing Attorney completes a Case Closing Checklist. The Case Closing Checklist identifies the highest level of service provided to the client, and also confirms the client's eligibility. After the Managing Attorney completes the Case Closing Checklist, it is given to the intake staff and entered into the ACMS to close the case. In certain instances, when the staff attorney would like to clarify the reason for case closure, the client will be sent a case closing letter, which indicates the client's legal needs have been resolved and that the case will be closed. Lastly, in certain housing cases, the staff attorney also completes a Housing Counseling Agency Activity Report, which is submitted to the U.S. Department of Housing and Urban Development upon case closure, along with a Housing Case Closing Checklist.

The intake procedure for walk-in applicants is virtually identical to the telephone intake procedure, with respect to the eligibility screening. With walk-in applicants, the intake staff obtains the applicant's signed citizenship attestation or alien eligibility document(s) at the conclusion of the intake interview. Additionally, if the applicant has been deemed eligible, they are provided with a Notice of Eligibility for Legal Service. Lastly, if the intake staff determines that they are unable to assist the applicant, or want to provide them with additional information regarding a specific program, the applicant is provided with a Referral Slip.

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

Reasonable Income Prospects Screening: During intake, the intake staff interviewed reported that proper inquiry is made into the reasonable income prospects of applicants; this information is also included as an item to be completed in the Telephone Inquiries Form. Although there is not a specific question for reasonable income prospects screening in the ACMS system, intake staff indicated that they remember to obtain this information prior to entering the information into the ACMS. As such, SWPLS consistently screens for reasonable income prospects as required by 45 CFR § 1611.5(a)(4)(i), which mandates that SWPLS inquire into every applicant's reasonable income prospects during intake.

Citizenship and Eligible Alien Status Screening: Intake staff demonstrated familiarity with the alien eligibility requirements of 45 CFR Part 1626. However, there are limited occasions to determine eligible alien status because of the demographics of the area. Intake staff reports they verify citizenship status during the intake screening and, when necessary, require documentation of eligible alien status pursuant to the SWPLS Alien Eligibility Form before completing an intake. Once the applicant provides this information, the intake staff person determines if the applicant is an eligible alien pursuant to 45 CFR Part 1626.

The intake staff interviewed demonstrated an understanding of the applicability of 45 CFR § 1626.4 and Program Letter 06-2, Violence Against Women Act 2006 Amendments, with respect to removal of the requirement to obtain a signed citizenship attestation or alien eligibility documentation from an otherwise ineligible alien. However, intake staff also believed that this exception also allows for an otherwise ineligible alien to exceed the program's income/asset guidelines and still be eligible for services, which is incorrect. While it is permissible for SWPLS to represent an otherwise ineligible alien pursuant to 45 CFR § 1626.4 and Program Letter 06-2, whose income/assets exceed the program's guidelines, the representation would have to be with non-LSC funds and such a case would not be reportable in the CSR data reporting. For all other cases, where an otherwise ineligible alien is deemed eligible for representation pursuant to the 45 CFR § 1626.4 and Program Letter 06-2, their income/assets must fall within the program's income/asset guidelines.

Those interviewed reported that written citizenship attestations are obtained for those applicants who walk into the office prior to conclusion of the initial intake interview; the applicant is instructed to sign the bottom of the ACMS form, which contains a proper citizenship attestation. This is in compliance with 45 CFR § 1626.6(a) and CSR Handbook (2008 Ed.), § 5.5, which requires Recipients to obtain written citizenship attestations whenever program staff has in-person contact with the applicant.

Income Screenings: The intake interview revealed that intake staff is fully aware of the income ceilings set by SWPLS. The intake staff expressed understanding that an applicant will be considered eligible if their income is under 125% of the Federal Poverty Guidelines ("FPG"). If the applicant's income is between 125% and 200% of the FPG, then the intake staff inquires as to the existence of authorized exceptions (medical expenses, child care expenses, etc.). If the applicant has these types of authorized exceptions, the intake staff will deduct the expenses from the applicant's income. The applicant's original income is documented in the ACMS and, in the "notes" section, the calculation is done to identify the expenses that were applied to the applicant's salary to deem them eligible for services. Additionally, intake staff is aware of the process of having the income eligibility requirement waived, when applicable, for those applicants whose income is between 125% and 200% of the FPG. The economic factors, authorized exceptions and waiver procedure enumerated in 45 CFR §§ 1611.4 and 1611.5 have been adopted by the SWPLS Board of Directors and are included in SWPLS's financial eligibility guidelines.

