



FINAL REPORT
LEGAL SERVICES CORPORATION
Office of Compliance and Enforcement

Kansas Legal Services, Inc.
July 21-30, 2008
Case Service Report/Case Management System Review

Recipient No. 517001

I. EXECUTIVE SUMMARY

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

Finding 3: KLS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines ("FPG").

Finding 4: KLS is in non-compliance with 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4. (Asset eligibility documentation).

Finding 5: KLS is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

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

Finding 7: KLS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

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

Finding 9: KLS is in non-compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were numerous staff case files reviewed which contained no description of the legal assistance provided.

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

Finding 11: KLS is in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as numerous staff case files reviewed were untimely closed.

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

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

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

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

Finding 16: KLS is not in compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of PAI cases.

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

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

Finding 19: Review of KLS' retainer contracts with private attorneys revealed that KLS pays a one-time sign-on payment of \$200 regardless of whether the attorney subsequently handles reduced fee cases for the program or not. These payments are inconsistent with the requirements of 45 CFR Parts 1614, 1627 and 1630. The practice of paying a \$200.000 sign-on bonus to private attorneys must cease with LSC funds. The advance payments are also improperly counted towards the PAI requirement.

Finding 20: KLS' 2007 and 2008 subgrant agreements with the Kansas Bar Foundation ("KBF") are in compliance with the requirements of 45 CFR Part 1627. KLS must take the KBF off the automatic payment module and review the KBF's quarterly invoices to ensure that the expenses are accurate and appropriate *before* issuing payment, as required by 45 CFR § 1627.3(c).

Finding 21: A limited review of the General Ledger sub account "Miscellaneous Expenses – Administration" for the years 2006, 2007, and 2008 revealed that a substantial number of payments lacked either adequate supporting documentation or did not meet the standards governing allowability of costs as outlined in 45 CFR § 1630.3.

Finding 22: A review of the KLS Accounting Manual disclosed that it is outdated and in need of revision.

Finding 23: Bank reconciliations for April, May, and June 2008 were reviewed and were found to be performed timely and accurately.

Finding 24: Although KLS has fairly adequate segregation of duties and internal controls, there is room for improvement.

Finding 25: Sampled cases complied with the requirements of 45 CFR Part 1642 (Attorney's Fees).

Finding 26: Sampled cases reviewed and documents reviewed evidenced compliance with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

Finding 27: 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 28: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1617 (Class actions).

Finding 29: Sampled cases complied with the requirements of 45 CFR Part 1632 (Redistricting).

Finding 30: Sampled cases complied with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

Finding 31: Sampled cases complied with the requirements of 45 CFR Part 1637 (Representation of prisoners).

Finding 32: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1638 (Restriction on solicitation).

Finding 33: Sampled cases evidenced compliance with the requirements of 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, and mercy killing).

Finding 34: 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

On July 21 through 30, 2008, the Legal Services Corporation's ("LSC") Office of Compliance and Enforcement ("OCE") conducted a Case Service Report/Case Management System ("CSR/CMS") on-site visit at Kansas Legal Services ("KLS"). The purpose of the visit was to assess the program's compliance with the LSC Act, regulations, and other applicable laws. The visit was conducted by a team of six attorneys, two management analysts and one fiscal analyst. Two of the attorneys were OCE staff members; the remaining attorneys were consultants.

The on-site review was designed and executed to assess the program's compliance with basic client eligibility, intake, and case management, regulatory and statutory requirements and to ensure that KLS has correctly implemented the 2008 CSR Handbook. Specifically, the review team assessed KLS for compliance with regulatory requirements 45 CFR Part 1611 (Financial Eligibility); 45 CFR Part 1626 (Restrictions on legal assistance to aliens); 45 CFR §§ 1620.4 and 1620.6 (Priorities in use of resources); CFR § 1611.9 (Retainer agreements); 45 CFR Part 1636 (Client identity and statement of facts); 45 CFR Part 1608 (Prohibited political activities); 45 CFR Part 1609 (Fee-generating cases); 45 CFR 1610 (Use of non-LSC funds, transfers of LSC funds, program integrity); 45 CFR Part 1614 (Private attorney involvement);¹ 45 CFR Part 1627 (Subgrants and membership fees or dues); 45 CFR Part 1635 (Timekeeping requirement); 45 CFR Part 1642 (Attorneys' fees); 45 CFR 1630 (Cost standards and procedures); 45 CFR 1612 (Restrictions on lobbying and certain other activities); 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings and Restrictions on actions collaterally attacking criminal convictions); 45 CFR Part 1617 (Class actions); 45 CFR Part 1632 (Redistricting); 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings); 45 CFR Part 1637 (Representation of prisoners); 45 CFR 1638 (Restriction on solicitation); 45 CFR Part 1643 (Restriction on assisted suicide, euthanasia, or mercy killing); and 42 USC 2996f § 1007 (Abortion, school desegregation litigation and military selective service act or desertion).

The OCE team interviewed members of KLS' upper and middle management, staff attorneys and support staff. KLS' case intake, case acceptance, case management, and case closure practices and policies in all substantive units were assessed. In addition to interviews, a case file review was conducted. The sample case review period was from January 1, 2006 through May 31, 2008. Case file review relied upon randomly selected files as well as targeted files identified to test for compliance with LSC requirements, including eligibility, potential duplication, timely closing, and proper application of case closure categories. In the course of the on-site review, the OCE team reviewed approximately 1,090 case files which included 79 targeted files.

KLS is an LSC recipient that operates 11 offices throughout Kansas, with centralized intake operating out of the Wichita office. The main office is located in Topeka. KLS' executive staff consists of an Executive Director, Grant Administrator, Chief Financial Officer, Accountant, and Payroll Coordinator.

In each year reviewed (2006, 2007, 2008) KLS received a grant award from LSC in the amount of two million dollars.

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

For 2007, KLS reported 11,569 closed cases in its CSR data. KLS' 2007 self-inspection report indicated a 6.5% error rate with exceptions noted in 15 files out of 232 reviewed. The problem areas identified were: cases in which income eligibility was not documented; cases in which asset eligibility was not documented; cases in which citizenship/alien eligibility was not documented; cases in which evidence of actual legal assistance rendered to the client was not in the file; cases in which case closure was not timely. For 2006, KLS reported 12,269 closed cases in its CSR data.

KLS' 2006 self-inspection report indicated a 3.8% error rate with exceptions noted in 9 files out of the 235 cases reviewed. The problem areas identified were: cases in which income eligibility was not documented; cases in which asset eligibility was not documented; cases in which citizenship/alien eligibility was not documented and cases in which case closure was not timely.

By letter dated May 23, 2008, OCE requested that KLS provide a list of all cases reported to LSC in its 2006 CSR data submission ("closed 2006 cases"), a list of all cases reported in its 2007 CSR data submission ("closed 2007 cases"), a list of all cases closed between January 1, 2008 and May 31, 2008 ("closed 2008 cases"), and a list of all cases which remained open as of May 31, 2008 ("open cases"). OCE requested that the lists contain the client name, the file identification number, the name of the advocate assigned to the case, the opening and closing dates, the CSR case closing category assigned to the case and the funding code assigned to the case. OCE requested that two sets of lists be compiled - one for cases handled by KLS staff and the other for cases handled through KLS' PAI component. KLS was advised that OCE would seek access to such cases consistent with Section 509(h), Pub.L. 104-134, 110 Stat. 1321 (1996), LSC Grant Assurance Nos. 9 and 10, and the LSC *Access to Records* (January 5, 2004) protocol. KLS was requested to promptly notify OCE, in writing, if it believed that providing the requested material, in the specified format, would violate the attorney-client privilege or would be otherwise protected from disclosure.

