FINAL REPORT

LEGAL SERVICES CORPORATION

Office of Compliance and Enforcement

Legal Aid Foundation of Los Angeles

Case Service Report/Case Management System Review

July 6 - 9, 2009

Recipient No. 805080

I. EXECUTIVE SUMMARY

Finding 1: LAFLA'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: LAFLA's intake procedures and case management system generally support the program's compliance related requirements.

Finding 3: LAFLA'S Internal Control Structure compares favorably to LSC's Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System. (Accounting Guide for LSC Recipients - Chapter 3).

Finding 4: Sampled cases evidenced substantial compliance with the income eligibility requirements set forth at 45 CFR Part 1611, CSR Handbook (2001. Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

Finding 5: LAFLA maintains asset eligibility documentation as required by 45 CFR § 1611.3(d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

Finding 6: LAFLA is in compliance with the restrictions on service set forth by 45 CFR Part 1626. However, LAFLA is in non-compliance with the attestation requirements of 45 CFR Part 1626 in that three cases did not have the necessary citizenship/alien eligibility documentation.

Finding 7: Sampled cases evidenced compliance with the requirement of 45 CFR § 1611.9 (Retainer agreement).

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

Finding 9: Sampled cases evidenced compliance with the requirements of 45 CFR §§ 1620.4 and 1620.6(c) (Priorities in use of resources).

Finding 10: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6, which require that each case reported to LSC contain a description of the legal assistance rendered.

Finding 11: In several instances, LAFLA's application of the CSR case closure categories was inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapter VIII, CSR Handbook (2008 Ed.).

Finding 12: LAFLA has several untimely or inactive files.

Finding 13: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 (Single recording of cases).

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

Finding 16: LAFLA is not in compliance with the notification requirement of 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Finding 17: LAFLA 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.

Finding 18: LAFLA is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay memberships fees or dues to any private or nonprofit organization.

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

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

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

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

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

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

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

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

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

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

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

II. BACKGROUND OF REVIEW

On July 6 thru 9, 2009, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management Systems ("CSR/CMS") on-site visit at Legal Aid Foundation of Los Angeles ("LAFLA"). The purpose of the visit was to assess LAFLA's compliance with the LSC Act, regulations, and other applicable law. The visit was conducted by a team of five attorneys, one fiscal analyst, and one management analyst. Four of the attorneys and the fiscal analyst were OCE staff members; the remaining team members were consultants.

The on-site review was designed and executed to assess LAFLA's compliance with basic client eligibility, intake, case-management, statutory and regulatory requirements, the reporting requirements set forth in the CSR Handbook (2008 Ed.) and the CSR Handbook (2001 Ed.), and to ensure that LAFLA has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed LAFLA's compliance with regulatory requirements 45 CFR Part 1608 (Prohibited political activities); 45 CFR 1609 (Fee-generating cases); 45 CFR Part 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1611 (Financial eligibility); 45 CFR § 1611.9 (Retainer agreements); 45 CFR Part 1612 (Restrictions on lobbying and certain other activities); 45 CFR Part 1613 (Restrictions on legal assistance with respect to criminal proceedings); 45 CFR Part 1614 (Private attorney involvement); 45 CFR Part 1615 (Restrictions on action collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1620 (Priorities in use of resources); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1630 (Cost standards and procedures); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1637 (Representation of prisoners); 45 CFR Part 1638 (Restriction on solicitation); 45 CFR Part 1642 (Attorneys' fees); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing); and Section 1007(b)(8) – (10) of the LSC Act, 42 USC §§ 2996f(b)(8) – (10) (Abortion, school desegregation litigation, Military Selective Service Act or desertion).

Established in 1929, LAFLA is a non-profit legal services organization that provides free legal services to low-income and disadvantaged residents in LSC service area CA-29, which consists of the greater Los Angeles, Los Angeles Harbor, and Long Beach areas. LAFLA is headquartered in Los Angeles and maintains six neighborhood offices throughout the greater Los Angeles area, Santa Monica, and Long Beach.

In 2007, LAFLA received LSC basic field funding in the amount of $7,863,346. In 2008, it received an LSC basic field award of $7,902,085. LAFLA also received grant and contract support from various local, State and Federal, and private sources. According to LSC's Recipient Information Network, LSC, non-LSC grant support, derivative income and fundraising revenue totaled $15,192,176 in 2007 and $15,218,877 in 2008. *See* www.rin.lsc.gov.

LAFLA is staffed by its interim Executive Director, General Counsel, two Directing Attorneys, six Managing Attorneys, a Pro Bono Director, the Director of Fiscal Management, the Director of Finance and Operations, the Director of Advocacy and Training, the Director of Development, the

Director of Human Resources, Deputy Directors, 48 staff attorneys, 30 paralegals, and various administrative, secretarial and clerical employees. *See* http://greps/Reports/tab4.asp.

According to its *Proposal Narrative*, FY 2007 Grants Competition, LAFLA's case priorities are stated as "support for families", "preserving the home", "maintaining economic stability", "preserving safety, stability and health", and "serving populations with special vulnerabilities".

For 2007, LAFLA reported 11,606 closed cases, including 258 PAI cases. Housing accounted for approximately 56% of all closed cases; family law, 24%; income maintenance, 8%; consumer/finance, 4%; and individual rights, 4%. Education, employment, health, and miscellaneous combined for approximately 4.5%. Approximately 91% of all closed cases were closed after counsel and advice or brief service; 1% were court decision; 2% were agency decisions; and 5% were settled. Less than 1% were closed as "other". In that same year, LAFLA reported an error rate of 5.7%. Exceptions were noted with respect to CSR Handbook (2001 Ed.), ¶¶ 3.1, 5.1, 5.4, and 5.5.

For 2008, LAFLA reported 11,486 closed cases, including 143 PAI cases. Housing accounted for approximately 60% of all closed cases; family law, 22%; income maintenance, 8%; individual rights, 5%; consumer/finance, 2%; employment, 2%; and miscellaneous, 1%. Education, health and juvenile combined for less than .5%. Approximately 92% of all closed cases were closed after counsel and advice or limited action; 4% were settled; 2% were agency decisions; 1% were court decision; and 1% were extensive service. In that same year, LAFLA reported an error rate of 6.6%. Exceptions were noted with respect to CSR Handbook (2008 Ed.), §§ 3.1, 5.4, 5.5, and 5.6.

In preparation for the visit, OCE requested that LAFLA provide, among other things, a list of all cases reported to LSC in its 2007 CSR data submission ("closed 2007 cases"), a list of all cases reported to LSC in its 2008 CSR data submission ("closed 2008 cases"), a list of all cases closed between January 1, 2009 and May 31, 2009 ("closed 2009 cases"), and a list of all cases which remained open as of May 31, 2009 ("open cases"). OCE requested that each list contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closure category assigned to the case, the funding code assigned to the case, and an indication of whether the case was handled by staff or by a private attorney pursuant to 45 CFR Part 1614. LAFLA was advised that OCE would seek access to case information consistent with Section 509(h), Pub. L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 10 and 11, and the LSC *Access to Records* protocol (January 5, 2004). LAFLA was instructed to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

LAFLA advised OCE that it would afford OCE access through the use of staff intermediaries. Thereafter, LAFLA provided the requested materials. OCE then selected a sample of 440 case files to be reviewed during the visit. An effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was distributed proportionately among open and closed cases, as well as among LAFLA's various office locations. The sample consisted largely of randomly selected cases, but also included cases selected to test for compliance with those CSR instructions relative to timely closings, application of the CSR case closing categories, and duplicate reporting.