Asset Screenings: Interviews revealed that intake staff is familiar with the categories of assets that could be excluded by SWPLS during financial eligibility screenings, as well the asset ceiling amounts.

Group Eligibility: SWPLS does not represent any groups seeking legal assistance.

Outreach: The Washington office conducts outreach intake and uses the same Telephone Inquiries Form to determine applicant eligibility when they are on-site, with the exception of one (1) staff attorney who enters the eligibility information directly into the ACMS while on-site. SWPLS conducts outreach with other legal service providers.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 3: SWPLS 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 does not exceed 125% of the Federal Poverty Guidelines.

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.¹ 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, 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,

¹ 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.

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.

SWPLS's Eligibility Guidelines, as provided by the program, were revised by its Board on April 15, 2008.

Case files reviewed evidenced that SWPLS maintains 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 does not exceed 125% of the Federal Poverty Guidelines.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 4: SWPLS 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.

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.² *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.

The financial eligibility policy establishes the maximum liquid asset ceiling for an applicant of \$2,300 or \$3,000 if the applicant's household includes an individual aged 60 years or older. The maximum ceiling of non-liquid assets is \$7,500 for a single individual and \$15,000 for a household for two or more. These ceilings shall be \$15,000 and \$30,000 respectively, if the household includes an individual aged 60 years or more. Exempt from consideration is the equity

² 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.

in the principal residence, an individual's personal vehicle or any other vehicle required by the household, personal and household effects.

Sampled case files reviewed evidenced that SWPLS maintains asset eligibility documentation as was required by 45 CFR § 1611.6 and as is required by the revised 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.³

In response to the DR, SWPLS offered no comments to this Finding.

Finding 5: SWPLS is in compliance with certain documentation requirements of 45 CFR Part 1626.

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.⁴ 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.

Review of case files indicate that SWPLS is in compliance with the documentation requirements of 45 CFR Part 1626.

³ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

⁴ *See* Kennedy Amendment at 45 CFR § 1626.4.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 6: SWPLS is in compliance with the retainer requirements of 45 CFR § 1611.9.

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁵ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

Case files reviewed evidenced SWPLS is in compliance with the requirements of 45 CFR § 1611.9.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 7: SWPLS is in 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 SWPLS is in compliance with the requirements of 45 CFR Part 1636.

In response to the DR, SWPLS offered no comments to this Finding.

⁵ 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, SWPLS provided LSC with a list of its priorities. The priorities are stated as “supporting families, preserving the home, maintaining economic stability, safety, stability, and health of citizenship/families, and protection of individuals/families with special vulnerabilities”.

SWPLS is in compliance with 45 CFR Part 1620. None of the case files reviewed revealed cases that were outside of SWPLS’s priorities.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 9: SWPLS is in 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.

Case files reviewed evidenced that SWPLS is in compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 10: SWPLS’s application of the CSR case closure categories is 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 case files reviewed demonstrated that SWPLS’s application of the CSR case closing categories is consistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

In response to the DR, SWPLS offered no comments to this Finding.

Finding 11: SWPLS is in substantial compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and Handbook (2008 Ed.), § 3.3. However, a number of cases reviewed were untimely closed.

To the extent practicable, programs shall report cases as having been closed in the year in which assistance ceased, depending on case type. Cases in which the only assistance provided is counsel and advice, brief service, or a 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, brief service, or referral was provided. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a).⁶ There is, however, an exception for cases opened after September 30, and those cases containing a determination to hold the file open because further assistance is likely. *See* CSR Handbook (2001 Ed.), ¶ 3.3(a) and CSR Handbook (2008 Ed.), § 3.3(a). All other cases (CSR Categories D through K, 2001 CSR Handbook and F through L, 2008 CSR Handbook) should be reported as having been closed in the year in which the recipient determines that further legal assistance is unnecessary, not possible or inadvisable, and a closing memorandum or other case-closing notation is prepared. *See* CSR Handbook (2001 Ed.), ¶ 3.3(b) and CSR Handbook (2008 Ed.), § 3.3(b). Additionally LSC regulations require that systems designed to provide direct services to eligible clients by private attorneys must include, among other things, case oversight to ensure timely disposition of the cases. *See* 45 CFR § 1614.3(d)(3).

SWPLS is in substantial compliance regarding the requirements of the CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a). However, a number of cases reviewed were not closed in a timely manner or were found to be dormant.