During the visit, access to case-related information was provided through staff intermediaries. Pursuant to the OCE and KLS agreement of June 25, 2008 and a telephone conversation on June 25, 2008 between the Team Leader and KLS Executive Director, KLS staff maintained possession of the file and discussed with the team the nature of the client's legal problem and the nature of the legal assistance rendered. In order to maintain confidentiality, such discussion, in some instances, was limited to a general discussion of the nature of the problem and the nature of the assistance provided.² KLS' management and staff cooperated fully in the course of the review process. As discussed more fully below, KLS was made aware of any compliance issues during the on-site visit. This was accomplished by informing intermediaries of any compliance issues during case review as well as Managing Attorneys in the branch offices and the Executive Director in the main office.

Thereafter, an effort was made to create a representative sample of cases which the team would review during the on-site visit. The sample was created proportionately among 2006, 2007, 2008 closed, and 2008 open cases, as well as a proportionate distribution of cases from KLS' office. The sample consisted largely of randomly selected cases, but also included targeted cases selected to test

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

for compliance with the CSR instructions relative to timely closings, proper application of the CSR case closing categories, duplicate reporting, etc.

At the conclusion of the visit on July 30, 2008, OCE conducted an exit conference during which KLS was made aware of the areas in which a pattern of non-compliance were found. No distinction between 2006, 2007, and 2008 case were found. OCE cited instances of non-compliance in the areas of intake, case management, execution of citizenship attestations, execution of retainer agreements, documentation of legal advice, application of closing codes, and PAI oversight. KLS was advised that they would receive a Draft Report that would include all of OCE's findings and they would have 30 days to submit comments. The program was also advised that a Final Report would be issued that would include KLS' comments.

KLS was provided a Draft Report ("DR") and given an opportunity to comment. KLS' comments were received on December 23, 2008. The comments have been incorporated into this Final Report, where appropriate, and are affixed as an exhibit. KLS also noted in its comments "factual inaccuracies" contained in Finding 2. The errors cited were corrected and are included in this Final Report.

III. FINDINGS

Finding 1: KLS' 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.

Interviews reflect that KLS has developed LegalTrek, as its ACMS. LegalTrek contains a number of safeguards to ensure accurate and complete data in compliance fields.

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

LegalTrek was developed by an outside programmer hired by KLS. After a two-year implementation phase, during which KLS ran redundant systems, LegalTrek became fully operational in the early 1990s. KLS is able to make changes to the system, including those mandated by the CSR Handbook (2008 Ed.) with relative ease. In July of 2007, the program upgraded its hardware and software, improving remote access to the program's databases.

Each field office has its own database housed on local servers. The Centralized Intake Unit and the Wichita field office share the same database, which is linked to the main database for conflict check purposes.

Once per month the Grant Administrator, based in the Topeka Administrative Office, imports new and modified records from the local office databases. Each office is responsible for ensuring that all files for the month are closed prior to the 9th of the following month. Time records must be accurate and complete, and posted to case files. Each office is also responsible for running several "missing data" checks to ensure completeness prior to the import to the main database. The improvements implemented in July 2007 have decreased by half the time required to import local office data. This process should not be confused with the file export performed three times a day by the Centralized Intake Unit.

At least quarterly the Grant Administrator runs a number of sophisticated pre-programmed error reports to check for inconsistent and incomplete data. She developed these reports to test for compliance with individual requirements. For example, she runs reports for applicants with an in-person intake and no record of an attestation on file, based upon fields built-into LegalTrek. She also runs a report of cases closed with extended service closing codes and no record of an attestation on file. Further, she can determine if a case was untimely closed. The system has two dates of closure fields, one for the date the record was closed on LegalTrek and one for when legal work ceased. Accordingly, the Grant Administrator can generate reports should large gaps between these

two dates. The managing secretaries are responsible for accurate entering the dates in the fields.

It is noted that the Grant Administrator makes the decision to include or exclude cases from CSRs as a result of the above-mentioned reports. The field offices are aware of the rules for LSC reportability but cannot make the LSC-Eligibility determination as that field is only accessible through the main database.

LegalTrek does not have defaults in critical compliance fields.

During January of each year, the Grant Administrator runs a number of reports on the data to ensure that accurate data is reported to LSC in CSRs, including elaborate duplicate checks. After January 31st, cases closed in the previous year are locked and cannot be accessed by staff; accordingly, records can not be subsequently changed. KLS is able, therefore, to accurately reproduce case lists reported in the CSRs from previous years.

When performing the query for CSRs, several categories of non-LSC funded cases are wholly removed (i.e., Kansas Mediation Service, Public Defender Contract). Other non-LSC funded cases are removed from reportability based upon income/asset levels (i.e., AAA). Non-compliant cases are also removed, such as cases with incomplete financial information, those without attestations, or cases which were untimely closed, as described above. Once the potential LSC-eligible list is developed, a search for duplicates is performed. If the Grant Administrator cannot determine if the case is a duplicate she contacts the local office.

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

The majority of KLS' statewide intake is conducted by the Centralized Intake Unit ("CI") in Wichita. Cases are received by the local offices through Direct Connect and case records are exported three times a day. The local offices make case acceptance decisions.

The CI is staffed by nine full-time Intake Specialists, two part-time Intake Specialists and two supervisors. None of the staff are attorneys, one is a paralegal. Staff performs eligibility screening following the LegalTrek windows based ACMS. During the screening, staff refers to an interactive automated Call Placement Manual ("CPM"). The staff member selects the legal code corresponding to the caller's legal problem (the LSC problem code) and the county and a list of service options and eligibility requirements are presented. The list is derived from constantly changing local office protocols depending upon staffing, caseloads and funding. The CI's unit's mandate is to conduct screening, not case acceptance. Case acceptance decisions are made by the local offices. Depending upon the protocol for the office and the caller's circumstances, the staff member may make a "Direct Connect" with the local office – putting the caller on hold and calling the local office to attempt to immediately transfer the call to a case handler – or an email may be sent. The detailed CPM describes the steps to be taken for each scenario for each problem code. The case record is then "exported" to the local office – each local office has its own database although the Centralized Intake Unit has a direct link to the main database, maintained in Topeka by administrative staff, to check for conflicts. When the

case is exported it is copied to the local office. The local office is responsible for following up on cases once they are received. No advice or other legal assistance is provided by the CI, though they may mail pamphlets or other legal information.

The CI does not accept walk-in applicants.

Four telephone lines for four separate projects are answered by the Centralized Intake Unit staff: Statewide Centralized Intake (“SW”), Lawyer Referral Service of the Kansas Bar Association (“LRS”), Elderlaw Unit (“ELU”) and Access to Justice Advice Line (“ATJ”). The SW and LRS phone lines connect directly to the Centralized Intake Unit. Calls from each of the four queues are automatically distributed to staff logged onto the system.

KLS local offices, pursuant to a contract to assist persons in obtaining disability benefits, receive referrals from the Kansas Health Policy Authority (“KHPA”) and Social and Rehabilitative Services (“SRS”). Referrals are made from the agency to the KLS Administrative Office (on a referral form). The referral form is scanned and forwarded to the appropriate local office. A paralegal creates an intake from the information contained on the referral form; other information is subsequently added after the individual visits the office to sign paperwork.

Wichita Office

The majority of the office’s cases are intaked through CI as described above. (The Centralized Intake Unit is considered a separate office from the Wichita staff office.) Cases are received by the office through Direct Connect and case records are exported three times per day.

Walk-in applicants are asked to call CI. New applicants are given a toll free number. The only exception would be court appointments in which the court calls the program, staff check conflicts, and the court prepares the order of appointment. Then the program calls the applicant and sets up the intake which may be in-person or by telephone. Intake is entered directly into LegalTrek and staff asks questions in the order they appear on the screen. Applicants with emergencies or other individuals who may not be able to use the telephone are intaked by office paralegals, though this is very rare.