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

OCE visited LAFLA's West, Central, East, Santa Monica, and Long Beach offices. Prior to the visit LAFLA advised that its South office was under renovation and that South office staff and cases had been dispatched to the Central office. Consequently, OCE did not visit the South office, but interviewed South office staff and reviewed South office cases in the Central office.

OCE reviewed 429 files, including 104 open files, 84 closed 2009 files, 159 closed 2008 files, and 82 closed 2007 files Seventy-five` of the files that were reviewed were selected to test for compliance with certain regulatory and reporting requirements. The remaining 354 files that OCE reviewed were randomly selected.

An attempt was made to advise LAFLA of any compliance issues during the course of the visit. This was accomplished by notifying intermediaries and Managing Attorneys of any compliance issues identified during the case reviews. At the conclusion of the visit, OCE held a brief exit conference during which OCE advised LAFLA of its preliminary findings. OCE advised LAFLA that while no patterns of non-compliance were detected, there were instances of non-compliance with certain regulatory and reporting requirements, including duplicate reporting, timely closing of cases, and staff files that were mistakenly designated as PAI files. LAFLA was instructed that such findings were merely preliminary and that OCE might well make further and more detailed findings in the report to follow.

By letter dated September 18, 2009, OCE issued a Draft Report ("DR") detailing its findings, recommendations, and required corrective actions. LAFLA was afforded 30 days to review the DR and submit written comments. By letter dated October 26, 2009, LAFLA submitted its comments and corrections to the DR. OCE has carefully considered LAFLA's comments and corrections and made such revisions as it deems appropriate. LAFLA's comments and corrections are reflected in this Final Report and have been attached as an appendix hereto.

III. FINDINGS

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

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

LAFLA's ACMS is sufficient to ensure that information necessary for the effective management of cases is accurately and timely recorded. Policies regarding case opening, coding and closing ACMS procedures are included in Advocacy Policies and Procedures Manual. Interviews reveal that staff is well versed with the policies contained in the manual.

LAFLA utilizes Kemps Caseworks for Windows 98 as its ACMS. The Technical Services Director is responsible for administering the database and the Grants and Compliance Manager is responsible for training, ensuring the accuracy of data, and generating annual CSRs. Three tiers of redundant policies are in place to ensure the collection and reporting of accurate information, specifically to capture dormancy, duplication, incomplete case records and inconsistencies in critical compliance fields. The first tier of policy is at the data entry level. The ACMS is designed to identify current or prior cases for the applicant, when the intake screener enters the name. Programming features also generate error messages if information is incomplete or inconsistent. The second tier policy requires case handlers to generate a monthly caseload report. The report is submitted to the supervisor who must review the report and consult with the case handler as appropriate. The third tier of policy is focused at the end of the data collection process. The Grants and Compliance Manager generates a variety of error reports throughout the year to ensure the accuracy of case management reports. Lastly, the Grants and Compliance Manager conducts an internal audit prior to completing the LSC Self-Inspection.

LAFLA has implemented procedures to deselect cases from its CSR data submission, consistent with the CSR Handbook (2008 Ed.). During closing, if an LSC closing code is entered in the Closing Code field on page 3 of the ACMS, the CSR Event field is triggered.[1] Staff is instructed to check the CSR Event field if the case is eligible for inclusion in its CSR data submission.

An interview with the Grants and Compliance Manager revealed that the query used to generate CSRs is reliable. As discussed above, the critical field for inclusion in the CSRs is "CSR Event". Based on interviews with other LAFLA staff, program training on use of the ACMS is effective.

[1] In addition to the LSC closing codes, LAFLA utilizes six non-LSC case closing codes: Referred Elsewhere, No Show/No Return, Unable to Assist, Matter, Client Withdrew, and Duplicate. If a case is closed with one of these codes, programming prevents it from inclusion in CSRs.

The ACMS complies with LSC's Program Letter 02-6, Limitation of Defaults in Case Management Software (June 6, 2002). There are no defaults in critical compliance fields.

Recordation of compliance information in the ACMS is adequate except for minor issues. For example, some staff record exempted assets in the ACMS, while others do not. The Grants and Compliance Manager stated that LAFLA does not have a protocol regarding recordation of such assets but agreed that it would be useful. It is recommended that LAFLA develop a uniform practice regarding the recordation of assets exempted by the board approved asset guidelines.

OCE also compared the information yielded by the ACMS to information contained in the files that were reviewed during the visit. There were relatively few files that contained information inconsistent with the information yielded by the ACMS. Specifically, in West closed 2008 File Nos. 07-01113654, 07-01117826, and 01-01028884, the case closing codes indicated in the files were different from the case closing codes yielded by the ACMS. In Central closed 2008 File No. 08-011364832, the closing date indicated in the file was different from the closing date yielded by the ACMS.[2]

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 2: LAFLA's intake procedures and case management system generally support the program's compliance related requirements.

LAFLA's legal staff is organized into eight substantive legal units, each of which conducts eligibility screening. In addition, LAFLA has an Asian Pacific Islander Unit which operates five Asian language telephone lines; the unit serves monolingual Asian language speakers with issues across the eight substantive legal units. Legal units generally operate out of a single office, though some units may have one or two staff operating out of different offices. The intake for each unit is conducted by Intake Screeners at the office that serves as the unit's base.[3]

One or more staff in each advocacy group was interviewed. Interviews reveal that although LAFLA's intake is decentralized and a number of staff are involved, eligibility screening practices are fairly uniform. Essential compliance information is gathered on forms used program-wide. The intake process for each unit is described below, followed by a description of any intake procedures unique to the unit. The current version of the ACMS, implemented in Fall 2008, includes a number of programming features which will identify incomplete or contradictory information, and prevent the record from being saved and closed. This feature supports LSC's compliance requirements.

LAFLA publishes a toll-free telephone number for general intake and individual phone numbers for each of the five Asian Pacific Islander Hotlines, though Asian speakers calling the toll-free number

[2] West open File No. 09-01146957 and Central open File Nos. 08-1143654, 08-01136214, 08-1130076, 08-01137384, 08-01134764, and 08-01141958 appeared on the list of cases open as of May 31, 2009, but the files indicated that they were closed prior to May 31. Each of these files also contained an indication that LAFLA management's review did not occur until after May 31.

[3] Intake for the Eviction Defense and Housing Units is conducted out of the Central Office, Employment and Community Economic Development out of the South Office, and Consumer and Family out of the West Office. The Asian Pacific Islander Unit is located in the West Office.

can select an option and be routed to the correct hotline. Callers to the toll-free number are asked the general nature of their legal problem and transferred to the appropriate unit. Most units do not limit intake hours; intake is conducted during normal working hours.

Most applicants contact LAFLA by telephone, though walk-ins are accepted. Some units operate clinics which are set-up to see only walk-in applicants. Some of these clinics only provide legal information while others offer full-intake screening, though issues appropriate for case work may be identified in the self-help centers or clinic and referred to the appropriate unit. Lastly, all units accept referrals from other advocacy groups, usually communicated through an e-mail with the client's name and ACMS record number, and a general description of the problem. These are typically existing clients with legal problems in more than one substantive area.