⁶ The time limitation of the 2001 Handbook that a brief service case should be closed “as a result of an action taken at or within a few days or weeks of intake” has been eliminated. However, cases closed as limited action are subject to the time limitation on case closure found in CSR Handbook (2008 Ed.), § 3.3(a) this category is intended to be used for the preparation of relatively simple or routine documents and relatively brief interactions with other parties. More complex and/or extensive cases that would otherwise be closed in this category should be closed in the new CSR Closure Category L (Extensive Service).

The following case files, and those similar to them, should not be reported to LSC in SWPLS's CSR data submission and should be closed administratively. *See* Open Case Nos. 08E-9020897 (opened July 2008 with no evidence of legal advice), 06E-9015408 (opened in November 2006, with no work documented in the file, appears to be dormant), 09E-2004919 (opened April 21, 2009 and remains open. Case notes indicate that all activity ceased in April 2009), and 06E-2002878 (opened August 8, 2006, date of last activity is May 30, 2007).

The review found case files with no recent activity for extended periods of time and the work in the file appears to have been completed in prior years. *See* Closed 2010 Case No. 055020001. This case was opened January 10, 2002, and was closed under closing code "Ib", Court Decision: Contested. The case notes indicate that on January 10, 2002, the client was initially referred to a private attorney to handle a divorce action (the private attorney was compensated by SWPLS. There was no indication of legal activity in the file from January 10, 2002 to October of 2004, when the first case status inquiry was sent to the private attorney. Additionally, although there were several letters sent to the private attorney inquiring as to the status of the case, there was no notation in the file as to why the case was kept open from January 2002. On September 2010, the private attorney returned a case closure form to the program indicating that the case was closed pursuant to a court decision (the case was closed September 30, 2010). Absent any documentation indicating that the case was still active, this case should have been closed by or before December 31, 2008. *See also* Closed 2009 Case Nos. 033080278 (This case was opened May 19, 2008, referred to a private attorney and closed as "A". Although the case was opened on May 19, 2008, there was no indication of legal activity in the file until June of 2009, when the private attorney sent a case closure form to the program indicating that the case was closed and only counsel and advice was provided. There was no notation in the file as to why the case was kept open from May 19, 2008 to June 30, 2009. This case should have been closed by or before December 31, 2008) and Closed 2009 Case No. 033080058 (This case was opened January 28, 2008, and was referred to a private attorney and closed as "A". Although the case was opened on January 28, 2008, there was no indication of legal activity in the file until June of 2009, when the private sent a case closure form to the program indicating that the case was closed and only counsel and advice was provided. There was no notation in the file as to why the case was kept open from January 28, 2008 to June 30, 2009. This case should have been closed by or before December 31, 2008.)

Timeliness was found to be an issue in six (6) PAI cases closed under the limited service closing codes. Each of the six cases identified was closed under CSR Closure Categories A or B involving counsel and advice or limited action. In the following instances, each case remained open for over a year and the exception for cases opened after September 30 of the year did not apply. *See* Closed 2009 Case Nos. 022070652, 011062365, 011080772, 011080773, 011081943, and 011070815. One (1) case closed under CSR Closure Category B remained open for approximately two and a half years. *See* Closed 2009 Case No. 011062365. Because it is a limited service case, this case should be considered untimely and should have been excluded from CSR reporting.

In response to the DR, SWPLS stated that four (4) cases cited in the DR as untimely closed were not SWPLS cases. These cases were erroneously included and have been removed from the report.

Further, SWPLS stated in its response that a group of cases cited as untimely closed (Case Nos. 055020001, 033080278, and 033080058) were conflict cases and were referred to private counsel through their private attorney involvement program (PAI). SWPLS stated that these cases are conflict of interest cases, and they cannot perform direct oversight on them, but they rely on the PAI attorney's report that services have been completed.

SWPLS also stated in its response that they recently instituted a procedure wherein each private attorney handling a PAI case reported as open will receive a letter from SWPLS prior to year end requesting the attorney's declaration of whether the case is still open or should be closed, with the provision that if no response is received within ten days, we would presume that legal assistance has ended and close the case. This procedure was followed in December, 2010, and those cases for which no response was received have been closed. This procedure will be continued in future years and should resolve the issue noted herein.

SWPLS stated a group of cases cited (Case Nos. 022070652, 011062365, 011080772, 011080773, 011081943, 011070815 and 011062365) were also conflict PAI cases in which the private attorney selected the closure category A or B. The case closure form, previously approved by LSC, identifies the closure categories with a description of the services for which such category should be used. The Washington Managing Attorney, who reviews all PAI cases prior to closing, shall henceforth review any submission by private counsel with an A or B closure category and check with the Liaison to determine whether the work performed, as evidenced by the invoice, would indicate whether the work would be appropriately denominated A or B or, alternatively, if more work had been performed, denominated L.