Outreach intake is performed each month at senior centers pursuant to two Area Agency on Aging grants. Attorneys are assigned to each county in the service area and provide outreach on a set schedule. Following a presentation, the attorney is available to meet with applicants individually. The attorneys use a written intake form which is completed by the applicant while they wait. The attorney reviews the form with the applicant and provides advice or brief service on-site. If the case is concluded, it is then closed. If the case requires additional representation, it is brought back for case review. Most cases do not involve an adverse party (i.e., estate planning) though if the case does involve an adverse party, the attorney calls the office to do a conflict check prior to providing advice. Cases are entered into LegalTrek when the attorney returns to the office.

Hutchinson Office

Walk-in applicants are asked to call CI and telephone applicants are transferred to CI. The only exception would be court appointments, pursuant to two contracts (Children In Need of Care & Treatment). The judge's clerk identifies a child or adult in need of representation and calls the program, located a floor above in the courthouse. The program office prepares the appointment, takes it to the judge to sign, and conducts intake in-person. Intake is entered directly into LegalTrek and the managing secretary/paralegal asks questions in the order they appear on the screen. Seniors or other individuals who may not be able to use the telephone are also intaked by office paralegals though this is very rare.

This office does not conduct outreach intake.

Pittsburg Office

Walk-in applicants are asked to call CI and telephone applicants are transferred to CI. Seniors or other individuals who may not be able to use the telephone are also intaked by office paralegals though this is very rare. Individuals are asked to complete an outreach form. Information is later entered into LegalTrek.

This office does not conduct outreach intake.

Emporia Office

The majority of intake is conducted in the CI. However, paralegals conduct intake for cases referred from the local court pursuant to a Public Defender Contract for misdemeanors and staff being on a list of attorneys willing to accept felonies. For both types of cases, the court sends the office an order appointing the program to represent the client, including their name and address for conflict purposes. The court has determined that these clients are indigent. The Public Defender Contract cases are misdemeanor traffic, juvenile defender, Child In Need of Care, and Case and Treatment (involuntary commitments to mental institutions). The felonies are appointed pursuant to a list of all attorneys practicing in the jurisdiction; however, attorneys are able to opt off the list. An office paralegal creates an intake in LegalTrek from the appointment order. The only cases reported in the LSC CSRs under the Public Defender Contract are LSC-eligible Child in Need of Care and Case and Treatment cases.

This office does not conduct outreach intake.

Topeka Office

The majority of intake is conducted by the CI as described above. Staff also conduct outreach intake at local senior centers, a homeless mission, and the Marian Clinic (a site which provides free medical and dental services). Staff calls back to the program to check conflicts. Staff also attends the Protection From Abuse docket each week in Shawnee and Douglas counties. KLS staff reviews the docket in advance and does a conflict check. Individuals at all outreach sites are asked to complete an outreach form. This is the same form used in the Pittsburg office. Information is later

entered into LegalTrek.

Kansas City Office

The majority of intake is conducted by the CI as described above. In 2008, the Kansas City office opened a Medical Legal Clinic. The clinic is funded by a local foundation through the University Of Kansas School Of Law. Located at a medical clinic, KLS attorneys supervise law students. An administrative assistant, assigned full-time to the clinic, conducts walk-in intake. The Medical Legal Clinic has remote access to the Kansas City database which allows them to create intakes and conduct conflict checking.

Staff conduct outreach intake at local community and senior centers. Staff also occasionally attends the Protection From Abuse in Wyandotte County. The program reviews the docket in advance and does a conflict check. Individuals at all sites are asked to complete the outreach form.

Few concerns were identified during the review of KLS intake. The staff working in CI, which conducts the majority of intake statewide, is well trained and supported by knowledgeable and accessible supervisors and a user friendly ACMS. The LegalTrek ACMS is designed to guide the eligibility interview and includes fields for each income, expense and asset type to reduce the potential for errors and short-cuts during screening. Interviews and observations reveal that the screeners record many details regarding income and assets, above those required by LSC. All staff interviewed were well versed on LSC regulations and program policies, and the CI supervisor holds a meeting once per week for training. Further, staff which conduct limited intake in branch offices, as described above, were equally well-trained and knowledgeable of eligibility requirements. Uniform compliance forms were identified, though some had different formatting. Staff interviewed had copies of the CSR Handbook (2008 Ed.) and the Frequently Asked Questions. All staff received training from the Grant Administrator, who also serves as the LSC compliance officer.

Some cases were identified in which the screeners inaccurately applied the provision allowing staff to substitute a notation of receipt of a means-tested government benefit for a total asset screening. The regulation and the board approved policy permits such a substitution, for income or assets, if the applicant's income is derived solely from the government benefit, and for assets, if the applicant is the recipient of any one of the governmental benefits. *See* 45 CFR § 1611.4(c). If an applicant receives one of the above-mentioned sources of public benefits, the program's practice is to check a "Public Benefits" box in the asset section of the LegalTrek eligibility screen. The incorrectly screened cases fell into several patterns: 1) the applicant was applying for and not receiving benefits, 2) the public benefit was not specified, or 3) the only benefit documented was a medical card. KLS must take steps to ensure that a full asset screening is substituted only when the public benefit is the sole source of income, the benefit is documented, and it is being received at the time of intake. This issue was discussed with the Executive Director who stated that she will address the issue with the CI staff.

Four different intake forms were identified in offices which conduct walk-in and outreach intake. No significant issues were identified with the forms. All include compliant citizenship attestations.

In addition, three different closing forms were identified (Hutchinson, Wichita and Emporia). Similarly no issues were identified in these forms.

The comments to the DR noted some factual inaccuracies contained in this finding. The factual inaccuracies have been corrected.

Finding 3: KLS maintains the income eligibility documentation required by 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the Federal Poverty Guidelines, (“FPG”).

Recipients may provide legal assistance supported with LSC funds only to individuals whom the recipient has determined to be financially eligible for such assistance. *See* 45 CFR § 1611.4(a). Specifically, recipients must establish financial eligibility policies, including annual income ceilings for individuals and households, and record the number of members in the applicant’s household and the total income before taxes received by all members of such household in order to determine an applicant’s eligibility to receive legal assistance.³ *See* 45 CFR § 1611.3(c)(1), CSR Handbook (2001 Ed.), ¶ 5.3, and CSR Handbook (2008 Ed.), § 5.3. For each case reported to LSC, recipients shall document that a determination of client eligibility was made in accordance with LSC requirements. *See* CSR Handbook (2001 Ed.), ¶ 5.2 and CSR Handbook (2008 Ed.), § 5.2.

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

For CSR purposes, individuals financially ineligible for assistance under the LSC Act may not be regarded as recipient “clients” and any assistance provided should not be reported to LSC. In addition, recipients should not report cases lacking documentation of an income eligibility determination to LSC. However, recipients should report all cases in which there has been an income eligibility determination showing that the client meets LSC eligibility requirements, 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.

KLS’ revised Income Guidelines were adopted by its Board on January 20, 2006. KLS’ Client Eligibility Guidelines indicate that financial eligibility will be determined pursuant to the income guidelines most recently promulgated by LSC.

KLS’ group eligibility policy complies with the requirements of 45 CFR Part 1611. Staff interviewed revealed that KLS has provided legal assistance to groups but no one could recall serving a group client in the last five years.

³ 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.

KLS' Client Eligibility Guidelines include a provision for the screening of a applicant's income prospects, consistent with 45 CFR § 1611.7(a)(1). However, interviews revealed that prospective income was not being screened.

The comments to the DR stated that inquiring as to an applicant's income prospects is part of the income screening process conducted by KLS Central Intake Staff. KLS further stated in its comments that to better document this process a field will be added to LegalTrek, the KLS case management system, to be checked by intake staff to indicate the prospective income inquiry has been made.

Implementation of the changes indicated in KLS' comments will assist in program compliance with the requirements of its own eligibility guidelines, as well as those contained in 45 CFR Part 1611. If LSC revises its interpretation of the portion of the regulation regarding screening of prospective income, programs will be advised.

