



Office of Program Performance

FINAL

Program Quality Visit Report

For

Montana Legal Services Association

Recipient # 927000

Dates of Visit: July 19-23, 2010

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INTRODUCTION

Background on the visit.

The Legal Services Corporation (LSC) Office of Program Performance (OPP) conducted a program quality visit to Montana Legal Services Association (MLSA) from July 19-23, 2010. The visit team included Office of Program Performance program counsels Stephanie Edelstein (team leader), Glenn Rawdon, Tillie Lacayo, and Tim Watson.

OPP seeks to ensure that all recipients of LSC funds are providing high quality, efficient, and effective legal services to eligible clients. The overall purpose of program quality visits is to assess the quality of legal services provided to eligible clients, including a program's engagement with and service to the low-income community; the effectiveness of its legal representation and other program activities; and its leadership, management, and administration. This particular visit included a focus on services to Native Americans and migrant farmworkers, challenges of serving a large rural state, use of technology and outreach, needs assessment and strategic planning, intake, legal representation and legal work management, Private Attorney Involvement, self-help services, staffing and office structure, and board governance.

In conducting this evaluation, OPP relied on the LSC Act and regulations, the LSC Performance Criteria, LSC Program Letters, and the ABA Standards for the Provision of Civil Legal Aid. The evaluation was organized to follow the four Performance Areas of the LSC Performance Criteria, which cover needs assessment and priority setting; engagement with the low-income community; legal work management and legal work; and program management including board governance, leadership, strategic planning, resource development, and coordination within the delivery system.

Prior to the visit, the OPP team reviewed MLSA's application to LSC for 2010 funding, its application for 2011 renewal funding, its case service (CSR) and other service (OSR) reports, and other documents submitted to LSC during the past year. The team also reviewed documents submitted in advance of the visit, including minutes of board of directors' meetings, program policies and procedures, casehandlers' writing samples, and responses to an on-line staff survey. On site, the team visited the Billings, Butte, Helena and Missoula offices, and the Crow and Northern Cheyenne reservations. The team was not able to visit MLSA sites in Havre, Kalispell, Poplar, or the reservations across the northern part of the state, but did conduct telephone interviews with staff who serve those areas. The team interviewed all program management and staff including the executive director, deputy director, litigation director, advocacy coordinator, grants and finance manager, program administrator, information technology specialist, managing attorneys, staff attorneys, paralegals, intake specialists, and VISTA and AmeriCorps members. The team met in person or by phone with the program's board chair and several board members, judges, and representatives of other community organizations.

Program overview.

Montana Legal Services Association is a statewide program serving a vast rural area with a high level of poverty. At 147,046 square miles and with a population of approximately 975,000, Montana ranks fourth in the United States in size, but 44th in population and among the lowest in average annual income. The state includes a number of frontier counties with populations of fewer than six people per square mile. It also includes seven Indian reservations. Montana's residents are predominantly Caucasian (90.5%). Other groups include Native American and Alaska Native (6.4%), African American (.7%), Asian (.6%), and Hispanic or Latino (3%). The percentage of residents who speak a language other than English at home is relatively low at 5.2%.

In 2010, MLSA received approximately 30 grants from federal, state and local funding sources. These included \$1,304,088 in Basic Field funding, \$183,456 in Native American funding, and \$62,842 in migrant funding from the Legal Services Corporation. MLSA also received \$158,513.02 in LSC TIG grants. Other significant sources of revenue at the time of the visit included the Corporation for National Service (AmeriCorps VISTA members), Equal Justice Works (AmeriCorps Fellows), IRS (Low Income Taxpayer Clinic), DOJ (domestic violence survivors), HUD (housing counseling), and IOLTA (civil legal assistance). In addition to grants, MLSA received some state and tribal contracts, and also participated in cost-sharing agreements for VISTA and AmeriCorps projects.

At the time of the visit MLSA had a staff of approximately 41, including 18 attorneys (not all of whom handle cases). MLSA staff also included nine AmeriCorps members. The program is structured around three regional offices (Billings, Helena, and Missoula) which house the majority of the staff, plus smaller offices and outreach sites. The administrative office is in Helena. The executive director is based in Missoula and the deputy director is in Helena. MLSA is organized into program-wide substantive units: consumer, domestic violence, housing, public benefits, Indian law and migrant farmworker. The migrant unit is based in Billings, and the Native American unit staff are located in Billings and Poplar. In addition to direct representation, MLSA services include a statewide legal Helpline, self-help support in family law and bankruptcy, and low-income taxpayer clinics. The PAI program is operated out of individual offices in cooperation with the state bar association and several county bar associations.

SUMMARY OF FINDINGS

MLSA was an active participant in the 2005 statewide needs assessment coordinated by the State Bar of Montana Access to Justice Committee, and is working with the statewide Equal Justice Task Force to plan a 2011 assessment. MLSA periodically reviews priorities, sets goals, and develops strategies for achieving those goals. In the basic field and Native American units, priorities reflect the legal needs of

the community. The migrant unit does not appear to be planning for or serving the priority needs of the migrant farmworker population as effectively as the other units.

In 2006, MLSA restructured its delivery system from one in which individual offices served their immediate communities to one in which intake, brief services, and extended services are planned and delivered statewide out of three larger regional offices. MLSA offers several options for low-income Montanans to access its services, including the statewide toll-free HelpLine, the MLSA website www.MontanaLawHelp.org, walk-in opportunities, and outreach on reservations and in locations convenient to migrant farmworkers. This system is generally effective, although there remain some geographic areas where equity of access may not have been achieved. In addition, overall access is slowed at times by the program's somewhat outdated phone system, and also by the program's case acceptance process.

MLSA advocates are professional and capable. They appear in administrative hearings, state courts, tribal courts, the Montana Supreme Court, federal district court, and the Ninth Circuit Court of Appeals. In addition to case work supported by LSC, the program represents eligible clients in work that is funded wholly or in part by other agencies. The program employs a program-wide unit structure that appears to function effectively. Specialty units include domestic violence, consumer, migrant, housing, public benefits, and Indian law. Staff members comprising each unit are spread throughout the state and rely upon regular communications to function cohesively. Communications appear to be good, and lines of supervision and management are generally clear. Weekly case staffing appears to be a regular procedure in all units. Each unit and each office has a designated managing attorney.

The program has both a litigation director and an advocacy coordinator. The litigation director is conversant about the significant cases being handled by advocates and is considered by staff to be a valuable resource. He has his own caseload, and he also manages the Native American unit and the consumer unit. The advocacy coordinator, who is not a lawyer, updates staff on legislative, court rule, and administrative law developments. She and the deputy director review publications on trends in poverty law and legal services delivery. She is developing an impact agenda to coordinate systemic advocacy and will collaborate with the litigation director on this effort. The advocacy coordinator also oversees program outreach and manages advocacy projects such as the AmeriCorps State Justice for Montanans project and the LSC TIG funded Live-Help Court Partnership project.

Supervision, training, and support of MLSA's legal staff is generally effective. Staff have access to print and electronic versions of statutes, necessary practice manuals, on-line research services, and listservs. MLSA is planning for a new program-wide brief bank. The program tries to send advocates to attend a relevant national training once every two to three years or more frequently if funding allows. The annual all-staff meeting includes CLE training.

While MLSA's Native American unit is an effective and integral part of the program's advocacy, the migrant unit does not appear to be engaged in effective advocacy or receiving the support and supervision it needs to be effective.

The Private Attorney Involvement plan describes the program's structure and goals, mechanisms for involving the private bar, activities for volunteer support and recognition, and staffing. MLSA shares responsibility for many of these activities with local bar associations. The program's PAI work generally reflects its plan, but would benefit from more program-wide consistency in staffing and procedures.