Finding 12: Cases reviewed evidenced 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 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.

Case lists were reviewed in advance and potentially duplicate files were identified for review. No duplicate files were identified among the files reviewed.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 13: Cases reviewed 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, and interviews with staff indicate, that SWPLS is not involved in such activity. Discussions with the Executive Director also confirmed that SWPLS is not involved in these prohibited activities.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 14: Cases reviewed 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).

None of the case files reviewed involved legal assistance with respect to a fee-generating case. Discussions with the Executive Director also confirmed that SWPLS is not involved in any fee-generating cases.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 15: A review of SWPLS's accounting and financial records indicate compliance with 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

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

The regulations contain a list of restricted activities. *See* 45 CFR § 1610.2. They include lobbying, participation in class actions, representation of prisoners, legal assistance to aliens, drug related evictions, and the restrictions on claiming, collecting or retaining attorneys' fees. Recipients are instructed to maintain objective integrity and independence from any organization that engages in restricted activities. In determining objective integrity and independence, LSC looks to determine whether the other organization receives a transfer of LSC funds, and whether such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

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

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

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

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

While there is no *per se* bar against shared personnel, generally speaking, the more shared staff, or the greater their responsibilities, the greater the likelihood that program integrity will be

compromised. Recipients are instructed to develop systems to ensure that no staff person engages in restricted activities while on duty for the recipient, or identifies the recipient with any restricted activity. See OPO Memo to All LSC Program Directors, Board Chairs (October 30, 1997).

A review of SWPLS's program integrity documents and its accounting and financial records for the review period did not reveal any transaction(s) that was inconsistent with LSC requirements and restrictions on the use of non-LSC funds and the transfer of LSC funds. The program maintain its independence and program integrity, does not have any relationships with outside organizations that engages in restricted activities and does not use its resources to subsidize another organization.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 16: SWPLS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. In addition, SWPLS is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

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.

The accounting requirements of 45 CFR Part 1614 require that the recipient utilize a financial management system and procedures that maintain supporting documentation to document PAI cost allocations, identify and account for separately direct and indirect costs related to its PAI effort and report the support and expenses relating to the PAI effort separately in the recipient's year-end audit.

A review of the PAI schedule disclosed in the Audited Financial Statements for Fiscal Year Ending June 30, 2009 determined that SWPLS is in compliance with 45 CFR Part 1614.

The review of the 2009 PAI Schedule disclosed that the allocation of costs for staff attorney and paralegal time devoted to PAI was based upon actual hours worked not scheduled hours. Actual hours worked are determined by subtracting vacation, holiday, sick, etc. hours from scheduled hours (at SWPLS the scheduled work hours are 7 hours a day times 260 work days or 1,820 hours). Due to the amount charged to PAI for staff attorney and paralegal time (\$1,173) the difference is minor between actual hours and scheduled hours worked. However, all LSC recipients are required by LSC to allocate the staff attorney and paralegal costs on a consistent basis using scheduled hours.

SWPLS is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight of the PAI case files. SWPLS's PAI program involves subgrant agreements with the four county bar associations in its service area to provide assistance. The PAI program is used solely for conflict of interest cases. Pursuant to the terms of the subgrant agreements, each bar association is responsible for administering their respective PAI program. Participating attorneys are paid at a rate of \$35.00 per hour, with each case type stipulating maximums. In addition, each participating attorney is required to accept one pro bono referral a year.

The individual bar associations in the four (4) counties served has a panel of attorneys to handle case referrals sent to them by SWPLS. Each county bar association has a "liaison" that makes the referral to panel attorneys, receives bills and maintains certain records. In addition, a "monitoring attorney" appointed by the bar is responsible for ensuring the quality legal services and review of client grievances. SWPLS's Executive Director and Managing Attorney in the Washington office are responsible for overseeing the PAI program.

Cases in the PAI program are processed through SWPLS's intake system. Consequently, the client's name as well as information regarding the client's financial and citizenship eligibility and the nature of their legal problem are a part of the ACMS. Once, a conflict of interest is identified, the case is referred to the liaison for assignment to a panel attorney in the appropriate county.