The Client Eligibility Guidelines provide that an applicant whose income is solely derived from government benefits for low-income persons is financially eligible for legal assistance without an independent determination. The policy states that this applies to "Temporary Assistance for Families, General Assistance, SSI, and such other governmental program for low-income individuals or families as the KLS Board of Directors may determine have income standards at or below 125% of the Federal Poverty Guidelines." Guidance was also provided in intake materials provided in advance of the visit. A number of such cases were reviewed; a few incorrectly applied the substitution of asset test.

All sampled cases reviewed evidenced that the applicants were screened for income eligibility. Sampled case files reviewed for applicants whose income exceeded 125% of the FPG evidenced that the applicant had authorized exceptions pursuant to KLS' over-income authorized exceptions, and the exceptions were identified in the LegalTrek ACMS and reviewed by an attorney. Interviews with staff indicated that KLS maintains numerous other grants and contracts which allow the program to provide services to persons whose income exceeds 125% of the FPG. Other grants and contracts, such as those from Area Agency on Aging funds, do not require eligibility screening, though staff will obtain the information if the applicant does not object. Staff is responsible for correctly screening applicants but the Grant Administrator determines whether cases are reported to LSC.

Sampled cases evidenced that KLS is in substantial compliance with 45 CFR § 1611.4, CSR Handbook (2001 Ed.), ¶ 5.3, CSR Handbook (2008 Ed.), § 5.3, and applicable LSC instructions for clients whose income does not exceed 125% of the FPG.

Finding 4: KLS is in non-compliance with 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.), § 5.4. (Asset eligibility documentation).

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.⁴ *See* CSR Handbook (2001 Ed.), ¶ 5.4 and CSR Handbook (2008), § 5.4.

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

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

The Client Eligibility Guidelines approved by the KLS Board of Directors on January 20, 2006 establishes the liquid asset ceiling at \$3,000 plus one-twelfth of the 125% annual poverty level income for the household size. These amounts are set forth in the annual income and asset guidelines. *See* 2008 Income and Asset Eligibility Guidelines in attached to The Client Eligibility Guidelines in the briefing book. Exempt from consideration are assets determined to be life sustaining as defined by the Social Security Administration under Title XVI of the Social Security Act. Specifically, those assets are furnishings, equipment and supplies, including food, fuel and clothing, for the person which is in the person's present possession and is reasonably necessary at the principal residence of the person for a period of one year; ornaments of the person, including jewelry, having a re-sale value not to exceed \$1,000; one means of conveyance regularly used for the transportation of the person or for transportation to and from the person's regular place of work, except that the value limitation specified in this subsection shall not apply when the means of conveyance is a vehicle designed or equipped, or both, for disabled persons; a burial plot or crypt or any cemetery lot exempt from process; books, documents, furniture, instruments, tools, implements and equipment, the breeding stock, seed grain or growing plant stock, or other tangible means of production regularly and reasonably necessary in carrying on the person's profession, trade, business, or occupation in an aggregate re-sale value not to exceed \$7,500; and cash or commodities assistance received pursuant to any public disaster relief or program. For farmers, the policy sets forth two additional exemptions, a Farm Land Equity Exemption and Farm Equipment Tools of Trade. If a member of the household is disabled, additional assets necessary to sustain life and promote accessibility are exempted. If a member of the household is institutionalized, all assets of the household necessary to maintain an individual in an institution shall be excluded. For elderly individuals, the corpus of any IRA, Keogh, annuity, or pension plan shall be excluded. The policy also states that other assets are considered against the asset ceiling if they are real and available and there are no impediments to

⁴ 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.

an individual's access to such assets. Specifically, if an applicant is a victim of domestic violence, only income and assets of the applicant and members of the applicant's household other than the alleged perpetrator shall be considered; assets jointly held with an alleged perpetrator shall not be included when determining financial eligibility. Finally, the policy states that the KLS Board of Directors has determined that eligibility under Temporary Assistance for Families, General Assistance, Food Stamps and Medicaid have asset guidelines below those of KLS and a notation of receipt of such may be substituted for the recording of the total value of assets.

A few issues were identified with respect to screening for assets. It was noted that the vehicle asset exemption, as stated in the Board approved policy, refers to a "value limitation" but does not state the limitation. It was noted during interviews and intake observation that staff exempts one vehicle for each employed household member plus one vehicle for any additional member of the household. In addition, specially designed or equipped vehicles for a disabled household member are excluded. The CI supervisor stated, and later confirmed by the Grant Administrator in Topeka, that there is no value limitation to the exemption. The CI supervisor stated that in the past the exemption was limited but that when the policy was revised the words "value limitation." were not removed as they should have been. KLS should review its policy to determine if it is the Board's intent to remove the value limitation to exempt vehicles. If so, the policy should be revised.

Sampled case files reviewed revealed that KLS inaccurately applies the provision allowing staff to substitute a notation of receipt of a means-tested government benefit for a total asset screening. The regulation permits such substitution for income, if the applicant's income is derived solely from the government benefit, and for assets, if the applicant is a recipient of any one of the government benefits. Accordingly, if the applicant's household income is composed of additional sources of income, and if the applicant is applying for a means-tested benefit (not a recipient of a benefit), the staff must conduct an independent determination of income and assets. If an applicant receives one of the above-mentioned sources of public benefits, the program's practice is to check a "Public Benefits" box in the asset section of the LegalTrek eligibility screen.

Sampled case files reviewed revealed 17 files in which staff inaccurately applied the above-mentioned substitution of the asset test and the file therefore lacked the screening required by 45 CFR § 1611.6, revised 45 CFR §§ 1611.3(c) and (d), CSR Handbook (2001 Ed.), ¶ 5.4, and CSR Handbook (2008 Ed.) § 5.4.⁵ Several patterns were identified 1) the applicant was applying for and not receiving benefits, 2) the public benefit was not specified, or 3) the only benefit documented was a medical card. Six such cases were identified as the cases were predominantly screened by the Central Intake Unit. The review revealed that at least six such cases were reported to LSC in 2007. KLS must exclude incorrectly screened cases from its 2008 submittal. For cases in which the applicant was applying for benefits at the time of intake, *see* open Case Nos. 06-09-44327ci, 07-08-00195 and closed 2007 Case No. 06-08-00841. In cases in which the public benefit was not specified, *see* open Case Nos. 08-09-12802ci, 07-08-00055 and closed 2007 Case

⁵ The revised 45 CFR § 1611.2 defines assets as meaning cash or other resources of the applicant or members of the household that are readily convertible to cash, which are currently and actually available to an applicant. Accordingly, the terms "liquid" and "non-liquid" have been eliminated.

No. 04-08-01728. For cases in which the medical card was the only benefit notated, *see* closed 2007 Case Nos. 06-08-26495ci and 07-08-31074ci.⁶ Finally, in 6 instances case file review revealed KLS did not make an asset determination. *See* closed 2008 Case Nos. 08-09-15543ci, 08-04-00549, 08-07-02006, 08-09-11852ci, 07-09-50637ci and 07-09-23137ci. These cases, and others missing an asset determination, cannot be included in CSR data.

Comments to the DR stated that KLS' Client Eligibility Guidelines will be revised to clarify the requirement of a total asset screening unless the applicant's **sole source** of income is from a governmental program for low income individuals or families. (Emphasis in original.) The revised guidelines will be submitted to the KLS Board of Directors at their January 16, 2009 meeting. All staff involved in client intake have been advised of the clarification. The LSC Grant Administrator will review all potential 2008 CSR cases marked Public Benefit Assets where the applicant/household has income from a source other than a governmental program for low income individuals or families to determine if assets can be documented in the file. If the assets cannot be documented these cases will be excluded from the 2008 CSR.

Finding 5: KLS is in non-compliance with 45 CFR Part 1626 (Restrictions on legal assistance to aliens).