MLSA makes effective use of the VISTA and AmeriCorps programs, using members in-house as appropriate and partnering with other providers in the state on such projects as the state court self-help centers. MontanaLawHelp.org, the well-used statewide website for which MLSA is primarily responsible, has a LiveHelp feature for visitors who may need additional assistance. MLSA provides written materials to courts, libraries, and other community agencies; publishes a legal tip of the week in newspapers statewide; and works with state and local bar associations to provide continuing legal education programs for lawyers and programs for law students. LITC clinics successfully use program staff and pro bono attorneys to assist low income taxpayers to obtain refunds and address issues related to taxes. The state's usage of I-CAN! E-File is high. MLSA attorneys are active in state and local bar associations, and the program is an official clinical placement for the University of Montana School of Law. MLSA has a national reputation for the innovative use of technology to expand access to the courts, and is striving to enhance the use of technology within the program.

The MLSA board is committed to the mission of the program and actively engaged in major policy decisions. The board includes a fiscal and audit committee. The board evaluated the executive director in 2008, and recently held a retreat at which priorities for future action were established. Like many other programs, MLSA is at times challenged in its efforts to recruit and retain client eligible board members. The program's respect for client board members is demonstrated by the fact that some have served as board president in the past.

At the time of this visit, the executive director had been with the program for more than 30 years, and the deputy director had been there for seven years. Other senior staff have many years of cumulative experience and a great deal of credibility in the community. Administrative staff are experienced and capable, and they are committed to the program's mission. While MLSA does not yet have a specific plan for leadership transition, this issue is being discussed by senior management and the board.

MLSA does not yet have a plan for providing services in the event of a disaster affecting the client community.

MLSA has sufficient and capable staff dedicated to financial administration and human resources. The program engages in financial planning beyond the current year, and is careful to adhere to its budget and to ensure that the budget is consistent with its

goals and objectives. Annual audits have not revealed any significant problems or issues. Despite limited resources, MLSA strives to provide adequate salaries and benefits. Salaries are reviewed regularly and adjustments made when possible. Staff accomplishments are recognized and staff have access to LRAP programs through MLSA and the Montana Justice Foundation.

MLSA has effective systems in place for resource development as well as diversified funding sources. In 2010, MLSA has approximately 30 sources of funding. MLSA seeks funding that follows priorities, rather than letting priorities follow funding. There is no indication of mission drift.

MLSA maintains and encourages a coherent delivery structure that is a key component of the statewide legal services delivery system.

DISCUSSION OF FINDINGS

PERFORMANCE AREA ONE. Effectiveness in identifying needs of low-income people in the service area and targeting resources to meet those needs.

Finding 1: MLSA was an active participant in the 2005 statewide needs assessment coordinated by the State Bar of Montana Access to Justice Committee, and is working with the statewide Equal Justice Task Force to plan a 2011 assessment.

In 2005, the State Bar of Montana Access to Justice Committee and the Supreme Court Equal Access to Justice Task Force coordinated a statewide legal needs assessment that was based primarily on interviews with 850 client-eligible individuals, including those with access challenges such as disability and rural residents. The study determined that in 2004, low-income households in Montana experienced an average of 3.47 legal problems. The most common of these involved housing (38.2%), family (35.2%), consumer (29.7%), employment (28.9%) and public benefits (27.5%).

A new legal needs assessment is currently being planned for 2011 by a working group of representatives from the Equal Justice Task Force, the Access to Justice Committee and the Supreme Court Commission on Self-Represented Litigants. The task force includes representatives from the Montana Supreme Court, the Montana State Bar, the State Law Library of Montana, the Montana Justice Foundation, the University of Montana School of Law, Disability Rights Montana, MLSA and other members of the state justice community.

Interviews with MLSA staff and other members of the task force reflect a commitment to reaching segments of the low-income population with special needs, access challenges, or geographic isolation, including those who may not have been reached in 2005. One such group includes Native Americans, who have been less-served by the program due to a lack of resources. At the time of the visit, an MLSA AmeriCorps VISTA member was developing an outreach plan for the reservations, in part to promote increased participation in the next survey. Some migrant farmworkers are also more

isolated than the general poverty population. While some migrant farmworkers participated in the 2005 survey, other isolated groups such as Christmas tree workers, are not as readily reached.

Recommendations:

I.1.1¹ MLSA is urged to continue collaborating with other stakeholders to build relationships with special populations – seniors, Native Americans, persons with limited English proficiency, and migrant farmworkers, and to ensure that they are represented in the 2011 statewide legal needs assessment. For partner organizations, agencies, judges, attorneys, and some members of the client community, telephone and on-line surveys may be sufficient. However, for special populations, in-person interviews or focus groups can be more effective.

I.1.2 MLSA should take steps to include in the next needs assessment, migrant workers who were not reached in previous studies, such as Christmas tree workers.

Finding 2: MLSA periodically sets program-wide goals and objectives and develops strategies to achieve them based on available resources. In the basic field and Native American units, strategies are implemented and resources allocated appropriately. The migrant unit would benefit from an increased focus on goals and regular planning for activities to meet those goals.

MLSA periodically reviews priorities, sets goals, and develops strategies for achieving those goals. The 2010 priorities setting process was led by a committee of board members and staff. In 2009, MLSA conducted a written legal needs survey of the client, social services, and legal communities. The survey results were considered along with intake and case data and other input from board members and staff, census and other outside data, and the issues identified in the 2005 comprehensive needs assessment.

In the basic field and Native American units, priorities reflect the legal needs of the community. Despite significant funding losses, resources appear to be allocated appropriately. Current program priorities for the basic field program include provision of legal assistance in three main categories: housing, consumer, and domestic violence. The Native American unit's priorities include tribal court development, government benefits, and consumer law with a focus on automobile repossessions. Interviews with staff in those units confirm awareness of the priorities.

¹ Recommendations in this report will have three numbers and will immediately follow findings. The Roman numeral references the Performance Area, the second number corresponds to the finding, and the third number is that of the recommendation.

The migrant unit does not appear to be effectively planning for and serving the priority legal needs of the migrant population in the state. While migrant unit staff may discuss with other organizations how best to reach migrant and seasonal farmworkers, the unit does not engage in any organized work planning for upcoming seasons. As a result, migrant unit activities do not reflect either the program's priorities or the legal issues that are generally of most concern to migrant and seasonal farmworkers nationwide. MLSA migrant unit priorities are government benefits, employment, and naturalization. In 2009, the migrant unit closed 287 benefits cases, 58 immigration and naturalization cases, and just 13 employment cases. Of the benefits cases closed, most were limited actions regarding food stamp applications.² Of the employment cases closed, none were court cases and only two involved administrative agency decisions.

Recommendations:

I.2.1. MLSA is encouraged to continue its efforts to address the issues identified during the last statewide needs assessment and in the recent program priorities survey, and to allocate resources to those issues to the extent possible.

I.2.2. MLSA should develop a workplan for the migrant unit in anticipation of each upcoming season. This workplan, developed in consultation with the advocacy coordinator, litigation director, and other unit supervisor, should include:

- Overall goals and objectives for the unit along with specific objectives for the season;
- if migrant needs are not identified in another assessment, steps to be taken to assess the legal needs of the migrant population, including those who heretofore have not been reached;
- outreach to the migrant community, including those in unserved or underserved areas of the state and in less traditional jobs, with a goal of raising awareness in the community of legal issues affecting migrants, and identifying the assistance that MLSA can provide on those issues; the plan should identify where, when, and by whom the outreach will be conducted;
- advocacy goals for the migrant unit (e.g. to expand legal work in the area of wage claims, or to identify and address those issues that require more complex litigation); and
- training plans for migrant unit staff.

² MLSA is reminded that assisting in the completion of an application for government benefits such as food stamps without providing legal advice does not constitute a CSR reportable case. See LSC Case Service Report Handbook, at www.lsc.gov.

Finding 3: MLSA evaluates the effectiveness of its overall delivery strategies on an ongoing basis, and makes appropriate changes in program goals, objectives and strategies.