Most eligibility screening is conducted by use of a program-wide written intake form. For telephone intake (both units and the Asian Pacific Islander Hotlines), the Intake Screener asks the applicant questions and records the information on the form. At many clinics, applicants themselves complete the written form; the form includes a citizenship attestation which complies with LSC regulatory and reporting requirements. Information is later entered into the ACMS, at which time a program-wide conflict check is conducted. For clinics in which legal assistance is provided on-site, staff contacts LAFLA to check conflicts prior to the provision of assistance. If a written form has been completed for an applicant with a conflict, the form is provided to the Intake Screener's Supervisor. In-person applicants sign the citizenship attestation on the written intake form or the screener reviews eligible alien documentation and completes the Verification of Eligible Alien Status form. The form is thorough and complies with LSC regulatory and reporting requirements. LAFLA also has forms for use in emergencies. For extended representation or in-person limited assistance, case handlers are responsible for obtaining citizenship attestation or documentation of eligible alien status, usually on the printed ACMS Intake Sheet.

Although the persons interviewed in the Santa Monica, Long Beach, and East offices indicated that they inquire regarding income prospects, none of those interviewed in the Central, East or West offices acknowledged screening for income prospects as required by 45 CFR § 1611.7(a). OCE also noted that while some of the persons interviewed stated that they record all household assets, others stated that they only record those assets that are non-exempt. Asset eligibility determinations should be consistent throughout the program.

All of the intake staff that were interviewed demonstrated an understanding of the citizenship/alien eligibility requirements, 45 CFR Part 1636 documentation, retainer agreement policies, program priorities, prohibited activities, and LSC reporting requirements. Staff confirmed that senior management conduct annual compliance training. In fall 2008, the Grants and Compliance Manager held training for new staff and Managing Attorneys. All staff received LSC training on the CSR Handbook (2008 Ed.).

In the event an applicant's income is between 125%-200% of the Federal Poverty Guidelines ("FPG"), or assets exceed the program's ceiling, the Intake Screener completes the LAFLA form for Documentation of Authorized Exceptions to LSC Annual Income Ceiling. No persons interviewed could recall using the form for an exception to the asset ceiling. LAFLA uses uniform Retainer

Agreement forms: one for Counsel and Advice/Limited Action and one for Extended Service. Sample closing and rejection letters were obtained.

All offices and units have clear policies regarding emergency cases. For instance, child abduction and domestic violence cases are given special attention by family law advocates. Utility shutoffs and imminent homelessness are handled as emergencies by housing staff. Government benefits emergencies include problems securing benefits, cut-offs, and medical emergencies.

Offices and units conduct case acceptance meetings, usually weekly. Once a case is accepted for extended representation, outstanding compliance forms are mailed to the client. Opening and closing memoranda are not used; instead, for extended service cases, case handlers are required to enter opening and closing notations in the ACMS case notes. For limited service cases, case handlers write notes on the written intake form.

The Community Economic Development Unit has many group clients. On a daily basis, intake is supervised by an Attorney of the Day who is on hand to answer Intake Screener questions, review intakes, and make preliminary acceptance decisions.

Group applicants are routed to the Employment Unit's Intake Screener. Financial eligibility forms and retainer agreements have been tailored for group clients. Group applicants are requested to provide articles of incorporation, by-laws, federal and state tax exemption letters, financial statements, current budget, balance sheet, etc. For groups that lack such information, the form is sufficient to capture information regarding the group's ability to retain private counsel, its composition, and/or its principal activity.

Upon closing, each case handler completes a CSR Case Checklist which requires the case handler to answer questions regarding all major compliance issues and indicates if the case is eligible for inclusion in LAFLA's CSR data submission. Case handlers must also complete a Case Closing Form which lists LSC case closure categories and LAFLA closing codes. Case outcomes are also recorded on this form. The form must be reviewed by the unit's Directing or Managing Attorney before it is given to the unit's secretary to close on the ACMS. The Eviction Defense and Housing Units have a slightly different closing form which was created in December 2008 with the approval of the Executive Director. In addition to the uniform case closing form, the Asian Pacific Islander Unit uses an additional compliance checklist. Case lists are generated and reviewed on a regular basis.

In response to the DR, LAFLA stated that in an effort to properly document income prospects, it will add a box to the intake sheet that staff will check, affirmatively noting that they have made inquiry into future income prospects. LAFLA also stated that it will train staff to provide additional information, as needed, in the notes section of the intake sheet. Intake screening will be the subject of LAFLA's regularly scheduled intake screener/receptionist meetings and will be discussed by the compliance committee in its preparation of a memorandum to all staff regarding all of LSC's findings, recommendations and corrective actions.

Finding 3: LAFLA's Internal Control Structure compares favorably to LSC's Internal Control/Fundamental Criteria of an Accounting and Financial Reporting System. (Accounting Guide for LSC Recipients - Chapter 3).

LSC recipients under the direction of its Board of Directors, is required to establish and maintain adequate accounting records and internal control procedures. Internal control is defined as the process put in place by the recipient's Board of Directors, management, and other personnel which is designed to provide reasonable assurance of achieving objectives of safeguarding of assets against unauthorized use or disposition, reliability of financial information and reporting; and compliance with regulations and laws that have a direct and material effect on the program. *See* Chapter 3 of the Accounting Guide for LSC Recipients (August 1997).

LAFLA uses American Fundware accounting software for Not-for-Profit organizations to track and account for grant support, revenues, expenses and fund balances/net assets by funding sources. Also the system produces a cumulative, detail general ledger and other accounting records and financial reports. The Director of Fiscal Management and three accountants maintain the accounting system and records with internal controls overseen by various staff and the Director of Finance and the Executive Director. The review of the accounting records provided found that LAFLA'S accounting system adequately records and supports the program's grant activities and is in conformance with LSC accounting and financial reporting requirements.

A review of LAFLA's accounting policies and procedures manual, accounting records and discussions with program management found that the program has established an adequate internal control structure which includes adequate accounting records, competent personnel, defined duties and responsibilities, segregation of duties, independent checks and proofs and a written accounting manual, which was being revised and updated. Further, LAFLA's audit reports on internal controls for 2007 and 2008 did not identify any deficiencies in the internal controls that could be considered to be material weaknesses.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 4: Sampled cases evidenced substantial compliance with the income eligibility requirements set forth at 45 CFR Part 1611, CSR Handbook (2001. Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant's household and the total income before taxes received by all members of such household in order to determine an applicant's eligibility to receive legal assistance.[4] *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall

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

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 not 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), the recipient shall keep such records as may be necessary to inform LSC of the specific facts and factors relied on to make such a determination. *See* 45 CFR § 1611.5(b), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3.

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient "clients" and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, regardless of the source(s) of funding supporting the cases, if otherwise eligible and properly documented. *See* CSR Handbook (2001 Ed.), ¶ 4.3(a) and CSR Handbook (2008 Ed.), § 4.3.