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

Prior to 2006, recipients were permitted to provide non-LSC funded legal assistance to an alien who had been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household, or an alien whose child had been battered or subjected to such cruelty.⁷ Although non-LSC funded legal assistance was permitted, such cases could not be included in the recipient's CSR data submission. In January 2006, the Kennedy Amendment was expanded and LSC issued Program Letter 06-2, "Violence Against Women Act 2006 Amendment" (February 21, 2006), which instructs recipients that they may use LSC funds to provide legal assistance to ineligible aliens, or their children, who have been battered, subjected to extreme cruelty, is the victims of sexual

⁶ The Executive Director confirmed that the program's policy does not permit the receipt of the Health Wave medical card as a substitution for a full asset screening.

⁷ *See* Kennedy Amendment at 45 CFR § 1626.4.

assault or trafficking, or who qualify for a “U” visa. LSC recipients are now allowed to include these cases in their CSRs.

KLS is in non-compliance with 45 CFR § 1626.6, as there were 14 files that were not in compliance with the regulation. *See* closed 2008 Case Nos. 07-10-45951, 07-10-00445 and 07-09-52335ci; closed 2007 Case Nos. 07-09-33857, 07-09-25566, 08-09-11012ci, 06-04-033454 and 07-15- 47480ci (each case lacked evidence of a written citizenship attestation). *See* also closed 2007 Case Nos. 06-12-00700, 06-12-00680 and 05-12-00770; open Case Nos. 08-12-00121; *see* open Case Nos. 08-12-00259 and 08-12-00070 (attestations signed by minor).

Comments to the DR did not address this finding.

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

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

The retainer agreement is to be executed when representation commences or as soon thereafter is practical and a copy is to be retained by the recipient. *See* 45 CFR §§ 1611.9(a) and (c). The lack of a retainer does not preclude CSR reporting eligibility.⁸ Cases without a retainer, if otherwise eligible and properly documented, should be reported to LSC.

KLS is in substantial compliance with the requirements of 45 CFR § 1611.9. However, the retainer agreements found in closed 2008 Case Nos. 06-17-35298ci, 07-17-55235ci, 07-17-00421, and 07-17-46556ci lacked a description of the legal services to be provided to the client.

Comments to the DR did not address this finding.

Finding 7: KLS is in compliance with the requirements of 45 CFR Part 1636 (Client identity and statement of facts).

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

⁸ However, a retainer is more than a regulatory requirement. It is also a key document clarifying the expectations and obligations of both client and program, thus assisting in a recipient’s risk management.

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

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

Comments to the DR did not address this finding.

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

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

Prior to the visit, KLS provided LSC with a list of its priorities. The priorities are stated as “basic needs, farm advocacy, domestic relations, consumer and employment rights, domestic violence, and aging clients.”

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

Comments to the DR did not address this finding.

Finding 9: KLS is in non-compliance with CSR Handbook (2001 Ed.), ¶ 5.1 and CSR Handbook (2008 Ed.), § 5.6 (Description of legal assistance provided). There were numerous staff case files reviewed which contained no description of the legal assistance provided.

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

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

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

KLS is not in compliance with CSR Handbook (2001 Ed.), ¶ 5.1(c) and CSR Handbook (2008 Ed.), § 5.6 as there were numerous staff case files reviewed which contained no description of the legal assistance provided.

See closed 2008 Case Nos. 08-09-10795ci, 08-06-20206ci, 08-06-22901ci, 08-17-00091, 07-17-00421, 06-07-01220, 08-07-18043ci, 07-13-34766ci, 08-10-16022ci, 07-10-00630, 07-10-28677ci, 07-08-43945ci, 08-09-15543ci, 08-09-17257ci, 08-09-20503ci, 08-14-10692ci, and open Case Nos. 08-06-00388. *See also* closed 2007 Case Nos. 07-14-00037, 07-09-48979c, 07-09-47446ci, 07-09-23943, 07-09-3731ci, 07-09-22720ci, 07-09-47733ci, 07-09-40152, 07-09-25879ci, 06-08-22431ci, 06-04-03454, and 06-07-01589.

Comments to the DR stated the LSC Grant Administrator utilizes several features within LegalTrek to identify cases that may not contain the appropriate documentation of legal advice or assistance. Cases identified as not containing the necessary documentation of service provided will be excluded from the 2008, as well as any future CSR reports.

KLS further commented that they will use the cases identified by the LSC team as lacking the necessary documentation to provide training and examples to case handlers and database administrators.

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

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

The files reviewed demonstrated that KLS' application of the CSR case closing categories is inconsistent with Section VIII, CSR Handbook (2001 Ed.) and Chapters VIII and IX, CSR Handbook (2008 Ed.).

See closed 2008 Case Nos. 08-13-15506ci (closed with a closing code "counsel and advice" but documents prepared by KLS), 08-10-00101 (closed with closing code "administrative hearing", but KLS did not formally represent client in an official administrative agency hearing), 07-10-00212 (closed with closing code "administrative hearing" but KLS only informally contacted an agency on behalf of the client), 07-03-38323ci (closed with closing code "negotiated settlement with litigation" but the outcome of the case was a court decision), 07-12-0006 and 04-12-02609 (cases closed as a "reject" but both were eligible to be reported to LSC).

Comments to the DR did not address this finding.

Finding 11: KLS is in non-compliance regarding the requirements of CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3 as numerous staff case files reviewed were untimely closed.

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

KLS is not in compliance regarding the requirements of the CSR Handbook (2001 Ed.), ¶ 3.3 and CSR Handbook (2008 Ed.), § 3.3(a) as staff case files were not closed in a timely manner or were dormant.

See Case Nos. 02-13-53230ci (PAI case opened 12/19/02, closed in the file 1/9/04 and administratively closed 5/3/08), 06-13-44177ci (case opened 4/2/07 and closed as brief services on 3/14/08), 07-13-34766ci (case opened 7/12/07 and closed as brief services on 3/14/08) and 06-10-22539ci (case notes indicate the PAI case opened 5/4/06, the compensated PAI attorney obtained a divorce decree in May 2006, and the case was closed 1/8/08). *See also* Case Nos. 05-09-15693ci (which was opened 5/13/05 and remains open) and 06-07-00357 (which was opened 6/30/05 and remains open), both cases are dormant.

Comments to the DR stated that each field office managing attorney and the database administrator have been directed to review all current open cases to ensure that cases in which the activity has ceased in 2008 are closed in LegalTrek by the deadline given by the LSC Grant Administrator. Further comments stated that KLS utilizes two closed/advised dates within

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

LegalTrek, the Administrative Closed/Advised Date and the LSC Closed/Advised Date. If during the review it is determined that the case activity ceased prior to January 2008, the Administrative Closed/Advised Date will reflect the current date as the date the case is being closed in LegalTrek and the LSC Closed/Advised Date will reflect the date the case activity actually closed. CSR submission is based on the LSC Closed/Advised Date.

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

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

When a recipient provides 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.

Through the use its ACMS, 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.

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

Comments to the DR did not address this finding.

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

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

Sampled files reviewed, and interviews with staff indicate, that KLS is not involved in such activity. Discussions with the Executive Director also confirmed that KLS is not involved in these prohibited activities.

Comments to the DR did not address this finding.

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

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

Recipients may provide legal assistance in such cases where the case has been rejected by the local lawyer referral service, or two private attorneys; neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; the client is seeking, Social Security, or Supplemental Security Income benefits; the recipient, after consultation with the private bar, has determined that the type of case is one that private attorneys in the area ordinarily do not accept, or do not accept without pre-payment of a fee; the Executive Director has determined that referral is not possible either because documented attempts to refer similar cases in the past have been futile, emergency circumstances compel immediate action, or recovery of damages is not the principal object of the client's case and substantial attorneys' fees are not likely. *See* 45 CFR §§ 1609.3(a) and 1609.3(b).