MLSA evaluates the effectiveness of its delivery strategies on an ongoing basis and makes changes as appropriate. The program reviews case management data, including intake and caseloads, examines staffing patterns, and considers feedback from the community. The statewide unit structure provides an additional mechanism for identification of emerging legal issues in particular areas of law.

The 2005 legal needs survey found that few potential clients were aware of the MLSA HelpLine. As a result, the program has increased outreach by working with libraries, conducting presentations for community groups, and distributing brochures and other items. They have also conducted targeted outreach on the reservations.

In 2008, MLSA established a new position of Advocacy Coordinator, responsible for coordinating advocacy efforts across the program, connecting MLSA attorneys to community needs, and responding to systemic issues raised by clients and community groups. The litigation director works with legal staff to identify emerging legal issues and service area trends, and to address those issues. Examples of steps taken to address emerging issues and needs include the addition of Saturday morning HelpLine hours in response to concerns over limited caller access, development of a weekly email to community partners updating them about HelpLine staffing and other access issues, and addition of an employment law attorney position (which was eliminated during the funding cuts).

In 2008, the MLSA board and staff engaged in strategic planning around the issue of balancing the goal of maintaining a physical presence throughout the vast service area against the need to serve as many or more clients with fewer resources. The result was that MLSA restructured its delivery system, shifting from a system of individual offices serving their immediate communities to one in which intake, brief services, and extended services are planned and delivered statewide out of three larger regional offices. Some staff positions were eliminated and others were converted to part-time. Some one-person offices in remote areas were closed, and others were retained as satellite sites to allow staff to meet with clients and maintain a presence in certain communities. The Native American and migrant units continue to use outreach and personal contact as the primary means of connecting to the client community, although they too are part of the regional office and statewide unit system. The restructure has allowed the program to maintain its services to clients in the face of more recent funding reductions.

Recommendation:

I.3.1. As funding stabilizes, MLSA is encouraged to expand services provided by increasing the number of staff who engage in extended service representation.

PERFORMANCE AREA TWO. Effectiveness in engaging and serving the low-income population throughout the service area.

Criterion 1. Dignity and sensitivity.

Finding 4: MLSA conducts its work in a way that affirms the dignity of its clients and is culturally and linguistically competent.

Interviews with staff, board members, and community organizations confirm that MLSA values the dignity of clients and makes an effort to serve them in a culturally competent manner. Staff at all levels of the program support its mission and are dedicated to their work.

MLSA offices visited by the LSC team were professional and welcoming. Reception areas were clean and comfortable, and educational materials were available for those waiting. In some offices, toys were available for children. Interview areas were appropriately furnished and provided the privacy needed to meet with clients in a professional manner. Offices were reasonably located in towns or on reservations, relatively close to local courthouses and services, and accessible to persons with disabilities. As discussed elsewhere in this report, MLSA uses technology, outreach sites, and clinics to maximize access to its services for the low-income community across its vast service area.

Montana does not have a significant non-English speaking population. In addition to the migrant farmworker community, a small percentage of the population has Spanish as a first language, a few speak Russian, and some speak Native American languages. Migrant unit staff are bilingual in Spanish and English and some other MLSA staff also speak fluent Spanish. When necessary, the program uses a tele-interpreter service and a TDD program.

Staff in the Native American unit have been with the program for decades and have developed trust and respect among the tribes with whom they work. The migrant unit deserves particular notice for cultural competence and diversity in addition to language skills. The migrant unit attorney and paralegal are Mexican-American former farmworkers who have also been with MLSA for many years and are well-connected to the community they serve.

Criterion 2. Engagement with the low-income population.

Finding 5: MLSA is well-known and respected in the client community and among organizations that serve clients. The program endeavors to provide services across the state with limited resources.

MLSA works with organizations providing services to the low-income community in its service area, and representatives of these organizations spoke highly of MLSA staff and their work on behalf of clients. Much of the work with client and

community organizations is coordinated by the advocacy coordinator. The involvement includes attending meetings of community groups; conducting outreach, intake, and educational programs and clinics; and accepting referrals of eligible clients. MLSA's collaboration with the courts to operate the self-help centers has increased awareness of the program in the community. MLSA also reaches out to the community in less traditional ways. One successful strategy is a drink coaster series on which there is a legal question on one side and answer on the other, along with MLSA contact information. These coasters are to be found in establishments across the state and in virtual form on the program's website.

MLSA's leadership in the AmeriCorps program in Montana raises the program's profile among community organizations and state agencies serving low-income people in the state. The strategic use of AmeriCorps resources also enhances the program's capacity for involvement with community organizations. At the time of the visit, AmeriCorps member activities included a role in planning for the upcoming statewide needs assessment, expanding outreach on the reservations, updating the program's website, and working with the self-help centers. Other units also are involved in the community. Staff in the housing unit conduct outreach to tenant organizations. Family law advocates work closely with area domestic violence shelters and task forces. The Native American unit conducts substantial outreach to the tribes, and is a significant presence on the Crow, Northern Cheyenne, and Fort Peck reservations. The migrant unit works closely with organizations that serve farmworkers, including Migrant Health and Rural Employment Opportunities.

The MLSA delivery system, with its regional offices and statewide HelpLine, is designed to serve as many clients as possible with limited resources. And in large part, it succeeds. However, especially in a state as vast as Montana, there is potential that some areas will be better served than others. Access to services need not be identical across a service area, but if possible it should be equitable. Programs can assess whether they are providing relative equity of access across a service area by comparing the percentage of cases closed in each county to the percentage of persons in that county who are eligible for services. The results of such an assessment can be used to inform future planning and the allocation of resources.

One geographic area in Montana identified by the visit team in consultation with MLSA staff as potentially less served is the northwestern part of the state, which includes reservations. In addition, the Great Falls area lacks an MLSA presence even though it is the most populous area of the state. As LSC understands it, the local bar association operates a legal clinic for low-income residents of the Great Falls area, which may indeed be serving the needs of the MLSA client community in that area.

The migrant unit conducts outreach and intake in fields and at hotels where newly arrived workers congregate, but this unit's outreach and community education is limited by staffing issues and a perception that outreach could be viewed as solicitation of clients in violation of the LSC regulations. The migrant unit did not provide the visit team with community education materials.

Recommendations:

II.5.1. MLSA is encouraged to assess whether its current delivery system is providing relative equity of access across the service area, and to utilize the results of such an assessment in future planning. Particular attention should be paid to the western and northwestern areas of the state including the reservations, to the Great Falls area, and to areas where migrant farmworkers are located during the agricultural season.

II.5.2. MLSA is urged to address any misunderstandings that might exist in the program, especially in the migrant unit, about the difference between outreach and education, and the solicitation of clients.

Criterion 3. Access and utilization by the low-income population.

Finding 6: MLSA provides several avenues for prospective clients to access its services, although its outdated phone system can lead to delays.

MLSA offers several options for low-income Montanans to access its services. The primary method is through the statewide toll-free telephone HelpLine, based in Helena and open Monday through Friday from 7:30 a.m. to 5:15 p.m. and Saturday from 9:15 a.m. to 12:45 p.m. The MLSA website, www.MontanaLawHelp.org, includes legal information and a PDF application that can be completed on-line, downloaded, printed, and returned to the program by mail or fax. MLSA provides walk-in applicants with paper applications or cards with the HelpLine number and website address. Paper applications are also available in courthouses and at some social services agencies. MLSA does not utilize web-based intake. Recognizing the need for in-person contacts for some populations, the Native American unit conducts weekly intake on the Crow and Northern Cheyenne reservations; the domestic violence unit takes applications on the Fort Belknap reservation; and the migrant unit interviews applicants in the fields and at hotels where farmworkers congregate.