Oversight

Because cases referred to private attorneys in the PAI program always involve cases in which SWPLS has a conflict of interest, the recipient is limited in its ability to conduct oversight and ensure timely case disposition. SWPLS utilizes two documents designed to meet its oversight responsibilities. One is a "PAI Case Activity and Closure" form which asks the private attorney whether the case remains active or whether the case should be closed. The form, which is sent in the late fall of each year, is mailed to PAI attorneys who have cases that are over a year old at the time of mailing. The other form is entitled "Conflict Referral Closing" which asks the private attorney to provide a description of the legal service provided (*i.e.*, Counsel and Advice). The descriptions in the form correspond to LSC CSR Case Closure Categories. The closing form is sent by the private attorney to the liaison who forwards it to SWPLS. The Managing Attorney in the Washington office receives the closing form, reviews appropriate form and the information is

then entered into the automated case management system. Both forms are to be signed by the private attorney. In addition, the Managing Attorney in Washington on occasion will telephone a private attorney to determine the status of a case.

Because SWPLS's PAI cases involve only conflict cases, the files have little or no evidence of legal work performed. SWPLS believes that its professional responsibility obligations preclude it from obtaining substantive case information in PAI cases. In addition, in the past SWPLS has stated that it did not believe that bar association monitoring attorneys would be willing to accept additional oversight responsibilities in PAI cases.

The sample cases reviewed disclosed that the procedures for handling the "PAI Case Activity and Closure" form could be improved. For PAI cases handled in Uniontown (and presumably other offices outside Washington) the case files did not contain the case activity form. Rather, those forms were maintained in a separate file by the Managing Attorney in the Washington office. In addition, for PAI cases handled in the Washington office some case activity forms were included in the case file but others were not. The missing forms were maintained in a separate file of the PAI managing attorney in Washington. It is recommended that all case activity letters (or a copy) be maintained in their respective case file. This minimal activity would further the limited oversight SWPLS has over its PAI cases.

Sampled PAI cases disclosed four (4) cases closed under Closure Category "B" (Limited Action) remained open for over a year. *See* Closed 2009 PAI Case Nos. 022070652 (opened April 17, 2007, closed February 5, 2009), 011062365 (opened December 11, 2006, closed June 30, 2009), 011080772, and 011080773 (opened March 27, 2008, closed October 16, 2009). In addition, two (2) cases closed under Closure Category "A" remained open for more than a year. *See* Closed 2009 PAI Case Nos. 011081943 (opened August 21, 2008, closed October 2008) and 011070815 (opened April 9, 2007, closed February 4, 2009).

Since SWPLS does not have access to information in the case files because of ethical considerations, it could not be determined whether there was an entry in the files as to why the case was held open for over a year. *See* CSR Handbook (2008 Ed.), § 3.3(a)(1). Under SWPLS's existing practice, a case opened early in one year would not receive a case activity letter until the fall of the following year (*i.e.*, nearly two years after opening). Thus, the current practice risks the untimely closure of PAI cases, particularly when cases are subsequently closed under limited service categories A and B.⁷

In its response to the DR, SWPLS stated it agrees with the need to improve the procedures for handling the PAI Case Activity and Closure forms. SWPLS stated in its response that it has amended its procedures so that the Washington Managing Attorney, who reviews all PAI files prior to closing, (and therefore receives the completed "PAI Case Activity and Closure" forms),

⁷ At the exit conference, the SWPLS Executive Director advised that he was instituting a procedure whereby a year-end letter and attached case activity form would be sent to private attorneys handling PAI cases. The letter would request information about whether the case is still open or should be closed. It would request that the completed case activity form be faxed to SWPLS. The letter would provide that if no response were received within ten days, SWPLS would presume that the legal assistance has ended and will close the case.

will retain one copy for his records and send one copy to the individual office where the case file is maintained, for inclusion in the case file.

Finding 17: SWPLS is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay membership fees or dues to any private or nonprofit organization.

LSC 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, detailed general ledger documents, and the vendor list, along with discussions with program management, disclosed that SWPLS is in compliance with 45 CFR § 1627.4(a).

In response to the DR, SWPLS offered no comments to this Finding.

Finding 18: SWPLS is in compliance with 45 CFR Part 1635 (Timekeeping requirements).

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

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

The review of advocates timekeeping records selected from all four of SWPLS's offices for the pay periods ending June 30, 2010 disclosed that the records are electronically and contemporaneously kept. The time spent on each case, matter or supporting activity is recorded in compliance with 45 CFR § 1635.3(b) and (c).

The review did not identify any part-time staff who work of the recipient or any other organization.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 19: Cases reviewed evidenced compliance with the requirements of 45 CFR Part 1642 (Attorneys' fees)

Except as provided by LSC regulations, recipients may 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. 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).

A limited review of SWPLS's fiscal records, the 2008 and 2009 Audited Financial Statements, and interviews with the staff accountant evidenced that there were no attorneys' fees awarded, collected, and retained for cases serviced directly by SWPLS.