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

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

Comments to the DR did not address this finding.

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

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

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

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

such funds subsidize restricted activities, and whether the recipient is legally, physically, and financially separate from such organization.

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

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

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

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

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

From a limited review of the general ledger, cash receipts, cash disbursements for the period January 1, 2006 through May 31, 2008, observations of the physical locations of all offices by LSC team members, and from interviews with staff and management, KLS does not appear to be engaged in any restricted activity which would present 45 CFR Part 1610 compliance issues. The review of the thank you letter to donors (Program Letter 96-3) for 2006, 2007, and 2008 shows that KLS conforms to the requirements of Section 1610.5(a) which mandates that donors of over \$250 should be notified of the prohibitions and conditions which apply to the funds.

KLS provided a list of donations over \$1,000 in 2007 where each of the donors received program letter 96-3.

A review of KLS' accounting and financial records indicate compliance with 45 CFR Part 1610.

Comments to the DR did not address this finding.

Finding 16: KLS is in non-compliance with 45 CFR § 1614.3(d)(3) which requires oversight and follow-up of the PAI cases.

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

Activities undertaken by the recipient to involve private attorneys in the delivery of legal assistance to eligible clients must include the direct delivery of legal assistance to eligible clients. The regulation contemplates a range of activities, and recipients are encouraged to assure that the market value of PAI activities substantially exceed the direct and indirect costs allocated to the PAI requirement. The precise activities undertaken by the recipient to ensure private attorney involvement are, however, to be determined by the recipient, taking into account certain factors. *See* 45 CFR §§ 1614.3(a), (b), (c), and (e)(3). The regulations, at 45 CFR § 1614.3(e)(2), require that the support and expenses relating to the PAI effort must be reported separately in the recipient's year-end audit. The term "private attorney" is defined as an attorney who is not a staff attorney. *See* 45 CFR § 1614.1(d). Further, 45 CFR § 1614.3(d)(3) requires programs to implement case oversight and follow-up procedures to ensure the timely disposition of cases to achieve, if possible, the results desired by the client and the efficient and economical utilization of resources.

KLS has developed a Private Attorney Involvement Plan for 2008 and involves private attorneys through a retainer contract program where the participating attorneys charge an hourly rate of \$60; the clerical support is charged at \$20 per hour. KLS provided a detailed list of retainer contract payments KLS made to the attorneys participating in the plan, for the years 2006, 2007, and 2008. Two organizations on the list, Douglas County Legal Aid Society and University of Kansas School of Law, have the propensity to exceed \$25K annually but their performance is watched by the Grant Administrator. At the time of this review, KLS was in compliance with 45 CFR § 1627.2(b)(1) which requires LSC approval of payments made to attorneys in excess of \$25,000.00.

The review disclosed that KLS correctly allocates the salaries of attorneys and paralegals on actual time based on the timekeeping records in compliance with the requirement of 45 CFR § 1614.3(e)(1)(i). Several costs allocated to PAI were reviewed and were found to be related to PAI activities, in compliance with 45 CFR § 1614.3(e) and indirect costs were tested and found to be allocated on the basis of reasonable operating data.

Pursuant to 45 CFR § 1614.3(d)(3), LSC recipients are required to have case oversight and follow-up procedures to ensure the timely disposition of cases to achieve the efficient and economical utilization of resources and to achieve the client's desired results.

Manhattan

Staff interviews revealed Manhattan field office uses only *pro bono* attorneys for PAI cases. In general, the few PAI cases the field office refers are divorces or other family law matters. Both the Managing Attorney and Managing Secretary indicated they had PAI referral and oversight responsibilities. Manhattan staff noted that the PAI process was the same as for staff cases and that they obtained citizenship attestations prior to referring cases. In reference to oversight, staff indicated that there is “no set process yet”. In addition, it was noted that there is a PAI attorney closing form.

Salina

Staff in the Salina field office stated that they use both *pro bono* attorneys and contract attorneys. Staff noted that they sometimes use PAI attorneys for conflict cases. There is currently one open PAI case in the Salina field office. Staff noted that there is no PAI Manual and “no set time” for follow-up regarding PAI referrals. According to staff, intake is performed in the same manner as staff cases. The field office does not participate in PAI clinics.

Salina staff indicated that SSI conflicts were sometimes referred to Midland Professional Associates, Inc. (“MPA”).¹⁰

Seneca

According to staff, the Seneca field office uses both *bono* attorneys and contract attorneys. The Managing Attorney will decide how which PAI cases will go to which PAI attorneys. The Seneca field office will sometimes refer its conflict cases to a PAI attorney. In reference to follow-up and oversight, the Managing Attorney will contact the client by telephone and the Managing Secretary is responsible for obtaining all client paperwork. According to staff interviews, the PAI intake process is the same as the intake process for staff cases. Staff noted that although there is no “official PAI procedure”, they will call the PAI attorney every 6 months “to see how the case is going”. According to staff, a PAI attorney will send a bill and a closing sheet when a case is closed. PAI attorneys will also often send a copy of a court order, if obtained.

The Seneca Managing Attorney noted that field offices decisions regarding PAI cases are reliant on a KLS policy document termed “Goals and Objectives”. For example, the Seneca Managing Attorney makes PAI referral decisions based on whether or not a case is a conflict and whether the field office has the staff or financial resources to take the case on itself. He indicated that the Seneca field office has the funding for approximately two to four PAI cases a year.

¹⁰ KLS staff termed MPA as a “sister” company owned by Roger McCollister, former KLS Executive Director. MPA is a fee-based law firm not subject to LSC restrictions.

As the review of these offices revealed no formal referral and oversight procedures for their PAI components, they are not in compliance with 45 CFR § 1614.3(d)(3). KLS must develop standard PAI policies and procedures, including referral and oversight, for use program-wide.

Wichita, Topeka, Emporia, Pittsburg, Hutchinson and Kansas City Offices

The Wichita, Emporia, Pittsburg, Hutchinson, Topeka and Kansas City offices operate pro bono, reduced fee and retainer components for its private attorney involvement program. Although it should be noted that KLS does not count the reduced fee component program in meeting its 12.5 % LSC PAI requirement.

The PAI eligibility screening process is the same as it is for staff cases in all three PAI components for each of the offices visited. Applicants for service are typically screened for eligibility through the Centralized Intake Unit (CI). The CI Unit Manager, along with the Managing Attorneys and managing secretaries assist in determining which cases are appropriate for referral to the PAI components. Review of sampled case files as well as interviews with staff indicated that many of the cases referred for pro bono placement include protection from abuse cases in which private attorneys assist clients in obtaining final orders. Retainer cases, which included cases in which the fee for legal services is paid to the private attorney by KLS rather than the client, include simple domestic cases such as uncontested divorces. In addition, retainer contract cases are used to supplement the work of staff and alleviate the circuit riding burden and expense in sparsely populated rural counties. Recruitment of attorneys to the pro bono and retainer components is done mostly by the Executive Director and Managing Attorneys in conjunction with the Kansas Bar Association (“KBA”) through brochures and recruitment articles published in KBA publications.

After a case has been determined appropriate for referral to pro bono or retainer placement, the managing secretaries and clerical staff in each office are responsible for trying to locate an attorney willing to take the case. After an attorney has been identified, a letter is sent to the client advising them that their case has been referred to a private attorney for assistance along with the attorney’s contact information. The client is also provided with a copy of the KLS Pro Bono Participation Agreement for pro bono referrals or a Disclosure Statement for retainer cases to complete and return to KLS. For pro bono cases, the attorney is forwarded a letter that includes a copy of the Pro Bono Participation Agreement signed by the client, a Pro Bono Referral Form and any other documents relevant to the client’s case. For retainer cases, a Uniform Case Referral and Billing Form is forwarded to the attorney. The Pro Bono Referral Form and the Uniform Case Referral and Billing Form also serve as the case disposition forms at case closure and both includes separate statements for clients to attest to U.S. citizenship. The billing statements are forwarded to the Administrative office in Topeka for payment processing. Court documents relevant to the cases are only requested by KLS staff if the client in the case is the petitioner and not the respondent in order to satisfy the Client Statement of Facts requirements.