The HelpLine is staffed by two full-time non-attorney intake specialists and two full-time advice paralegals. Intake is supplemented by 1.5 full-time AmeriCorps members who also answer the Helpline, and four more AmeriCorps members spread throughout the program who process paper applications and assist with walk-ins. Intake specialists screen callers for conflicts, financial eligibility, citizenship, and problem type, and then gather basic information about the applicant's legal problem. Advice paralegals provide legal advice over the telephone under the supervision of the HelpLine managing attorney, and assist with eligibility screenings when needed. In addition, program attorneys provide HelpLine advice on a rotating schedule.

The current telephone system has limited capacity and lacks a phone queue, so callers who are not connected to an intake specialist immediately are told that they can leave a message requesting a call back or a paper application, or obtain an application

from the MLSA website. Those who leave a message or submit a paper application whether by mail or in person, receive a telephone call from an intake specialist within four working days of the call or application. MLSA does not have the equipment to determine how many callers give up when they cannot get through, or are not reached by call backs.³

At MLSA, the conflicts check is generally the first step in the intake process, and is performed before the caller's legal problem is determined. If the caller volunteers the legal problem and it is not something with which the program would help, such as a criminal case, the referral is made and no conflict check is done. But if the caller does not volunteer it, a conflicts check is performed at that time, before the problem is determined.

Callers who are determined to be eligible for MLSA services are scheduled for a telephone "advice appointment" or directed to the self-help unit or another resource as appropriate. Advice appointments occur with one of the advice paralegals or attorneys working the HelpLine. Seventy to 75% of advice calls occur within 3-4 business days of the intake. If the client does not answer at the appointed time of the advice call, staff call three additional times within the next 45 minutes; on the third attempt a message is left for the person to call the HelpLine. Applicants who are found to be eligible during migrant and Native American unit intakes may receive advice on site. Applicants with emergencies are prioritized for expedited assistance and if at all possible, immediately connected to available staff.

All appointments are entered into a calendar in Central Desktop and in the CMS so that when staff log into the CMS in the morning, their list of appointments is the first thing they see. All felt this system works well. MLSA does not usually send confirming letters at this stage, but they do send out brochures or make other materials that reinforce the advice provided. When letters are sent, they are prepared individually rather than using the form letter feature of the case management system.

If Helpline staff determine that additional services beyond advice or brief services are needed, they close the case in the system and refer it by email to the appropriate substantive law unit. Interviews suggest that such referrals are appropriate and in accordance with MLSA's priorities. However, at this point, the system slows down. It may take a unit as long as two weeks to review a referral, and another ten days to two weeks to notify the client whether or not the case will be accepted for extended representation, and whether it will be handled by a staff attorney or referred to a pro bono lawyer. If the case is accepted, it is reopened in the case management system. It does not appear that HelpLine staff monitor cases after they make the referrals to the units, to be sure that the unit follows up.

³ MLSA is aware of the limitations of its telephone system and plans to upgrade that system as soon as resources permit.

HelpLine staff enter data contemporaneously into the case management system. In their conversations with callers, intake staff employ screening questions on the case management screen and interview scripts on an in-house Wiki and Central Desktop. MLSA currently uses PRIME but will convert to LegalServer in the near future. Some staff who conduct intake at outreach sites use paper applications and later input the data into the case management system; others use a laptop. MLSA has an intake manual, which it is currently updating and posting on the program's Wiki.

Recommendations:

II.6.1. As MLSA explores options for a new telephone system, one model to consider is a hosted system such as that employed by some other programs that serve vast rural areas with limited technology staff. Information on hosted systems is available at www.lsnatp.org.

II.6.2. MLSA is urged to use the case management system's form letter feature to generate letters to HelpLine callers confirming advice and information provided. MLSA is also encouraged to use window envelopes for these letters, as a timesaver.

II.6.3. Rather than closing cases after they are referred to a substantive unit, MLSA is encouraged to leave cases open and assigned to the HelpLine worker until the unit determines how to proceed. This protocol would make it easier to determine if there has been follow-up on referred cases. Running an open case list for HelpLine workers would quickly identify those cases on which there had been no follow-up.

Finding 7: Intake staff are well-trained and appropriately supervised.

HelpLine staff are supervised by an experienced managing attorney assisted by an experienced part-time intake coordinator. Although physically located in Missoula, the managing attorney is readily available to intake staff by phone or instant message. HelpLine staff also report ready access, usually by instant message, to other program staff when needed.

HelpLine staff meet weekly to discuss changes to the law, trends, and other issues affecting their clients and their work. They regularly participate in on-line trainings conducted by staff attorneys on specific legal issues, and they attend other legal education programs including those held during the annual all staff meeting. Staff are trained on LSC regulations, confidentiality issues, spotting legal trends, and using the Wiki, CMS, and instant messaging. The managing attorney reviews closed intakes on a weekly basis to ensure that the services provided are appropriate, and also conducts weekly reviews of the advice given and referrals made to other units. The intake coordinator conducts a quarterly compliance review of intakes.

PERFORMANCE AREA THREE. Effectiveness of legal representation and other program activities intended to benefit the low-income population in the service area.

Criterion I. Legal representation.

Finding 8: MLSA advocates engage in effective representation of clients in a variety of forums and are respected by the courts and other groups that provide services to the client population.

Interviews with judges, staff, and community agencies indicate that MLSA has dedicated and capable legal staff who handle case work ranging from routine matters to complex litigation with enthusiasm and professionalism. This is consistent with the visit team's review of the writing samples submitted by the program attorneys. The basic field and Native American units are highly visible in administrative hearings, state courts, tribal courts, the Montana Supreme Court, federal district court, and the Ninth Circuit Court of Appeals. MLSA has also argued an Indian Law case before the United States Supreme Court.

In addition to the case work that is supported by LSC, the program represents eligible clients in work that is funded wholly or in part by other agencies. It represents Native American clients in criminal cases pursuant to a contract with the Crow Tribe. The program assists clients with tax issues in its LITC program and domestic violence victims with funds from the Department of Justice.

Finding 9: MLSA's case closures indicate that the advocacy staff meets or exceeds national norms for productivity and address matters important to clients.

MLSA closed 353 cases per 10,000 poor people in 2009, exceeding the national median (265) by 33 percent. The program's extended cases per 10,000 poor people (53) matches the national median. Total case closures in the first five months of 2010 indicate that the program's numbers might fall this year. One factor that could account for the reduction in closed cases is the transfer of cases from departing casehandlers to remaining staff, resulting in high caseloads and little time for the administrative task of closing files. Managers and casehandlers are aware of this issue and were encouraged on site to close case files.

MLSA's priorities in the basic field program are family law, domestic violence issues, housing, and consumer law. The program closes approximately 43.9% of its cases in the area of family law, 27.9% in consumer, 11% in housing, and 6.6% in income maintenance. The national percentages in these areas are: family (34.8%), consumer (12.6%), housing (25.5%), and income maintenance (12.2%). MLSA's consumer figure is double the national profile, its percentage of housing cases is less than half the national figure, and its percentage of income maintenance cases is only slightly more than half the norm. The program's percentage of family cases is nine percentage points higher than the national figure, or, stated another way, MLSA closes 25% more family cases than the average LSC-funded program. Although comparing a program's case closure statistics to

the national median does not necessarily call for immediate conclusions, it can be a valuable tool for assessment.⁴

Recommendations:

III.9.1. MLSA should close its backlog of completed cases so as to maintain its excellent CSR standing and improve case handling efficiency.

III.9.2. MLSA may want to compare its case closures against the national profile on a yearly basis as it makes decisions about client representation. This data is included in grantee profiles on the LSC website.

Finding 10: MLSA has systems in place to support effective advocacy.

MLSA employs a program-wide unit structure that appears to function effectively. Specialty units include domestic violence, consumer, migrant, housing, public benefits, and Indian law. Unlike many programs in which units are primarily housed together, at MLSA the staff members comprising each unit are spread throughout the state and rely upon regular communications to function cohesively. Communications appear to be good. All advocates indicated that they frequently call or send instant messages to advocates in other offices to ask questions on matters beyond their experience. Lines of supervision and management are clear. Evaluations are performed consistently. Weekly case staffing appears to be a regular procedure in all units. Each unit and each office has a designated managing attorney.