LAFLA's Income Guidelines were adopted by its Board on June 6, 2009. The policy specifies that only applicants for service who are determined to be financially eligible under the policy may be further considered for LSC-funded legal assistance. The policy establishes an annual income ceiling of 125% of the FPG, an asset ceiling, and contains language required by 45 CFR § 1611.3(e). Applicants who receive General Relief, SSI, or TANF and have no other source of income may be determined to be financially eligible without an independent review of the individual's income or assets. The policy also incorporates the authorized exceptions stated at 45 CFR § 1611.5(a). With two exceptions, the LSC-funded files that OCE reviewed during the visit contained the income documentation required by LSC. The exceptions were South closed 2008 File No. 08-01128144 and West closed 2007 File No. 07-01150451. In both instances, the applicants' household income exceeded LAFLA's annual income ceiling, but the files lacked any information necessary to inform LSC of the facts factors relied on by LAFLA in making its determination to provide legal assistance. Accordingly, these files should have been excluded from LAFLA's CSR data submissions.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 5: LAFLA maintains asset eligibility documentation as required by 45 CFR § 1611.3(d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4.

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

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

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 current regulation requires that recipients establish reasonable asset ceilings for individuals and households. This marks a change from the 1983 version of Part 1611, which required the recipient to establish specific and reasonable asset ceilings, including both liquid and non-liquid assets. *Compare* 45 CFR § 1611.3(d) in the 2005 version and 45 CFR § 1611.6 of the 1983 version. Both versions allow the policy to provide for authority to waive the asset ceilings in unusual or meritorious circumstances. The 1983 version allowed such a waiver only at the discretion of the Executive Director. The current regulation allows the Executive Director or his/her designee to waive the ceilings in such circumstances. Both versions require that such exceptions be documented and included in the client's files.

As part of its financial eligibility policies, LAFLA has established an asset ceiling of $24,000 for an individual and an additional $6,000 for each additional family member. Consistent with 45 CFR § 1611.3(f), applicants receiving certain specifically identified means-tested public assistance benefits are exempt from asset screening.

In addition to the applicant's principal residence, vehicles used for transportation and work related equipment essential to employment, LAFLA's policy excludes consideration of certain other assets. LAFLA is advised that the list of assets enumerated at 45 CFR § 1611.3(d)(1) is exclusive. The Supplementary Information published at the time of the 2005 revision of Part 1611 makes clear that most assets are to be considered and that the types of assets that recipients may exclude is limited. *See* 70 *Fed. Reg.* 45545, at 45550 - 45551 (August 8, 2005). Accordingly, LAFLA's asset policy is consistent with LSC regulations only to the extent that the other assets - personal and household effects, trusts established and used exclusively for education and medical expenses, the cash value of IRAs, Keogh plans and life insurance policies, retirement benefits, pension plans, veterans' benefits, military benefits (survivors and retirement), student aid, public assistance, art and heirlooms, and one burial plot per household member, and assets disregarded for eligibility under the Food Stamps, AFDC, SSI, County General Assistance or similar means tested program - are assets exempt from attachment under state or federal law.

Without exception, the files that OCE reviewed during the visit contained properly documented asset eligibility determinations.

In response to the DR, LAFLA stated that it will review its asset exclusions to ensure that they are consistent with LSC regulations.

Finding 6: LAFLA is in compliance with the restrictions on service set forth by 45 CFR Part 1626. However, LAFLA is in non-compliance with the attestation requirements of 45 CFR Part 1626 in that three cases did not have the necessary citizenship/alien eligibility documentation.

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. Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In 2006, in accordance with the "Violence Against Women Act 2006 Amendment", LSC instructed 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. *See* LSC Program Letter 06-2 (February 21, 2006).

With three exceptions, the sampled files contained the necessary citizenship/alien eligibility documentation. The three exceptions were West open File Nos. 09-01149076 and 07-01126513, and South closed 2009 File No. 08-01140047. Although a pattern of three cases is not substantial, LAFLA is reminded that Part 1626 involves a restriction on legal assistance and as such, even a minimal pattern is considered non-compliance from the documentation perspective. Absent the appropriate citizenship/alien eligibility documentation, these files should be excluded from LAFLA's CSR data submission.

In response to the DR, LAFLA stated that it agreed that without the necessary citizenship/alien eligibility documentation, the three files noted in this Finding should be excluded from its CSR data submission. LAFLA also stated that its compliance committee will issue a memo to all staff reminding them of the need to properly document citizenship/alien eligibility.

LAFLA stated that it is preparing a "road show" for all offices to reinforce the LSC's regulations and documentation requirements. Managing and Directing Attorneys have been instructed to thoroughly review this area with staff.

Finding 7: Sampled cases evidenced compliance with the requirement of 45 CFR § 1611.9 (Retainer agreement).

LSC regulations require that recipients execute a retainer agreement with each client who receives legal services from the recipient. At one time, the requirement applied equally to legal services provided to the client by recipient staff and legal services provided to the client by a private attorney pursuant to 45 CFR Part 1614. Effective September 7, 2005, no written retainer agreement is required for advice and counsel or brief services provided by the recipient, or for legal services provided by a private attorney pursuant to 45 CFR Part 1614. *See* 45 CFR § 1611.9(b).

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 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 lack of a retainer does not preclude CSR reporting eligibility. Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

LAFLA is in substantial compliance with the requirements of 45 CFR § 1611.9. OCE did, however, review three files in which the retainers were either undated or unsigned. *See* East closed 2009 File No. 02-0104833 and East closed 2008 File Nos. 07-01116957 and 08-01138577.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 8: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

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

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

Without exception, each file that OCE reviewed that required a Part 1636 statement of facts contained one.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 9: 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.

None of the files that OCE reviewed during the visit revealed cases that were outside of LAFLA's priorities.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 10: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6, which require that each case reported to LSC contain a description of the legal assistance rendered.

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

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

With five exceptions, the files that OCE reviewed during the visit contained a description of the legal assistance provided to the client. The five exceptions were West open File Nos. 09-01149076 and 07-01126513, West closed 2009 File Nos. 05-01088371 and 09-01143854, and East closed 2007 File No. 05-01086120. The closed 2007 file should have been excluded from LAFLA's CSR data submission, and LAFLA should take such measures as to ensure that the open and closed 2009 files will not be included in future CSR data submissions.

In response to the DR, LAFLA stated that it will not report West closed 2009 File Nos. 05-01088371 and 09-01143854, and East closed 2007 File No. 05-01086120 in its 2009 CSR data submission. As for West open File Nos. 09-01149076 and 07-01126513, LAFLA stated that if no legal assistance has been rendered, these files will also be excluded from its CSR data submission. LAFLA added that its compliance committee will ensure through a memo that all staff are reminded that they must report a description of the legal assistance provided. Such instruction will also be reinforced at LAFLA's "road show". Managing and Directing Attorneys have been instructed to thoroughly review this area with staff.

Regarding West open File Nos. 09-01149076 and 07-01126513, OCE notes that it was advised during the visit that these files were to be closed as "non-CSR".

Finding 11: In several instances, LAFLA's application of the CSR case closure categories was inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapter VIII, 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.