None of the noted KLS offices visited maintain standardized procedures for oversight and follow-up of its PAI cases. Most of the offices provide informal periodic follow-up of referred cases through emails or phone calls to attorneys, with the exception of the Pittsburg office which

forwards letters to attorneys if a case appears to be dormant. Review of cases indicates that the cases were closed in a timely manner and the open cases were not dormant. However, review of PAI cases in the Topeka office indicated a lack of oversight and follow-up after the cases were referred to pro bono attorneys for assistance. *See* closed 2007 Case Nos. 06-07-36280ci (The pro bono divorce case was opened 10/2/06 and closed on 7/3/07. The case file does not evidence any follow-up after the referral.), 04-07-47226ci (The bankruptcy case was opened on 8/1/05 and closed on 2/12/07. The case file does not evidence any follow-up after the referral.), 06-07-01589 (The home ownership case was opened on 12/12/06 and closed 10/5/07. The case file does not evidence any follow-up after the referral. In addition, the file does not contain evidence of the legal work provided.), 06-07-00506 (The protection from abuse case was opened on 3/22/06 and closed on 7/26/07. The case file did not evidence any follow-up after the referral), 05-07-38330ci (The divorce case was opened 12/20/06 and closed 2/14/07. The case file did not evidence any follow-up after the case was referred) and 06-07-11618ci (The case was opened on 1/27/06 and closed on 8/14/07. The case file did not evidence any follow-up after the referral.)

During the review, KLS provided time staff spend on PAI activities as part its PAI 12.5% requirement. It was noted during the review of the non-attorney staff time that Managing Secretaries and other administrative staff are likely not reporting all their PAI activities. Casehandlers are required to keep their time in the LegalTrek, however non-casehandlers report their time at the end of the year.

Comments to the DR stated that the KLS Retainer Contract Procedural Manual will be expanded to include pro bono components of the PAI plan. The comments indicated that the Manual updates will be completed by March 31, 2009. The comments further stated that oversight and follow up of referred cases will be discussed at an upcoming staff teleconference and that the requirements were also discussed at a recent meeting of field office managers.

Reduced Fee Program

All KLS offices operate Reduced Fee Programs (“RFP”). The program is intended for applicants whose income falls between 125% and 250% of the FPG and whose cases are outside of the KLS priorities or program resources are not available to allow staff to handle the case. In addition, applicants whose cases are determined to be conflicts are referred to the RFP. The RFP is conducted through in-house staff assistance as well as referral to private attorneys. Applicants who qualify for the RFP are referred to the respective office Managing Secretary who explains how the program works as well as the fee requirements. Cases typically referred to the reduced fee panel include paternity with contested custody, divorce with contested custody, contested divorce without custody, post divorce with custody, post paternity with contested custody, misdemeanors, 1st Driving Under the Influence, 2nd Driving Under the Influence, Protection From Abuse Defense, Wills, Emancipation and Probate Wills. Clients whose income is up to 150% of the FPG are generally charged at a rate of \$70.00 per hour and clients whose income falls between 151% and 250% of the FPG are charged \$80.00 per hour. The hourly rates can vary by office depending on the prevailing market rate charged by private attorneys in the local service area. The client is given an estimate of the number of hours to be spent on the case

depending on the case type. The estimated number of hours to be spent on a case varies by office. For example, in the Wichita office a paternity with contested custody is estimated to take 7 hours to complete. At a rate of \$70.00 per hour the attorney fee is \$490.00. In Hutchinson, the same case is estimated to take 6 hours at \$80.00 per hour for a fee of \$440.00. In addition, in some cases, a filing fee is required. KLS also charges a non-refundable administrative fee of 10% of the cost of the attorney fee. An attorney is not assigned to the client until all fees have been paid to KLS. The payments received are placed in a client trust account. Once all payments have been received, the client is forwarded a letter along with a Participation Agreement and advised to sign and return the agreement. The Agreement also contains an attestation of U.S. citizenship. The client is advised that an attorney will be assigned to them upon return of the signed Agreement. Both the in-house staff and PAI Reduced Fee cases are coded as Reduced Fee, Project Code 19 in the Legal Trek ACMS.

Additionally, per instruction from LSC as a result of the 1999 CSR/CMS on-site review, KLS does not report RFP cases as part of its 12.5% PAI requirement. In addition, a review of time spent on PAI activities during a review of time allocations in the ACMS with the Executive Director indicated that time spent on RFP cases is not allocated to the LSC grant. However, it was noted during a sample review of RFP in-house and referred cases that the client's income was in some instances between 125% and 200% of income and the client's problems were within the established priorities handled by staff for free. *See* closed 2008 Case No. 06-09-16864ci, (The case was a Reduced Fee In-House divorce with abuse case pending at the time of the review. The client's income was 168% of the FPG).

See also closed 2008 Case Nos. 07-09-49396ci (The case was a Reduced Fee In-House divorce case opened 10/19/07 and closed 7/18/08. The client's income was 143.5% of the FPG), 08-09-15440ci (The Reduced Fee In-House Minor Guardianship case was opened 4/23/08 and closed 5/30/08. The client's income was 98.5% of the FPG), 07-09-60358 (The case was a Reduced Fee In-House divorce with custody case opened 11/5/07 and closed 5/30/08. The client's income was 132% of the FPG) and 08-09-19273ci (The case was a Reduced Fee Referral divorce with custody case pending at the time of the review. The client's income was 126% of the FPG).¹¹

Douglas County Legal Aid Society and Kansas School of Law School Clinics

KLS maintains two annual contracts with local law school clinics to provide legal services to clients residing in Douglas County. Services are provided by law school professors who are assisted by third year law school student interns.

The cases are referred to the law schools after being screened for eligibility by the KLS CI unit. The types of cases referred depend on the staffing availability at the law schools each semester. For example, one semester the law school may request collection, housing and family law case referrals. During another semester they may request only collection and housing. CI unit staff is

¹¹ During an interview with the Executive Director, she indicated that in many cases, referral to the RFP depends on the available funding in each of the offices. Staff has been advised to refer clients to the RFP when funding sources become depleted. LSC requests that KLS' governing body pay close attention to the activities of the Reduced Fee Program. Further, due to the complexity of the Reduced Fee Program, LSC will conduct in the near future a review of this special project.

advised at the beginning of the semester which case types and income level applicants to refer to the law school. The intakes are faxed by the CI staff to the law school that makes the determination of which cases to accept for legal assistance. A copy of the intake computer record is also exported to the Database Administrator who works from the Administrative office in Topeka. Consequently, the cases are coded as Administrative cases in the Legal Trek ACMS. The Database Administrator is responsible for the oversight and follow-up of all the pending law school clinic cases.¹² Cases that are not accepted for service by the law school clinics are referred back to the CI for placement of assistance by Topeka office staff or the application is closed as a matter.