The MLSA casehandlers' manual includes applicable LSC regulations and other requirements, intake procedures, file management, protocols for case acceptance and case handling, supervision and case reviews, caseload levels, and a range of other issues. The manual could use some updating to reflect changes in LSC rules and to more fully develop the function of the litigation director, denominated in the current manual by the outdated title of Deputy Director of Indian Offices.

Supervisors generally reported that they conduct open case reviews, using the CMS to run reports to identify dormant cases. However, it does not appear that case reviews are being conducted consistently across the program for all casehandlers. Some are conducted annually; others more often. Further, there is no established protocol for what is being reviewed when case reviews are conducted. Some reviews reportedly address only compliance related elements, not a discussion of substantive legal issues and strategies.

⁴ The data can be influenced by a number of factors including funding, management and programmatic transitions, staff experience levels, demographics and geography of service area, changes in priorities or level of services provided, work that is not captured by CSRs, expenditure of resources, or complex litigation.

MLSA does not presently use a client satisfaction questionnaire when a basic field case is closed, but plans to develop a client satisfaction survey this year.

MLSA advocates participate in a program-wide telephone call on the first Monday of each month to share information on legal issues. Interviews suggested that this procedure is useful and effective for coordination of litigation.

The program has both a litigation director and an advocacy coordinator. The litigation director watches for emergent issues and makes a monthly call to unit managers for review of important casework. In the “first Monday” call, the litigation director elicits reports from unit managers, and program advocates discuss common issues. The litigation director provides a yearly report to the board, mentors younger attorneys on issues and brief writing, talks with intake staff to determine what types of cases are coming in, and holds discussions with management about the program’s litigation posture. He is conversant about the significant cases being handled by advocates and is considered by staff to be a valuable resource. However, he carries a full caseload and, in fact, at the time of the visit had far too many cases in part as a result of taking those of a departing attorney. In addition to his litigation director responsibilities, he manages the Native American unit and the consumer unit.

MLSA’s advocacy coordinator regularly updates staff on legislative, court rule, and administrative law developments. She and the deputy director review publications on trends in poverty law and legal services delivery. She has begun development of an impact agenda to coordinate systemic advocacy across all service delivery units.

Recommendations:

III.10.1. Case reviews should be conducted regularly for all case handlers, including experienced attorneys. MLSA should develop clear guidelines for making the best use of the case management system for case reviews.

III.10.2. MLSA is urged to pursue its stated plan to develop and send out client satisfaction questionnaires when cases are closed. The case management system can be used to automate this process.

III.10.3. The MLSA Casehandlers’ Manual should be updated to reflect changes in LSC rules and to more fully develop the function of the litigation director. Responsibilities for such a position can be flexible but as resources permit they could include:

- working with the advocacy coordinator to develop strategies to address identified legal issues and trends;
- identifying cases that would benefit from more complex advocacy, and encouraging discussion of issues and strategies in the units;

- if appropriate under the staffing structure, approving appeals and litigation requests in light of program priorities and resources;
- establishing a mechanism to facilitate co-counseling and teamwork on individual cases and significant advocacy efforts, with an emphasis on inter-office collaborations; and
- reviewing CSR reports for each office, unit, and individual advocate to identify emerging legal issues and trends, to assess caseload diversity, and to ensure compliance with grant requirements.

III.10.4. The litigation director should report quarterly to the board on litigation and litigation plans. The report should describe current activities as well as the program's prospective litigation plans.

III.10.5. If the litigation director is to fulfill his role effectively, he should reduce his caseload.

Finding 11: Training and support of MLSA's legal staff is generally effective.

Staff attorneys interviewed by the team felt that they are generally supported in their work and have access to the tools they need to be effective. They have access to print and electronic versions of statutes, necessary practice manuals, on-line research services, and listservs. MLSA attorneys also have access to specialty resources including the NCLC Consumer Law Series, NHLP housing law materials, and the Domestic Violence Report. Attorneys use an on-line calendar utility for managing appearances and deadlines.

The team received inconsistent reports about whether attorneys are using, have access to, or have knowledge of a program repository of briefs, motions, forms, and the like. Some forms and briefs are available on the MontanaProBono.net website. Advocates needing briefs, samples of pleadings, and motions often send broadcast emails to others in the program; the response to these requests is reported to be prompt. MLSA is planning for a new program-wide brief bank.

Program materials indicate that MLSA's deputy director and litigation director make decisions regarding advocate training needs, based in part on areas identified in the annual staff evaluations. The materials state that all advocates are sent to a relevant national training once every two to three years or more frequently if funding allows. Interviews concerning training were generally consistent with those materials, although it appeared to the visit team that training decisions could be more closely tailored to the needs identified in staff evaluations. Interviews of advocates suggest that they are, on the whole, satisfied with the training opportunities provided by the program. They appear to be provided with sufficient training to maintain their capacity to represent clients and stay current with the law. Some staff reported attending NCLC, NHELP, and other national conferences. The annual all-staff meeting includes CLE training.

Attorneys expressed some concern about the adequacy of administrative, secretarial, and paralegal support. The LSC team observed that many of MLSA's designated paralegals are not specifically trained to provide paralegal assistance.

MLSA attorneys also noted that the program does not provide litigation expenses for such items as depositions and expert witnesses.⁵

Recommendations:

III.11.1. MLSA should ensure that training needs identified in its evaluation process are considered in training decisions.

III.11.2. As funding increases, MLSA should consider using additional funds for secretarial and administrative support.

Finding 12: MLSA's Native American unit, although challenged to provide equitable access for all of the service area's tribes, is an effective and integral part of the program's advocacy.

The delivery of services to Native Americans is an integral part of MLSA's overall approach and uses methods that are substantially the same as those of the program as a whole. Montana is the fourth largest state in the U.S. in land area and includes several tribes within its boundaries. The Native American grant, which is relatively small for such a vast area, is primarily employed in client representation at the Crow and Northern Cheyenne reservations, where program services are highly valued and have resulted in significant litigation that has yielded important and lasting results for Native Americans. The program has a creditable presence at other tribal locations in the north central and northeastern parts of the state through its VAWA-funded domestic violence advocacy. Proportional to the size of the LSC grant, the number of cases handled is slightly higher than the national norm. MLSA closed 848 Native American cases in 2009; of these, 220 were in family law and 335 addressed Indian/tribal law issues. More than 400 of the total cases closed involved extended service.

Recommendation:

III.12.1. LSC encourages MLSA to enhance its efforts to obtain tribal contract funding, especially in the western section of the state.

Finding 13: Assessing the quality of the migrant unit's legal work was difficult. While this unit closes a substantial number of cases, the work does not reflect program priorities or the substantive legal issues that are typically of most concern

⁵ MLSA has added a litigation expense line item to its 2011 budget, using \$10,000 from a recent attorney's fee award as seed money.

to migrant farmworkers. Moreover, the activities performed on those cases were limited.

The MLSA migrant unit's priorities are government benefits, employment, and naturalization. In 2009, the unit closed 287 benefits cases, 58 immigration and naturalization cases, and 13 employment cases.⁶ The vast majority of the benefits cases involved assistance with food stamp applications. None of the employment cases involved court action and only two involved administrative agency decisions. At the time of the visit, MLSA had no open court cases on behalf of migrant farmworkers. The migrant unit attorney is not admitted to practice in United States District Court. The writing sample submitted to LSC for this visit by the migrant unit attorney was not a migrant case; it involved an immigration issue on behalf of a non-farmworker client. It would have benefited from more careful editing. The migrant unit paralegal did not provide a writing sample.

Finding 14: The migrant unit does not appear to be receiving the training and supervision necessary for effective advocacy on behalf of the community it is intended to serve.