In several instances, LAFLA's application of the CSR case closure categories was inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapter VIII, CSR Handbook (2008 Ed.). *See* Central closed 2009 File No. 08-01141124 (closed as "negotiated settlement without litigation", but file indicated level of assistance consistent with "negotiated settlement with litigation"); East closed 2008 File Nos. 06-01103460 and 07-01125445 (closed as "limited action", but files indicated level of assistance consistent with "agency decision"); East closed 2008 File No. 06-01097996 (closed as "counsel and advice", but file indicated level of assistance consistent with "limited action"); East closed 2008 File No. 08-01131792 (closed as "limited action", but file indicated level of assistance consistent with "negotiated settlement with litigation"); West closed 2008 File No. 08-01123671 (closed as "counsel and advice", but file indicated level of assistance consistent with "extensive service"); East closed 2007 File Nos. 05-01093940, 04-01071017, and 05-01092279 (closed as "brief service", but files indicated levels of assistance consistent with "other"); Central closed 2007 File No. 07-01113152 (closed as "counsel and advice", but file indicated level of assistance consistent with "negotiated settlement with litigation"); East closed 2007 File No. 05-01091549 (closed as "counsel and advice", but file indicated level of assistance consistent with "other"); West closed 2007 File No. 05-01082134 (closed as "brief service", but file indicated level of assistance consistent with "agency decision"); West closed 2007 File No. 03-01063386 (closed as "counsel and advice", but file indicated level of assistance consistent with "brief service"); West closed 2007 File No. 07-01150451 (closed as "brief service", but file indicated level of assistance consistent with "negotiated settlement without litigation"); West closed 2007 File No. 04-01117385 (closed as "brief service", but file indicated level of assistance consistent with "counsel and advice").[6]

It is recommended that LAFLA ensure that staff is trained on the proper closing categories to comply with CSR Handbook (2008 Ed.), § 6.1.

In response to the DR, LAFLA stated that with the one exception, the cases cited in the Finding indicate that LAFLA used a case closure category that did not reflect the greater level of legal work

[6] LAFLA stated that Central open File No. 08-01128045 was a matter, not a case.

performed by its advocates. LAFLA stated that its compliance committee will issue a memo to all staff reminding them of the need to select a case closure category that accurately reflects the level of assistance provided. LAFLA added that proper application of the CSR case closure categories will be addressed in a future "road show" and Managing and Directing Attorneys have been instructed to thoroughly review this area with staff.

Finding 12: LAFLA has several untimely or inactive files.

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).[7] 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).

Generally, the files that OCE reviewed during the visit were either timely closed or active. There were no exceptions among the sample of closed 2009 cases. However, among the sample of open cases, West open File No. 06-0109403 contained no indication of activity since April 2007. Nor did the file contain an entry explaining why it should remain open. Also, South open File No. 05-01080303 contained no indication of activity between August 2006, when a court decision was rendered, and April 2009, when case was closed. Again, the file contained no entry explaining why it remained open from August 2006 until April 2009. These two files are inactive and untimely closed, respectively, and should be excluded from LAFLA's CSR data submission.

Among the sample of closed 2008 cases, East closed 2008 File No. 04-01069069 was opened in May 2004 and closed as "counsel and advice" in February 2008. There was no activity indicated in the file after June 2007 and the file lacked an entry explaining why it was held open beyond that time. As such, this file is untimely closed and should not have been included in LAFLA's 2008 CSR data submission. *See also,* East closed 2008 File No. 04-01068821 (opened April 2004 and closed as "brief service" December 2008; no activity indicated in file after 2005 and no entry explaining why it was held open beyond that time); East closed 2008 File No. 04-01073452 (opened April 2004 and closed as "agency decision" December 2008; LAFLA stated that file should have been closed in

[7] 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 closures 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).

2005); West closed 2008 File No. 06-01100827 (opened May 2006 and closed as "limited action" November 2008; no activity indicated in file after June 2006 and no entry explaining why it was held open beyond that time); West closed 2008 File No. 07-01115557 (opened April 2007 and closed as "limited action" February 2008; no activity indicated in file after August 2007 and no entry explaining why it was held open beyond that time); and West closed 2008 File No. 06-01095335 (opened February 2006 and closed as "limited action" December 2008; no activity indicated in file after July 2006 and no entry explaining why it was held open beyond that time). Accordingly, these files should not have been included in LAFLA's 2008 CSR data submission.

Among the sample of closed 2007 cases, West closed 2007 File No. 06-01113227 was opened in January 2006 and closed as "counsel and advice" in February 2007. The last activity indicated in the file was in early 2006 and the file lacked an entry explaining why it remained open. *See also*, West closed 2007 File No. 02-01035331 (opened February 2002 and closed as "counsel and advice" in May 2007; file indicated that all assistance was provided on date file was opened; file lacked an entry explaining why it remained open thereafter); West closed 2007 File No. 03-01063386 (opened November 2003 and closed as "counsel and advice" in August 2007; file indicated last effort to contact client occurred in 2005; file lacked an entry explaining why it remained open thereafter); and East closed 2007 File No. 05-01082665 (opened March 2006 and closed as "brief service" in August 2007; no activity indicated in file after April 2005 and no entry explaining why it was held open beyond that time) . Accordingly, these files were untimely closed and should not have been included in LAFLA's 2007 CSR data submission.

LAFLA should take corrective action to ensure that each case reported to LSC is timely closed.

In response to the DR, LAFLA suggested that the lack of adequate notes may have led to the perception that a particular file was inactive. LAFLA stated that better notes are needed to establish and reflect the work of its advocates and stated that it will re-train so that advocates are closing files in a timely manner. LAFLA stated that documentation is essential and that its compliance committee will focus on this area in its upcoming memo to staff and in its "road show". Managing and Directing Attorneys in each office have been instructed to thoroughly review this area with each advocate during case reviews.

Finding 13: Sampled cases evidenced substantial compliance with CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2 (Single recording of cases).

Through the use of automated case management systems and procedures, recipients are required to ensure that cases involving the same client and specific legal problem are not recorded and reported to LSC more than once. *See* CSR Handbook (2001 Ed.), ¶ 3.2 and CSR Handbook (2008 Ed.), § 3.2.

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

When a recipient provides assistance more than once within the same reporting period to the same client who has returned with essentially the same legal problem, as demonstrated by the factual circumstances giving rise to the problem, the recipient is instructed to report the repeated instances of assistance as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.3 and CSR Handbook (2008 Ed.), § 6.3. Recipients are further instructed that related legal problems presented by the same client are to be reported as a single case. *See* CSR Handbook (2001 Ed.), ¶ 6.4 and CSR Handbook (2008 Ed.), § 6.4.

LAFLA identified South open File No. 04-01068872 as a duplicate of South closed 2004 File No. 04-01069610. West closed 2008 File No. 08-01143705 and West closed 2008 File No. 08-01143705, and Central closed 2008 File No. 08-01137241 and Central closed 2008 File No. 08-01136817 were also identified as duplicates.[8]

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 14: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1608 (Prohibited political activities).

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

OCE's review of LAFLA's vendor list of individuals and entities that received a payment from LAFLA over the review period revealed that no prohibited payments or contributions were made. Further, discussions with program management confirmed this and indicated that LAFLA is not involved in any prohibited political activities. As well, sampled files reviewed indicated that LAFLA is not involved in such activity.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 15: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1609 (Fee-generating cases).

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

[8] *Compare* East closed 2009 File No. 09-01144892, East closed 2008 File No. 03-01057391, and East closed 2008 File No. 04-01069069. Each of these files involved multiple legal issues that were so sufficiently different that LAFLA could have opened a separate file for the different legal issues. *See* CSR Handbook (2008 Ed.), § 6.4.

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 sampled files reviewed involved legal assistance with respect to a fee-generating case.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 16: LAFLA is not in compliance with the notification requirement of 45 CFR Part 1610 (Use of non-LSC funds, transfer of LSC funds, program integrity).