Case files reviewed evidenced SWPLS is in compliance with 45 CFR Part 1642.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 20: 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 case files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities. Discussions with the Executive Director also confirmed that SWPLS is not involved any prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 21: Cases reviewed complied with the requirements of 45 CFR Parts 1613 and 1615, (Restrictions on legal assistance with respect to criminal proceedings and actions 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 case files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 22: Cases reviewed complied 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).

None of the case files reviewed involved initiation or participation in a class action lawsuit. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments 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 case files reviewed revealed participation in litigation related to redistricting. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

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

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

None of the case files reviewed involved defense of any such eviction proceeding. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 25: Cases reviewed 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 case files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 26: Cases reviewed 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.⁸ This restriction has been contained in all subsequent appropriations acts.⁹ 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 case files, including documentation, such as community education materials and program literature indicated program involvement in such activity. Discussions with the Executive Director also confirmed that SWPLS is not involved in this prohibited activity.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 27: Cases reviewed 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 case files reviewed involved such activity. Discussions with the Executive Director also confirmed that SWPLS is not involved in these prohibited activities.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 28: Cases reviewed 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.

⁸ *See* Section 504 (a)(18)

⁹ *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 case files reviewed demonstrated compliance with the above LSC statutory prohibitions. Interviews conducted further evidenced and confirmed that SWPLS 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.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 29: Bank reconciliations for May 2010 were reviewed for all bank accounts and were found to be performed timely and accurate, however, their corresponding approvals were not adequate and there were instances where outstanding checks were included in the reconciliation.

The bank account reconciliations were reviewed and all were timely and accurately performed. However, the Executive Director who reviews the bank reconciliations does not document his review by signing or dating the reconciliations. Additionally the review of the operating bank account reconciliation found 24 out standing checks, totaling \$2,632, that were more than six months old. SWPLS should follow the Accounting Guide for LSC Recipients (“AGLSCR”) that requires that the review of bank reconciliations be documented by a signature and date by the responsible employee performing the review, and as stated in their Financial Management Policies, outstanding checks greater than six months old must be reviewed.

In its response to the DR, SWPLS stated the Program Accountant explained to the OCE fiscal team member that he had timely forwarded the bank reconciliation documentation to the Executive Director, who had timely reviewed each reconciliation and, where further inquiry was required, had followed up with the Accountant. SWPLS further stated that they would agree that the Executive Director ought to initial and date the timely review and that has been affected.

SWPLS further stated that regarding outstanding check retention on the reconciliation documentation, the Program Accountant had informed the OCE fiscal team member that the previous Accountant had been directed by the Program Auditor during the 2008-09 audit not to remove any outstanding check even if retained for more than six months (the retention related to

tracking any later incident related to the prior year defalcation). SWPLS stated that the Program Accountant indicated that he had reviewed the matter with the Auditor during the 2009-10 audit and had intended to remove the stale check holdover in compliance with the program policy relating to outstanding checks not cashed six months after drafting. Following the OCE fiscal team member's recommendation, the checks were removed.

Finding 30: SWPLS's Financial Management Policy Modification generally meets the requirements of the Accounting Guide for LSC Recipients.

A review of the SWPLS Financial Management Policy Modification disclosed the policy modifications meet the requirements of the AGLSCR.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 31: SWPLS's Internal Control Worksheet revealed adequate segregation of duties and/or internal controls.

A review of the internal controls worksheet, accounting records and interviews with accounting staff disclosed that SWPLS has adequate segregation of duties, internal controls and defined procedures as stated in their Financial Management Policy Modification.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 32: A review of the use of the company credit card disclosed no internal control deficiencies and that all charges were proper and supported by adequate documentation.

Company credit cards use can be abused, internal controls over their use may be lacking and charges may not be for prudent business purposes and supporting documentation (receipts) may not be present.

The review disclosed that the use of the company credit card requires that all purchases be for necessary and prudent business purposes and be supported by receipts. All purchases made with the credit card (AMEX) must be approved by the Executive Director and a SWPLS board member prior to payment of the credit card statement.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 33: The review disclosed that SWPLS policy allows payroll advances to employees only with the written permission of the Executive Director.

It was disclosed through discussions with staff (Executive Director and Accountant), and a review of the General Ledger that only one payroll advance was made and was approved by the Executive Director in accordance with SWPLS's Financial Management Policy Modification.

In response to the DR, SWPLS offered no comments to this Finding.