It appeared to the team that the migrant unit operates in a rather insular manner, and that the staff lack the necessary training and supervision to perform effectively. While they have participated in training at annual MLSA staff meetings, and the migrant unit attorney meets her continuing legal education requirements, neither the migrant attorney nor the migrant paralegal has attended a national training on migrant issues. As a result, they have missed opportunities to connect with and learn from the national farmworker advocacy community.

Migrant unit staff appear to receive little supervision of their substantive legal work on behalf of migrants. This unit is one in which case reviews are not being conducted consistently. Those case reviews that do occur are limited to compliance related issues, and do not include discussion of substantive legal issues and strategies. Even with the focus on compliance, the migrant unit appears excessively slow to close cases once they have been completed.

The visit team was surprised to learn that the migrant attorney and paralegal are sister and brother. This situation has the potential for conflict and raises a concern about unequal treatment. MLSA does not have an anti-nepotism policy.

Recommendations:

III.14.1. The migrant unit would benefit from more consistent supervision that includes an assessment of the unit's progress toward meeting the goals of a workplan as recommended at I.2.2, above. Migrant cases should be reviewed regularly. Case reviews

⁶ The MLSA migrant unit supports a .5 FTE attorney and a .25 FTE paralegal.

should include discussion of substantive legal work including how the cases fit within the program priorities and the unit workplan.⁷

III.14.2. MLSA should ensure that cases and activities undertaken by the migrant unit under the LSC migrant grant primarily address the barriers and specialized legal needs that arise from the clients' work in agriculture and their status as migrants.

III.14.3. MLSA should ensure that migrant unit cases are closed in a timely manner once they have been completed.

III.14.4. MLSA should restructure the lines of supervision in the migrant unit to ensure that the unit paralegal is not directly supervised by a close relative. The MLSA board is urged to consider developing an anti-nepotism policy that addresses situations such as this.

III.14.5. MLSA is urged to send a representative to the national farmworker law training. The 2010 training will be held in Atlanta, Georgia, in conjunction with the NLADA Annual Conference. Participation at this conference will enhance the program's knowledge of substantive legal issues affecting migrant farmworkers and will strengthen MLSA's connections to the broader migrant advocacy community.⁸

Criterion 2. Private attorney involvement (PAI).

Finding 15: MLSA effectively integrates private attorneys into its legal representation and client services but would benefit from more program-wide consistency in staffing and procedures.

Both the Supreme Court of Montana and the State Bar of Montana, which is a mandatory bar, actively encourage pro bono participation by lawyers in the state. The court rules include a pro bono rule modeled on ABA Model Rule 6.1, an emeritus rule permitting lawyers who have retired from active practice to volunteer in legal services programs, and a student practice rule. While annual reporting of pro bono activity is not mandatory, the reporting forms accompany mandatory client trust fund filings in order to encourage their submission. The Supreme Court Administrator's Office employs a Statewide Pro Bono Coordinator responsible for providing support to existing pro bono programs and helping to develop new programs. The state bar employs an Equal Justice Coordinator who also works to promote pro bono in the state.

The legal community in Montana consists primarily of solo practitioners and small to mid-size firms, as well as government lawyers and those affiliated with the law

⁷ MLSA reports that the executive director assumed direct supervision of the migrant unit in September 2010.

⁸ The executive director attended the 2010 Farmworker Law Conference to enhance MLSA's understanding of migrant farmworker issues and more effectively serve this client community.

school. The state bar reports that in 2009, 420 out of 3341 active lawyers participated in a pro bono program. The bar also reports that the number of participating attorneys is increasing. MLSA coordinates with other organizations in the state to promote pro bono involvement. The program is an active member of the statewide Equal Justice Task Force, one of whose goals is to promote pro bono.

The MLSA Private Attorney Involvement plan describes the program's structure and goals, mechanisms for involving the private bar, activities for volunteer support and recognition, and staffing. The PAI Plan also describes MLSA's collaborations with other organizations in the state to encourage pro bono participation. The program's work generally reflects the PAI plan.

In 2009, MLSA closed 237 PAI cases, of which 87.3% were family law, 4.6% were consumer, and 2% were housing. Of the closed cases, 79.7% involved extended services. The primary mechanism by which MLSA involves private attorneys in its work is through the referral of individual cases to pro bono attorneys. In general, volunteer attorneys handle family law matters such as contested and uncontested divorce, custody, and development of parenting plans. In some counties they also handle consumer, landlord-tenant, and elder law cases. Attorneys working for government agencies assist the program by revising forms, updating brochures, and conducting community education programs. MLSA also involves volunteer attorneys in the provision of assistance at the Supreme Court Self-Help Law Centers and in Low Income Taxpayer Clinics. In the Missoula area, law students provide assistance at self-help centers and a housing advice clinic under the supervision of volunteer attorneys. In the Great Falls area, some pro bono cases are referred to the Cascade Law Clinic.

MLSA collaborates with the State Bar of Montana to operate a Modest Means Reduced Fee Program under which MLSA screens and refers persons with income below 200% of the poverty level to the state bar, which in turn provides them with a letter of referral that they can present to local attorneys and request a reduced fee. The Modest Means Reduced Fee Program also serves as a conflict panel for MLSA. MLSA is exploring a model that would allow more volunteer attorneys to participate in the Self-Help Law Centers in remote areas through videoconferencing.

MLSA's PAI activities are closely coordinated with local district courts and bar associations, and responsibilities are shared. The precise protocols, and the extent to which MLSA has control of the process, vary from one jurisdiction to the next. In some counties, local bar associations and/or district courts arrange for the participation of volunteer attorneys, and MLSA is responsible for screening, case assignment, and case follow-up. In others, MLSA recruits from a list of practicing attorneys provided by the bar association. MLSA also recruits directly for the Supreme Court Self-Help Law Centers and in Low Income Taxpayer Clinics.

PAI staffing includes a paralegal in each of the three regional offices responsible for activities in the area served by that office. These paralegals have other MLSA responsibilities in addition to their PAI work. Supervision is provided by the managing

attorney of the particular office. It was not clear from the organizational chart, who provides overall supervision for PAI, but interviews suggested that it is the executive director.

Cases come to the PAI program through general intake, and are determined to be appropriate for PAI as part of the case acceptance process. They are then referred to the paralegal in the office responsible for the particular area of the state. Urgent cases are referred as soon as possible; uncontested matters are placed on a waiting list.

The program appears to provide the necessary oversight and follow-up once an attorney has agreed to take a case, but the process employed by each office was not made clear in the interviews. It appears that MLSA sends the volunteer a packet that includes an opening and a closing form, a fee waiver form, and a retainer. The paralegal contacts the attorney 30 days later, if the program has not received the opening form. The volunteer receives a status request letter after six months if there has been no other contact. In one office, there appeared to be some confusion about how follow-up can be conducted, and about the respective roles of MLSA and the local bar association with regard to PAI. While the PAI plan describes quarterly meetings of responsible staff, it was unclear from the interviews whether such meetings actually occur.

MLSA offers case support and malpractice insurance coverage to volunteers, and participates in recognition events with local bar associations and the state bar. Support to volunteers includes sample pleadings and forms which can be downloaded from the ProBono.Net website, consultations with staff attorneys, and administrative support if needed. In the Missoula area, law students provide legal research assistance. Some volunteers also mentor other volunteers. Volunteers who perform fifty hours of pro bono service receive certificates from the state bar for free continuing legal education and published recognition in the state bar newsletter. The state bar and some local bars also hold recognition events at bar lunches or dinners.

Recommendations:

III.15.1. MLSA is urged to establish program-wide procedures for administering the PAI program and to designate a position that will be responsible for its overall management.

III.15.2. As resources permit, MLSA is encouraged to ensure that PAI coordinators are involved in the national pro bono community and that they attend national conferences to learn more about effective models for engaging the private bar.

III.15.3. MLSA is encouraged to engage in program-wide discussions, with the involvement of the litigation director and advocacy coordinator, to ensure that pro bono opportunities reflect the diverse range of legal work within MLSA and that MLSA continues to fully leverage the different pro bono legal resources available.