Part 1610 was adopted to implement statutory restrictions on the use of non-LSC funds and to ensure that no LSC funded entity engages in restricted activities. The regulation is further intended to ensure that recipients maintain objective integrity and independence from organizations that engage in restricted activities. Recipients may not accept funds from sources other than LSC, unless the recipient provides the source with written notification of the prohibitions and conditions that apply to the funds. *See* 45 CFR § 1610.5. Further, recipients must certify annually to LSC that it is in compliance with Part 1610. *See* 45 CFR § 1610.8(b).

A review of LAFLA's donor notification policies and procedures found that the program had not notified its non-LSC funding sources of restrictions as required by LSC regulations. While on-site, LAFLA developed a donor notification letter that will be sent to its non-LSC funding sources. LAFLA provided a copy of the notification letter and a statement of action along with a listing of the non-LSC funding sources to be notified.

OCE reviewed LAFLA's certification for 2008, along with the Executive Director's memorandum to the Board of Directors, selected non-LSC grant agreements, audited financial statements for 2007 and 2008, and the general ledger trial balance as of May 31, 2009. The materials were substantially compliant with the accounting and fiscal requirements of 45 CFR Part 1610.

In response to the DR, LAFLA stated that it learned of the deficiency in its donor notification letter during the visit and its Development and Finance staff immediately developed a donor notification letter to be sent its LAFLA's non-LSC funding sources. LAFLA confirmed that OCE was provided a copy of the letter and a list of the non-LSC funders to be notified. LAFLA added that since the time of the visit, it has notified its non-LSC funders, in writing, of the prohibitions and conditions that apply to their funds.

Finding 17: LAFLA 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.

LSC regulations require LSC recipients to devote an amount 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 regulation requires that recipients utilize financial systems and procedures and maintain supporting documentation to identify and account separately for cost related to the recipients PAI effort. Such systems and records must meet the requirements of LSC's Audit and Accounting Guide for Recipients and Auditors and must accurately identify and account for the recipient's administrative, overhead, staff, and support costs related to PAI activities; payments to private attorneys for support or direct client services rendered; contractual payments to individuals or organizations that undertake administrative, support, and/or direct services to eligible clients on behalf of the recipients; and other actual costs as may be incurred by the recipient. *See* 45 CFR § 1614.3(e).

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

LAFLA maintains sufficient supporting documentation for its PAI cost allocation. The review of LAFLA's PAI cost allocation policy statement and worksheets for 2007 and 2008 and the audited financial statements for the review period found that the program complies with 45 CFR § 1614.3(e).

LAFLA met its PAI expenditure requirement for 2007 and 2008 and projects to meet its 2009 PAI requirement.

LAFLA's 2009 PAI plan complies with the requirements of 45 CFR § 1614.4. The plan is designed to offer a variety of options for private attorney participation and to increase services to eligible clients, through pro bono mechanisms, via relationships with large law firms.

Private attorneys participate in the direct delivery of legal assistance to eligible clients at clinics and through the acceptance of cases, some of which are mentored by LAFLA attorneys and others co-counseled with LAFLA attorneys. Some co-counsel arrangements may be complex with several private attorneys and/or other legal services programs. LAFLA has a Pro Bono Director, based out of the West Office, whose time is devoted to PAI. This Pro Bono Director is responsible for recruitment and maintains relationships with the pro bono coordinators within participating law firms who place the cases with an attorney in the firm or assigns firm attorneys to a clinic. Another Pro Bono Coordinator, based out of the Central Office, devotes 50% time to PAI. Both pro bono staff members are attorneys.

Private attorneys participate in a wide variety of clinics, some of which screen participants for eligibility and provide legal assistance. There are also clinics that do not screen participants and provide legal information.[9] The Pro Bono Director is aware that LSC prohibits counting toward the PAI requirement the value of support provided by private attorneys at clinics in which the participants are not screened for LSC-eligibility and are not accepted as clients. *See* LSC External Opinion EX-2008-1001. She stated that LAFLA is very careful not to count private attorney support at other services clinics toward its PAI requirement, but offers the activity to law firms in an effort to involve them in the activities of LAFLA in the hopes of raising their comfort level to accept the referral of cases.

Compared to the number of staff cases reported to LSC, the PAI numbers have been low. The Pro Bono Director, a long-time LAFLA employee, was promoted to the position on June 30, 2008. Initially her time was split 50% PAI and 50% self-help centers. On January 1, 2009, she became 100% PAI. She stated that as she learned the LSC rules governing PAI cases, she identified PAI eligible cases which were not reported as PAI.[10] She further stated that it was clear the program needed to develop new programs to expand the use of private attorneys. Accordingly, several new initiatives were created including the referral of eviction cases out of the Central office; obtaining commitments from law firms to "sponsor" specific days at the toll center, the domestic violence clinic located in the downtown Los Angeles Courthouse; and increasing law firm involvement at the Skid Row Clinic for homeless persons. These new initiatives are well underway and the program is continuing to develop procedures and protocols to expand the relationships with area law firms and ensure that the case is one that can be included as a PAI case in LAFLA's CSR data submission.

[9] Generally, the attendees of the Asian and Pacific Islander Clinics and the Domestic Violence and Family Law Clinics are screened and provided legal assistance. Attendees at the Employment Law Workers' Rights Clinics are not screened.

[10] In contrast, although LAFLA's ACMS identified Central closed 2009 File No. 08-01142344, Central closed 2008 File Nos. 08-00143502 and 08-01140824 as PAI cases, the files indicated that the legal assistance was provided by LAFLA staff. *See also,* West closed 2007 File Nos. 07-01110779, 06-01098179, and 05-01089501 (legal assistance provided by LAFLA staff under the supervision of a private attorney). The CSR Handbook (2008 Ed.), § 10.1, provides instruction on when recipients may report cases as PAI.

In response to the creation of an eviction placement panel, the position of Pro Bono Coordinator was created. An attorney from the housing unit was placed half-time in the position beginning June 2008. For the first six months, she was assigned to handle some eviction defense cases, as a staff attorney, to ensure that she was properly trained before placing cases. Lastly, the new Pro Bono Director determined that LAFLA was not capturing all PAI time as staff was hesitant to code time as PAI while engaged in legitimate PAI activity. She recently visited all offices and met with staff to train them on the issue.

Within each of LAFLA's six offices, PAI clients are screened for financial and citizenship/alien eligibility in a manner consistent with staff cases. Case acceptance decisions are made consistent with LAFLA's established priorities. Units within each office identify cases appropriate for referral to PAI during the normal intake and case review process. Prior to a referral, all of the necessary compliance documents are obtained and an attorney must interview the client. The case is assigned to a staff attorney and that attorney contacts the Pro Bono Director who sends an E-Blast to the pro bono coordinators of various law firms recruited to handle pro bono cases. The E-Blast briefly describes the case without providing information which identifies the client. If interested, the Pro Bono coordinator at the firm contacts LAFLA's Pro Bono Director who provides sufficient information for the law firm to conduct a conflict check. The firm's Pro Bono Coordinator conducts the check and, if there are no conflicts, places the case within the firm and advises LAFLA of the name of the attorney. The LAFLA staff attorney contacts the firm attorney and arranges to either co-counsel the case or serve as a mentor throughout the case. If a co-counsel arrangement is agreed upon, the two parties enter into a co-counsel agreement. The Pro Bono Director stated that many of the law firms assign these cases to young attorneys to provide them with experience in court. Accordingly, many require significant mentoring while others to a lesser extent.