Finding 34: SWPLS is in compliance with the "Special Grant Conditions" attached to its 2009 LSC grant. SWPLS has implemented most of its Financial Management Policy Modification recommendations for improving internal controls. However, the recommendation requiring a criminal and credit check for new hires was not fully implemented.

Following the discovery of the theft of program funds in 2008 by the former program Accountant, SWPLS initiated a review of its financial records. SWPLS commenced a review in June 2008. The Nottingham Group was retained to conduct a forensic investigation of the fraud and make recommendations. The Nottingham Group completed its work in July 2008. CTL! was also retained to review the program's financial management practices and make recommendations, focusing on internal control and operational aspects. The recommendations from these two groups along with SWPLS's evaluation of policies and practices led to the formation of the Financial Management Policy Modification. The policy modification was approved by the SWPLS Board of Directors on December 22, 2008.

LSC attached "Special Grant Conditions" to SWPLS's 2009 grant. The conditions required SWPLS to submit reports to OCE explaining in detail new and/or revised program policies and practices implemented to strengthen internal fiscal controls in order to reduce the risk of misappropriation of funds. Each report required SWPLS to specially address the recommendations from the SWPLS, the Nottingham Group and CTL! reports.

As part of the OCE review, the recommendations in the reports were discussed with the Executive Director and Accountant and it was determined that except for one, the recommendations were being implemented. Additionally, internal controls and the Financial Management Policy Modification were reviewed as part of the standard CSR/CMS review procedures. The one recommendation that was not implemented required all new hires to have credit and criminal background checks performed prior to being hired. A review of a recent hire of an attorney disclosed that a criminal check was made, however no credit check was conducted. Discussions with the Executive Director concerning this matter disclosed that a decision was made by SWPLS to perform a criminal check but not a credit check on new hires.

In response to the DR, SWPLS stated it will perform both a criminal and credit check on each new hire.

IV. RECOMMENDATIONS¹⁰

There are no recommendations to be made at this time.

¹⁰ Items appearing in the “Recommendations” section are not enforced by LSC and therefore the program is not required to take any action 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 the “Required Corrective Actions” must be addressed by the program and will be enforced by LSC.

V. REQUIRED CORRECTIVE ACTIONS

As a result of this review, and consistent with the findings of this report, SWPLS is required to take the following corrective actions:

1. Ensure staff is trained regarding the timely case closing requirements of CSR Handbook (2008 Ed.), § 3.3;

In its response to the DR, SWPLS stated it will provide additional program-wide training on the timely case closing requirements of CSR Handbook (2008 Ed.), § 3.3 with particular attention to the procedures identified by OCE.

In its response, SWPLS also stated that for each new hire, the program will provide in-depth training on timely case closing requirements.

and

2. Provide proper review and oversight of PAI cases to identify untimely and/or dormant cases.

In its response to the DR, SWPLS stated it agrees with the need to improve the procedures for handling its PAI Case Activity and Closure forms. SWPLS stated in its response that it has amended its procedures so that the Washington Managing Attorney, who reviews all PAI files prior to closing, (and therefore receives the completed "PAI Case Activity and Closure" forms), will retain one copy for his records and send one copy to the individual office where the case file is maintained, for inclusion in the case file.

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January 25, 2011

Danilo A. Cardona, Director
Office of Compliance and Enforcement
Legal Services Corporation
3333 K Street, NW 3rd Floor
Washington, D.C. 20007-3522

Re: CSR/CMS Visit, Recipient No. 339080

Dear Mr. Cardona:

On behalf of Southwestern Pennsylvania Legal Services (SWPLS) I thank you for the opportunity to review the Corporation's Draft Report for the on-site Case Service Report/Case Management System review of our program, per your letter of December 10, 2010. I apologize for not meeting the 30-day return requirement, but would appreciate your belated review of the following comments:

1. Finding 11 reports that SWPLS is in substantial compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶3.3 and Handbook (2008 Ed.), § 3.3. However, the Monitoring Team found a number of cases reviewed were untimely closed.

Comment: The first group of cases cited (08E-9020897, 06E-90115408, 09E-2004919 and 06E-2002878) bear identifying numbers not used by this program, and would appear not to be SWPLS cases. Could you have the team review them and determine whether these are SWPLS cases?