III.15.4. MLSA is encouraged to continue its involvement in the Equal Justice Task Force and with other entities in the state to encourage pro bono participation, particularly in very rural areas.

Criteria 3 and 4. Other program services to and on behalf of the eligible client population.

Finding 16: MLSA continually seeks opportunities to extend its services to and on behalf of the client community.

MLSA engages in a variety of activities designed to address the legal needs of clients throughout its service area. The program places a premium on identifying innovative methods for providing services to those who are underserved, or not served. To stretch limited resources, MLSA makes effective use of the VISTA and AmeriCorps programs, using members in-house and partnering with other providers in the state to use them. One example of such a partnership is the state court self-help centers. Before partnering with MLSA, the courts operated two self-help centers staffed by court employees. A recent partnership between the courts and MLSA will allow the expansion of these centers to eight, using AmeriCorps members. MLSA is also working with the courts to use AmeriCorps members for a remote LiveHelp service for self-help centers that have no on-site staff. And, MLSA has partnered with the Montana Supreme Court to develop court forms for the self-help centers.

MLSA operates a self-help divorce clinic in Kalispell which it plans to replicate. Using a local computer lab, MLSA staff assist self-represented litigants to prepare their pleadings, and provide a pro bono attorney to review them. In addition, court personnel attend the clinics to assist with child support calculations and to certify participants for fee waivers so that they may go directly to the courthouse and file their paperwork without cost.

MontanaLawHelp.org, the statewide website for which MLSA is primarily responsible, is well-promoted and well-used; the number of visits to the site increases each year. The site includes a large volume of information on a variety of legal topics, as well as links to a variety of self-help forms including Indian wills forms. It also includes “virtual drink coasters” – images of the real coasters distributed in the community which have a legal question on one side and an answer on the other. The site has a LiveHelp feature for visitors who may need additional assistance. MLSA uses a range of other methods to disseminate legal information and materials: it provides written materials to the courts, libraries, and other community agencies; it publishes a legal tip of the week in newspapers statewide; and it works with state and local bar associations to provide continuing legal education programs for lawyers and programs for law students.

MLSA Low Income Tax Clinics successfully use program staff and pro bono attorneys to assist low income taxpayers to resolve tax-related issues. Although Montana’s population is relatively small, the state’s usage of I-CAN! E-File is high. In 2009, more than \$2,000,000 in Earned Income Tax Credits was returned to low-income

Montanans. MLSA has also been engaged nationally in promoting innovative service delivery methods, including making presentations on LiveHelp and the use of video conferencing by courts.

MLSA attorneys are active in state and local bar associations, although in very rural areas this is more difficult because local bar associations can be very small and some meet only infrequently. As an official clinical placement for the University of Montana School of Law, MLSA engages law students in the work of the program and encourages them to pursue public interest work in the future.

Representatives of client groups and organizations who were interviewed by the LSC team found MLSA staff to be responsive to clients and their concerns.

PERFORMANCE AREA FOUR. Effectiveness of governance, leadership and administration.

Criterion 1. Board governance.

Finding 17: The MLSA board of directors is appropriately involved in major policy decisions of the program and asserts effective oversight.

The MLSA board is committed to the mission of the program and actively engaged in all major policy decisions. Board members are involved in all major issues, including the 2009 decision to reduce staff. One impressive demonstration of the board's commitment to the program was the decision of all members to sign the press release announcing the 2009 staffing reductions.

MLSA employs a Board Member Handbook that includes information about the program and the Legal Services Corporation, as well as the LSC regulations, and materials on such topics as effective boards and strategic planning. New board members receive orientation to the program and training on board responsibilities and the LSC Act and regulations. The board received copies of materials used at the 2010 Equal Justice Conference board training session. The board includes a fiscal and audit committee.

The MLSA board meets regularly four times a year at different locations around the state to encourage in-person attendance, although the size of the service area still requires some members to attend by telephone. Board minutes reviewed by the team and interviews with board members indicate that meetings are attended by a majority of attorney members and that these members appear to have thoroughly reviewed issues prior to making decisions. Executive director and staff reports contribute significantly to the board's understanding of program issues although there are times when the agenda does not leave time for staff reports. Board members are encouraged to attend the annual staff meeting, and the board has been known to hold its own meetings during this event.

The board usually receives materials in advance of its meetings to allow time to prepare. The team was concerned about references in the minutes from the past year indicating that the board had not received financial reports in time to review them before the meetings. The delays were apparently caused by staff shortages, which have since been corrected by the hiring of additional accounting staff.

The board evaluated the executive director in 2008.

The board recently held a retreat at which priorities for future action were established. As a result, the board has been developing new policies and revising existing policies.

The board does not have a conflicts policy that applies to member involvement in litigation against the program. During the visit the LSC team became aware of a situation in which an MLSA staff member was the attorney of record in a case in which a board member then entered an appearance as opposing counsel. Situations such as this not only create discomfort for the affected staff attorney, but they run counter to the ABA Standards for the Provision of Civil Legal Aid.⁹

Board members and program management clearly understand the critical role of client eligible board members, and client members have served as board president at times. However, like a number of other LSC grantees MLSA experiences ongoing difficulty recruiting and retaining such persons.

Recommendations:

IV.17.1. MLSA is encouraged to continue its practice of inviting board members to annual meetings and other events, and providing in-person staff and litigation director reports at their meetings.

IV.17.2. The MLSA board should give serious consideration to developing a policy that addresses attorney board member professional conflicts with the program.¹⁰

IV.17.3. MLSA is encouraged to maintain efforts to recruit and retain client eligible board members. Some programs find that holding a regular “pre-meeting” gathering of the board chair, executive director, and client members is a useful way to inform client members of upcoming issues, answer their questions, and put them at ease in preparation for board meetings, thereby encouraging them to participate.

Criteria 2 and 3. Leadership, management and administration.

⁹ See, 2006 ABA Standards for the Provision of Civil Legal Aid, Standard 1.2-4, On Governing Body Members' Conflict of Interest.

¹⁰ MLSA reports that the board will consider such a conflicts policy at its December 2010 meeting.

Finding 18: MLSA is well-managed and effectively administered.

At the time of this visit to MLSA, the executive director had been with the program for more than 30 years. The deputy director had been there for eleven years, and in her current position for seven years. Other senior staff have many years of cumulative experience and a great deal of credibility in the community. Administrative staff are also experienced and capable, and they are committed to the program's mission.

The executive director is respected throughout the state, including in the justice community, and on the national level. The deputy director has accomplished a tremendous amount in the area of technology, client services, and organizational management. She also is highly respected on the state and national level, particularly for her knowledge of the innovative use of technology in the delivery of legal services.

Other MLSA management includes the managing attorneys of the regional offices and of the substantive units, along with the litigation director, the program administrator, and the finance and grants manager. The organizational structure appears to work effectively, although interviews suggest that within the program, there is occasional confusion about the roles of the executive director and deputy director.

All staff participate in the monthly "first Monday" conference calls. There are no separate regularly scheduled management meetings.

While MLSA did not have a specific plan for leadership transition at the time of the visit, this issue was being discussed by senior management and the board.¹¹

MLSA does not yet have a plan for providing services in the event of a disaster affecting the client community.

Recommendations:

IV.18.1. MLSA is encouraged to develop a succession plan that will ensure a smooth transition when the current executive director retires.

IV.18.2. MLSA should develop an emergency plan to enable the program to maintain operations and provide client services in the event of an emergency. Such a plan would address the preservation of files (computer and hard copy), equipment, and data bases; the continuation of communication among staff and management; the evacuation of personnel, including those with mobility impairments; the relocation of offices or establishment of alternate sites; and the provision of client services. Examples of disaster plans are available on the LSC Resource Information website at www.lri.lsc.gov.