The staff attorney is assigned the case in the ACMS and it is still considered a staff case. The LAFLA staff attorney is responsible for conducting follow-up, which generally is not an issue as the staff attorney is in regular contact with the private attorney either as a co-counsel or mentor. No oversight forms are used; status information is recorded by the staff attorney in the case notes portion of the ACMS. The staff attorney is responsible for ensuring that the case is properly closed as either a PAI or Staff case. Staff generally closes co-counseled cases as PAI. For cases in which the staff attorney assisted or mentored the private attorney, the case is closed depending upon whether the staff attorney or private attorney provided the highest level of legal assistance. These closing procedures comply with the CSR Handbook (2008 Ed.), § 10.1.

LAFLA is in compliance with 45 CFR § 1614.3(d)(3) which requires oversight of the PAI case files. As indicated previously, cases referred to a private attorney are assigned to a LAFLA attorney who is responsible for tracking and oversight, and is in regular contact with the private attorney. Oversight and follow-up may be conducted quarterly or more frequently, depending upon the nature of the case.

Until 2008, LAFLA had contracts with Public Counsel and the Inner City Law Center ("ICLC"). LAFLA paid these entities to provide legal services in a certain number of referred cases per year. These cases were screened at LAFLA and were LSC-eligible. Public Counsel provided assistance in bankruptcies and other consumer issues. The contract with ICLC was a sub-grant in which ICLC provided a full-time senior paralegal or advocate to supervise advocates providing legal assistance to homeless. The cases were reported as PAI.

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 18: LAFLA is in compliance with 45 CFR § 1627.4(a) which prohibits programs from utilizing LSC funds to pay memberships fees or dues to any private or nonprofit organization.

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. *See* 45 CFR § 1627.4(a). The prohibition 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 for selected expense accounts that track and account for litigation expenses which include fees and dues payments for 2007, 2008, and 2009, as of May 31, 2009, along with discussions with program management disclosed compliance with 45 CFR § 1627.4(a).

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

LSC regulations require that the time spent by attorneys and paralegals on cases, matters and supporting activity be documented on timesheets that 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. Further, each record of time spent must contain a unique client name or, for cases, a case number or, for matters or supporting activities, an identification of the category of action on which the time was spent. Attorneys and paralegals who work part-time for a recipient and part-time for an organization that engages in restricted activities are required to certify in writing that they have not engaged in restricted activity during any time for which they were compensated by the recipient or have not used recipient resources for restricted activities. *See* 45 CFR § 1635.3.

To track its casehandlers' time spent on cases, matters, and supporting activities, LAFLA uses the timekeeping component of its case management software. All staff are required to maintain their time in the case management system and LAFLA uses the timekeeping data generated along with other reasonable operating data and methods to determine and support its cost allocations.

The review of LAFLA's timekeeping policies and procedures and a sample of completed time records for an attorney and a paralegal along with discussions with the Director of Finance and Operations and IT Manager disclosed that time records are electronically and contemporaneously maintained. The time spent on each case, matter or supporting activity is recorded in substantial compliance with 45 CFR §§ 1635.3(b) and (c).

During the visit, OCE also reviewed a sample of the certifications by part-time attorneys and paralegals. LAFLA provided certifications for the second, third, and fourth quarter of 2008 and the first quarter of 2009. Although at least one of the certifications was somewhat untimely, they met the requirements of 45 CFR § 1635.3(d).

In response to the DR, LAFLA offered no comments with regard to this Finding.

Finding 20: Sampled cases 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).

Review of LAFLA's accounting records and audited financial statements for 2007 and 2008 and the general ledger trial balance as of May 31, 2009, along with discussion with program management found that on one occasion LAFLA recognized and reported the receipt of attorneys' fees from a pre-1996 case. In another instance, LAFLA recognized and reported the receipt of sanctions.

None of the files reviewed during the visit contained a claim for, award of, or retention of attorneys' fees. However, there was a question about the language of LAFLA's standard co-counseling agreement. The language in question reads:

> ... If, however, an award of attorneys' fees is obtained from any other party, counsel to any other party, or any other source, those fees shall be paid to [co-counsel] and LAFLA pro rata. All attorneys fees requests shall be made pursuant to the Legal Services Corporation regulations, set forth in 45 C.F.R. § 1600, *et seq.*

Because LSC regulations prohibit LAFLA from claiming, collecting or retaining attorneys' fees, LAFLA was asked to explain the language. LAFLA responded that the language is intended to capture the types of payments described in 45 CFR § 1642.2(b).

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

OCE reviewed LAFLA's semi-annual reports for the second half of 2008 through the time of the visit. The reports described LAFLA's legislative activities with non-LSC funds conducted pursuant to 45 CFR § 1612.6 and are accompanied by copies of the written requests received by LAFLA inviting such legislative activity. None of the files reviewed evidenced any lobbying or other prohibited activities.

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

None of the files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. However, as previously noted, LAFLA provides legal assistance with respect to expungement, but does not report the assistance to LSC because of a misunderstanding concerning Part 1613. During the visit, OCE advised LAFLA that expungement is outside the regulatory definition of "criminal proceeding", and that assuming that all other reporting requirements are met, there is no reason to exclude such legal assistance from its CSR data submission.

In response to the DR, LAFLA stated that, due to a misunderstanding on its part, it was not reporting expungement assistance to LSC. Now that LAFLA properly understands Part 1613, if all other reporting requirements are met, it will report such assistance.

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

Recipients are prohibited from initiating or participating in any class action. *See* 45 CFR § 1617.3. The regulations define "class action" as a lawsuit filed as, or otherwise declared by a court of competent jurisdiction, as a class action pursuant Federal Rules of Civil Procedure, Rule 23, or comparable state statute or rule. *See* 45 CFR § 1617.2(a). The regulations also define "initiating or participating in any class action" as any involvement, including acting as co-counsel, amicus curiae, or otherwise providing representation relative to the class action, at any stage of a class action prior to or after an order granting relief. *See* 45 CFR § 1617.2(b)(1).[11]

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

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

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

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

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

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

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

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

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

In 1996, Congress passed, and the President signed, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (the "1996 Appropriations Act"), Pub. L. 104-134, 110 Stat. 1321 (April 26, 1996). The 1996 Appropriations Act contained a new restriction which prohibited LSC recipients and their staff from engaging a client which it solicited.[12] This restriction has been contained in all subsequent appropriations acts.[13] 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 files reviewed indicated involvement in such activity.

In response to the DR, LAFLA offered no comments with regard to this Finding.

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

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

In response to the DR, LAFLA offered no comments with regard to this Finding.

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[12] *See* Section 504(a)(18).

[13] *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).

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

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

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

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

All of the sampled files reviewed demonstrated compliance with the above LSC statutory prohibitions.

In response to the DR, LAFLA offered no comments with regard to this Finding.