The second group of cases cited (055020001, 033080278, and 033080058) were cases referred to private counsel through our private attorney involvement program (PAI). We indicated to the Monitoring Team that, given that these cases are conflict of interest, we cannot perform direct oversight on these cases, but rely on the attorney's report that services have ended. As you note in Footnote 7 on page 20 of your letter, we had recently instituted a procedure wherein each private attorney handling a PAI case reported as open will receive a letter prior to year end requesting the attorney's declaration of whether the case is still open or should be closed, with the provision that if no response is received within ten days, we would presume that legal assistance has ended and close the case. This procedure was followed in December, 2010, and those cases for which no response was received have been closed. This procedure will be continued in future years and should resolve the issue noted herein.

The third group of cases cited (022070652, 011062365, 011080772, 011080773, 011081943, 011070815 and 011062365) were also conflict PAI cases in which the private attorney selected the closure category A or B. The case closure form, previously approved by LSC, identifies the closure categories with a description of the services for which such category should be used. The Washington Managing Attorney, who reviews all PAI cases prior to closing, shall henceforth review any submission by private counsel of an A or B closure category and check with the Liaison to determine whether the work performed, as evidenced by the invoice, would indicate whether the work would be appropriately denominated A or B or, alternatively, if more work had been performed, denominated L.

2. Finding 16 provides that SWPLS is in compliance with 45 CFR Part 1614 which is designed to ensure that recipients of LSC funds involve private attorneys in the delivery of legal assistance to eligible clients. In addition, SWPLS is in compliance with 45 CFR § 1614.3 (d) (3) which requires oversight and follow-up of the PAI cases. The finding indicates, however, that the procedures for handling the "PAI Case Activity and Closure" form could be improved, especially as to maintenance of said completed form in the individual case files.

Comment: The program would agree with the need to improve that procedure: SWPLS has amended its procedures so that the Washington Managing Attorney, who reviews all PAI files prior to closing, and therefore receives the completed "PAI Case Activity and Closure" forms, will retain one copy for his records and send one copy to the individual office where the case file is maintained, for inclusion in the case file.

The finding further indicates that several PAI cases (022070652, 011062365, 011080772, 011080773, 011081943 and 011070815) were closed with closure category A or B, more than one year after opening, and that it could not be determined whether there was an entry in the files as to why the case was held open for more than one year.

Comment: Note above comment.

3. Finding 29 reports that Bank reconciliations for May, 2010 were reviewed for all bank accounts and were found to be performed timely and accurate, however, their corresponding approvals were not accurate; further, there were instances where outstanding checks were included in the reconciliation.

Comment: Regarding documentation of approval of reconciliation: the Program Accountant explained to the Monitoring Team member that he had timely forwarded the bank reconciliation documentation to the Executive Director, who had timely reviewed each reconciliation, and where further inquiry would be required, had followed up with the Accountant. The program would agree that the Executive Director ought to initial and date the timely review and that has been effected.

Comment: Regarding outstanding check retention on the reconciliation documentation, the Program Accountant had informed the Monitoring Team member that the prior Accountant had been directed by the Program Auditor during the 2008-09 audit not to remove any outstanding check even if retained for more than six months (the retention related to tracking any later incident related to the prior year defalcation). The Accountant indicated that he had reviewed the matter with the Auditor during the 2009-10 audit and had intended to remove the stale check holdover in compliance with the program policy relating to outstanding checks not cashed six months after drafting. Following the Monitoring Team member recommendation, the checks were removed.

4. Finding 34 reports that SWPLS is in compliance with the "Special Grant Conditions" attached to its 2009 LSC grant. SWPLS has implemented most of its Financial Management Policy Modification recommendations for improving internal controls. However, the recommendation requiring a criminal and credit check for new hires was not fully implemented, only a criminal record check conducted.

Comment: The program will now perform both a criminal record and credit check on each new hire.

With regard to the required corrective actions:

Required Corrective Action 1 requires SWPLS to ensure staff is trained regarding the timely case closing requirements of CSR Handbook (2008 Ed.), § 3.3.

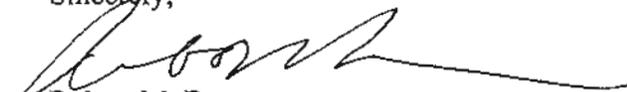
Comment: In 2011 SWPLS will provide additional program-wide training on the timely case closing requirements of CSR Handbook (2008 Ed.), § 3.3 with particular attention to the procedures identified by the Monitoring Team requiring more careful attention. For each new hire, the program will provide in-depth training on timely case closing requirements.

Required Corrective Action 2 requires SWPLS to provide proper review and oversight of PAI cases to identify untimely and/or dormant cases.

Comment: Note comment to finding 16, above.

Thank you for your time and consideration. Please contact me if you have any questions, or request any further information.

Sincerely,



Robert M. Brenner
Executive Director