¹¹ Since the OPP visit, MLSA has developed a leadership transition and management reorganization plan under which the current deputy director would be appointed executive director and the current executive director would assume the litigation coordinator position. The plan was adopted by the board at its December 2010 meeting, and will be effective on January 1, 2011.

Finding 19: MLSA has a national reputation for the innovative use of technology to expand access to the courts, and is striving to enhance the use of technology within the program.

MLSA has a national reputation for its use of technology to expand access to legal services. The court self-help centers, video conferencing, and the program's use of HotDocs and LiveHelp on the website are of particular note.

MLSA makes effective use of technology within the program. The basic infrastructure is sound, although somewhat limited. The program has one full-time staff person responsible for technology, supplemented by several administrative staff who are knowledgeable about the area and assume some responsibilities. Most of the network administration is handled by a contractor.

At the time of the visit, MLSA was confronting two significant technology challenges. The first was the outdated telephone system, which provides no way to route calls, provide recorded advice, or create and monitor a HelpLine queue. The program plans to address the phone system issue as soon as resources allow. The second was the need for a new case management system. MLSA has two centrally shared servers, which host the case management system. These servers are aging, which often results in slow access and printing. The program plans to upgrade soon to LegalServer, which should resolve these problems.¹²

In addition, instead of a central file server, each office has its own server, which along with individual computers, are backed up offsite at Montana Internet Corporation. To make up for the lack of a true wide area network (WAN) the program has made effective use of hosted solutions to help with management and collaboration, such as GoToMeeting, GoToAssist, Gmail, Google Apps, and Central Desktop.

MLSA is conscientious about maintaining data security and ensuring that security updates are installed on servers and desktops. The MLSA technology staff check logs to ensure that the servers have been backed up, although they have not been doing actual restores to verify the logs.

Staff receive training on technology, but this is generally conducted on an *ad hoc* basis, or when requested by individual staff as part of a professional development plan. MLSA does not systematically assess technology skills or the need for training in professional development plans.

¹² On August 17, 2010, MLSA requested permission from the LSC Office of Compliance and Enforcement to purchase LegalServer with LSC funds.

Recommendations:

IV.19.1. MLSA is urged to use the new case management system to prepare automated documents, and as part of the start-up process, to allocate the resources necessary to develop those documents. The move to a new case management system provides a good opportunity to do this. LegalServer is being customized so that it will be tightly integrated with LawHelp Interactive, the national HotDocs server. This will allow staff to access automated documents such as pleadings and letters.

IV.19.2. MLSA is encouraged to use the case management system as a management tool to review the substance of staff work.

IV.19.3. MLSA is encouraged to include technology training in individual professional development plans. Training needs would be identified based on an assessment of the individual's job requirements and technical expertise.

IV.19.4. Technology staff are urged to conduct test restores of documents to verify that servers have been backed up and the logs are accurate.

Criterion 4. Financial administration.

Finding 20: MLSA has sufficient and capable staff dedicated to financial administration.

MLSA's three-person fiscal unit appears effective and knowledgeable. Some staff have attended national trainings and at least one has a relevant professional degree. Tasks are shared and staff are comfortable discussing fiscal administration policies and procedures and how they implement internal controls. The program engages in financial planning beyond the current year, and is careful to adhere to its budget and to ensure that the budget is consistent with its goals and objectives. At the time of the visit, the fiscal manager had already reviewed the revised LSC Accounting Guide. Annual audits have not revealed any significant problems or issues.

The finance and grants manager monitors grants regularly and informs grant-funded staff about the status of the grants under which they work.

Staff provide monthly financial reports to the audit and finance committee, and quarterly reports to the full board.

Criterion 5. Human resources.

Finding 21: MLSA maintains an effective human resources administration.

The MLSA deputy director and finance manager have primary responsibility for human resources administration and appear to perform the necessary tasks effectively.

Personnel files are maintained appropriately. Personnel policies are included in the MLSA Regulations Manual, and are scheduled to be updated in the near future.

Despite limited resources, MLSA strives to provide adequate salaries and benefits. Salaries are reviewed regularly and adjustments made when possible. Staff accomplishments are recognized with a salary supplement under certain circumstances. . Staff have access to LRAP programs through MLSA and the Montana Justice Foundation. Performance evaluations are conducted annually and include a professional development plan. It was not clear how the staff training needs recommended through this process are identified.

The MLSA staff strikes a balance between very experienced and less experienced staff, and retention is high. Collaborations with the law school, particularly in the Missoula office, support recruitment of new lawyers. While the MLSA workforce is not particularly diverse, it is not unlike that of the client community in the state and, as discussed above, staff are culturally competent.

In general, training appears to be sufficient. Some staff have attended national conferences. Attorneys receive CLE and other training at the annual meeting and the program pays for relevant outside CLE programs. The annual meeting is also the forum for administrative staff training.

Recommendations:

IV.21.1. MLSA management is encouraged to take a more active role in determining the skills needed for a particular position. As part of the performance evaluation, supervisors should assess whether or not the employee has the necessary skills for the particular job. If the employee does not have the necessary skills, the professional development plan should identify appropriate training. As training is being planned, those needs should be considered.

IV.21.2. MLSA is encouraged to continue to consider ways to develop new leaders.

Criterion 6. Internal communications.

Finding 22: MLSA maintains effective intra-staff and staff-management communications and relations.

Staff relationships at MLSA are professional and collegial. With very few exceptions, staff feel as though they are part of a single law firm committed to a shared goal. The annual meeting, the unit structure, and instant messaging were all noted as positively contributing to this sense of community. The monthly all staff conference calls are another factor.

Staff can identify their direct supervisors, and they describe them as supportive and responsive.

Criterion 7. General resource development and maintenance.

Finding 23: MLSA has effective systems in place for resource development as well as diversified funding sources.

The MLSA executive director is responsible for fundraising with the Montana Justice Foundation, and the deputy director is responsible for grant writing and new project development. MLSA has added a part-time development attorney who will work with the executive director and the deputy director to seek out additional sources of funding.

In 2010, MLSA has approximately 30 sources of funding. These include \$1,304,088 in Basic Field funding, \$183,456 in Native American funding, and \$62,842 in migrant funding from the Legal Services Corporation. MLSA also received \$158,513.02 in LSC TIG grants. Other significant sources of revenue at the time of the visit included the Corporation for National Service (AmeriCorps VISTA members), Equal Justice Works (AmeriCorps Fellows), the Internal Revenue Service (Low Income Taxpayer Clinic), the Department of Justice (domestic violence survivors), Housing and Urban Development (housing counseling), and the Bar Foundation (civil legal assistance). In addition to grants, MLSA received some state and tribal contracts, and also participated in cost-sharing agreements for VISTA and AmeriCorps projects. It is apparent that MLSA seeks funding that follows priorities, rather than letting priorities follow funding. There is no indication of mission drift.

As with many legal services programs dependent on IOLTA and other funding, resources have been a challenge for MLSA, and 2009 was particularly difficult. Faced with severe funding cuts, the program undertook a major reorganization which included reducing staff and consolidating offices. It appears that the program has emerged from that process on solid footing.

MLSA does not have a strategic plan for resource development, but with the hiring of the development attorney, there is a new focus on fundraising.

Criteria 8 and 9. Coherent and comprehensive delivery structure; participation in an integrated legal services delivery system.

Finding 24: MLSA maintains and encourages a coherent delivery structure that is a key component of the statewide legal services delivery system.

MLSA provides a range of services including advice, brief services, and extended services in its priority areas. The work of the program is enhanced by the program's self-help law collaborations and by private attorney involvement. MLSA also collaborates with bar associations, the law school, state agencies, and other organizations in its service area. Outreach and clinics strengthen the program's connections to local entities.

Attorneys are encouraged to be active in their local bar associations, and some are active in the justice community on the state level. MLSA is well-represented on the Equal Justice Task Force. These activities reflect MLSA's awareness of its role in the justice community and the value that the program places on access to justice in the service area and the state.