IV. RECOMMENDATIONS[14]

In view of the foregoing, it is recommended that LAFLA:

1. Develop a uniform practice with respect to documentation of asset eligibility determinations;
2. Consistent with CSR Handbook (2008 Ed.), § 6.4, consider opening separate cases where the client's legal issues are sufficiently different;
3. Ensure that in those cases where work is performed by both a staff member and a PAI attorney, if the majority of the work is performed by the staff member then that case should be designated a "staff" case and the work performed by the PAI attorney should be allocated to LAFLA's PAI requirement; and
4. Ensure that staff is trained on the proper closing categories to comply with CSR Handbook (2008 Ed.), § 6.1.

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

V. REQUIRED CORRECTIVE ACTIONS

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

1. Review its asset exclusions and ensure that it is consistent with LSC regulations.

In response to the DR, LAFLA stated that it will review its asset exclusions to ensure that they are consistent with LSC regulations.

2. Ensure that each case reported to LSC contains the necessary citizenship/alien eligibility documentation.

In response to the DR, LAFLA stated that its compliance committee will issue a memo to all staff reminding them of the need to properly document citizenship/alien eligibility. LAFLA stated that it is preparing a "road show" for all offices to reinforce LSC's regulations and documentation requirements. Managing and Directing Attorneys have been instructed to thoroughly review this area with staff.

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

In response to the DR, LAFLA stated that its compliance committee will ensure, through a memo, that all staff members are reminded that they must report a description of the legal assistance provided. Such instruction will also be reinforced at LAFLA's "road show". Managing and Directing Attorneys have been instructed to thoroughly review this area with staff.

4. Ensure that each case reported to LSC is timely closed.

In response to the DR, LAFLA stated that it will re-train its advocates so that they are closing files in a timely manner. LAFLA added that its compliance committee will focus on this area in its upcoming memo to staff and in its "road show". Managing and Directing Attorneys in each office have been instructed to thoroughly review this area with each advocate during case reviews.

5. Screen for income prospects as required by 45 CFR § 1611.7(a).

In response to the DR, LAFLA stated that it will add a box to the intake sheet that staff will check, affirmatively noting that they have made inquiry into future income prospects. LAFLA also stated that it will train staff to provide additional information, as needed, in the notes section of the intake sheet. Intake screening will be the subject of LAFLA's regularly scheduled intake screener/receptionist meetings and will be discussed by the compliance committee in its preparation of a memorandum to all staff regarding all of LSC's findings, recommendations and corrective actions.

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Our File Number

October 26, 2009

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

RE: Response to Draft Report, Recipient NO. 805080

Dear Mr. Cardona:

This letter is Legal Aid Foundation of Los Angeles' (LAFLA) response to the draft report for the July 6-10, 2009 Case Service Report/Case Management System ("CSR/CMS") Review.

First, we are very pleased that no patterns of non-compliance were detected. At LAFLA we promote a culture of compliance with the LSC Act, regulations and other applicable laws. Our compliance committee, composed of senior management, the Compliance and Grants Manager and attorney staff, ensures that staff are kept informed of the latest developments and changes to compliance requirements mandated by LSC. Below, we address the few instances where we were found to be in non-compliance.

Finding 2: LAFLA's intake procedures and case management system were found to generally support the program's compliance related requirements, but it was noted at page 9 of the report that asset eligibility determinations should be consistent through the program. In order to properly document income propects, (as required by 45 CFR § 1611.7(a), LAFLA will add a box to the intake sheet where staff will affirmatively check noting they have inquired to future income prospects. We will train so they provide additional information in the notes section as needed. Additionally, we will review our asset exclusions and ensure that they are consistent with LSC regulations. This area will also be the subject of our regularly intake screener/receptionist meetings, as well as the subject of discussion for the compliance committee in its preparation of a memorandum to all staff regarding all of LSC's findings, recommendation and corrective actions. .

Finding 6: LAFLA was found to be in compliance with the restrictions on service set forth by 45 CFR Part 1626, but three cases did not have the necessary citizenship/alien eligibility documentation. LAFLA agrees that without the necessary citizenship/alien eligibility documentation, these cases should not have been counted as CSR cases. The compliance committee will issue a memo to all staff reminding them of the need to properly document citizenship/alien eligibility and is preparing a road show for all offices to reinforce the regulations and documentation needed. Managing and Directing Attorneys for each office have been instructed to thoroughly review this area with staff.

Finding 10: LAFLA was found to be in substantial compliance with CSR Handbook (2001 Ed.) ¶5.1 and CSR Handbook (2008) Ed.), § 5.6, which require that each case reported to LSC contain a description of the legal assistance rendered. There were five exceptions that did not contain the descriptions of legal assistance provided. As to the closed cases, LAFLA will not report those cases as CSR in its CSR data submission. As to the open cases, 09—01149076 and 07-01126513, if not legal assistance is rendered then LAFLA will not submit those in its CSR data submission. The compliance committee will ensure through a memo that all staff are reminded that they must report a description of the legal assistance provided and this will be reinforced at the road show. Managing and Directing Attorneys for each office have been instructed to thoroughly review this area with staff.

Finding 11: LAFLA's application of CSR case closure categories was inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapter VIII, CSR Handbook (2008 Ed.). With the exception of one case, LAFLA did not give itself enough credit for the work done on the case by using a case closure category that did not reflect the greater level of legal work performed by its advocates. LAFLA's compliance committee will issue a memo to all staff reminding them of the need to properly check the correct case closure category to accurately reflect the legal work performed. This will also be a subject to address in a future road show. Managing and Directing Attorneys for each office have been instructed to thoroughly review this area with staff.

Finding 12: LAFLA was found to have several untimely or inactive files. LAFLA understands that better notes are needed to establish and reflect what the advocate is doing in the case, as we have found that in some instances it is the lack of notes that leads to the perception the cases are inactive. We also will re-train so that advocates are closing cases in a timely manner. Documentation is always key and the compliance committee will focus on this area in our upcoming memo to staff and in our road show. Managing and Directing Attorneys for each office have been instructed to thoroughly review this area with staff during case reviews with each advocate. .

Finding 16: LAFLA was found not be in compliance with the notification requirement of 45 CFR Part 1610. Upon learning of this during the OCE visit, LAFLA development and finance staff immediately developed a donor notification letter to be sent to LAFLA's non-LSC funding sources. Staff provided a copy of the notification letter and a statement of action with a listing of our non-LSC funding sources that were to be notified. Since OCE's departure, LAFLA has notified our non-LSC funding sources with written notification of the prohibitions and conditions that apply to their funds.

Finding 22: LAFLA is in compliance with the requirements of 45 CFR Parts 16113 and 1615. However, due to a misunderstanding on LAFLA's part LAFLA was not reporting expungement assistance to LSC. Now that LAFLA properly understands that expungement work is outside the regulatory definition of "criminal proceeding", and if the case meet all other reporting requirements, LAFLA will, from now on, report that assistance to LSC.

We thank Bertrand Thomas and his team for input during the July 6-10 visit and to OCE for its recommendations. We always benefit from any comments and findings that help us do our work better and your visit was very helpful.

We have addressed the Required Corrective Actions in each finding above. The LAFLA Compliance Committee is preparing a comprehensive memorandum to staff regarding the findings, recommendations and required corrective action from OCE. We are confident that with our continued training of staff, memorandum and vigilance by Directing/Managing attorneys, as well as the compliance committee, we will continue to foster a culture of compliance.

I appreciate your offer to be a resource on compliance issues.

Sincerely,

Silvia Argueta

Silvia Argueta
Executive Director