When the clients meet with the attorneys at the law school, the client completes the law school's intake form and a separate citizenship attestation form. The citizenship statement however, does not include a line for the client to date the form. The client also signs a Disclosure Statement in which the client agrees to representation by a third year legal intern acting under the supervision of an attorney authorized to practice in the State of Kansas pursuant to Rule 709 of the Rules of the Kansas Supreme Court. At the completion of the case, the attorney forwards the KLS Uniform Case Referral and Billing Form to the Database Administrator for payment approval. The billing form provides information regarding the case disposition and legal advice provided. In addition, the contracts with the law schools provide that attorneys be paid at a rate of \$60.00 per hour for their services and \$20.00 per hour for secretarial services. The contract also contains a provision that provides \$200.00 to the attorney for merely signing the contract, regardless of placement with a client for services. Court documents related to the cases are not required unless the client in the case is the petitioner. However, the Database Administrator advised, and review of case files indicated, that no follow-up and oversight of the cases is conducted after the cases are referred to the law school clinics in non-compliance with 45 CFR §1614.3(d)(3). *See* closed 2007 Case Nos. 07-15-00065 (The case was referred to the law school clinic 12/27/05 and closed 2/6/07 as a court decision), 06-15-41424ci (The case was referred on 10/26/06 and closed 1/25/07 as negotiated settlement without litigation), 06-15-30844ci (The case was referred on 9/22/06 and closed 6/13/07 as a court decision), 05-15-33945ci (The case was referred on 11/4/05 and closed on 5/22/07 as court decision), 06-15-39207 (The case was referred on 10/31/06 and closed 1/25/07 as brief service), 06-15-38288ci (The case was referred on 10/26/06 and closed as court decision), 06-15-31078ci (The case was referred on 6/19/06 and closed 4/21/07 as a court decision), 06-15-32754 (The case was referred on 8/10/06 and closed on 3/8/07 as client withdrew), 06-15-36328 (The file was referred on 9/22/06 and closed 10/4/07), 06-15-43555 (The case was referred on 11/8/06 and closed on 2/6/06), and 06-15-28964 (The case was referred on 7/5/06 and closed on 1/29/07). None of the sampled cases reviewed from the law school clinic documented oversight after the referral.

Elder Law Hotline

¹² The database administrator advised that her function of follow-up and oversight of the referred law school clinic cases will be transferred to staff in the Topeka field office.

KLS receives AAA funding to provide services to clients in the service area who are over 60 years of age. As part of its funding component, KLS maintains an Elder Law Hotline in which clients call a toll-free line and are screened by the Central Intake unit staff. The clients are being given legal advice and assistance by private attorneys. Consequently, the cases are included as part of the KLS PAI component.

After being screened, clients are transferred directly by phone to private attorneys who are linked into the KLS telephone system working from their law offices. One of the intake unit screeners is responsible for developing a monthly schedule for the attorneys to accept the hotline calls. She maintains a list of all the calls that have been referred to the attorneys through the hotline. She emails or faxes the attorneys to obtain information regarding the disposition of the cases. The attorneys email or fax the information to her regarding the legal advice. In most instances the cases are closed as advice and counsel within a few days of the referral. Review of the cases for the Elder Law Hotline indicated that information that is documented with regard to the advice given to the clients is inadequate. In some of the files the advice states that legal advice was provided with regard to the legal problem. *See* Closed 2007 Case Nos. 07-09-47446ci, 07-09-23843, 07-09-20715ci, 07-09-37318ci, 07-09-22720ci (The noted Elder Law cases did not contain adequate documentation of legal advice). As such, the noted cases and those similar to them are not LSC reportable.

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

LSC regulations at 45 CFR § 1627.4(a) require that:

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

The review of accounting records and detailed general ledger for the calendar year ending 2005 through December 31, 2007 disclosed that KLS is in compliance with 45 CFR § 1627.4(a).

Comments to the DR did not address this finding.

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

The timekeeping requirement, 45 CFR Part 1635 is intended to improve accountability for the use of all funds of a recipient by assuring that allocations of expenditures of LSC funds pursuant to 45 CFR Part 1630 are supported by accurate and contemporaneous records of the cases, matters, and supporting activities for which the funds have been expended; enhancing the ability

of the recipient to determine the cost of specific functions; and increasing the information available to LSC for assuring recipient compliance with Federal law and LSC rules and regulations. *See* 45 CFR § 1635.1.

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

The review of 15 advocates' timekeeping records for the review period disclosed that the records are electronically recorded, and contemporaneously kept, recording the time spent on each case, matter or supporting activity, and in substantial compliance with 45 CFR §1635.3(b)(c).

Comments to the DR did not address this finding.

Finding 19: Review of KLS' retainer contracts with private attorneys revealed that KLS pays an advance sign-on payment of \$200.00 regardless of whether the attorney subsequently handles reduced fee cases for the program or not. These payments are inconsistent with the requirements of 45 CFR Parts 1614, 1627 and 1630. The practice of paying a \$200.00 sign-on bonus to private attorneys must cease with LSC funds. The advance payments are improperly counted towards the PAI requirement.

KLS signs annual contracts with private attorneys to accept cases referred by KLS within a designated area and makes an advance payment for contract signing to the private attorney. The advance payment (\$200.00) is considered "earned" by the contract attorney upon signing the contract and may be kept without further obligation to KLS.¹³ Upon request, the Executive Director provided a list of contract attorneys who, for the years 2006, 2007 and 2008, had accepted the advance payment without subsequently performing any work on behalf of KLS.¹⁴

¹³ Retainer contracts between KLS and private attorneys for the years 2006, 2007, and 2008 were reviewed. For the review period, a total of 139 PAI invoices, all supported by a retainer contract, were reviewed.

¹⁴ For 2006-2007, a total of \$3,600 in advance payments was paid to private attorneys. KLS is required to credit the LSC account in the amount of \$3,600 using non-LSC funds. For 2008 advance payments, KLS was requested to provide an accounting of all advance payments made to private attorneys in calendar year 2008 with its response to the Draft Report

Furthermore, KLS counts the \$200 advance payments toward its 12.5% PAI requirement.

LSC regulations require recipients to accurately identify and account for payments to private attorneys for support or direct client services rendered. This section requires bills and/or invoices from private attorneys to be submitted *before* payments are made. [Emphasis added]. See 45 CFR § 1614.3(e)(1)(ii). Hence, the advance payment to private attorneys is not permissible under § 1614.3(e)(1)(ii).

45 CFR § 1630.5 sets the standards governing allowability of costs under Corporation grants or contracts. KLS' advance payment with LSC funds to private attorneys without the private attorneys having performed any work for an eligible client or the requirement that the private attorney perform any work at all for an eligible client is not reasonable and necessary for the performance of the grant and is not in compliance with applicable appropriations law and Corporation regulations.

Finally, 45 CFR § 1627.5 prohibits any contributions or gifts of Corporation funds to another organization or individual. KLS' advance payments to private attorneys using LSC funds without the private attorney having first rendered legal assistance to an eligible client or without the requirement that the private attorney perform work at all for an eligible client constitutes a gift of LSC funds, which is prohibited by 45 CFR § 1627.5. Hence, KLS must cease its practice of advance payments to private attorneys with LSC funds and counting such payments towards meeting its 12.5% PAI requirement.

Comments to the DR stated that any \$200 payments made at the time of signing 2008 contracts and not deducted from client billings submitted by the attorney will be excluded from the 2008 PAI calculation. Language in the 2009 Retainer Contract has been changed to indicate that the \$200 paid at the time of signing will be deducted from the first client billing submitted by the attorney.

Finding 20: KLS' 2007 and 2008 subgrant agreements with the Kansas Bar Foundation ("KBF") are in compliance with the requirements of 45 CFR Part 1627. KLS must take the KBF off the automatic payment module and review the KBF's quarterly invoices to ensure that the expenses are accurate and appropriate *before* issuing payment, as required by 45 CFR § 1627.3(c).

For the years 2007 and 2008, KLS had a sub grant agreement with the Kansas Bar Foundation. The stated purpose of the agreement is "to provide for the implementation of a statewide Pro Bono program and other PAI coordination."¹⁵

The total amount of funds transferred to the KBF is \$46,000 per year.

During the on-site review, KLS provided quarterly activity reports and invoices from the KBF covering the period of January 1, 2007 through June 30, 2008. A total of six activity

¹⁵ KLS Subgrant Agreement Form, pg. 1

reports/invoices were reviewed for this time period. The review revealed the KBF is using boilerplate language in all six activity reports. Also, the invoice amounts are identical which seems to indicate that the total amount of \$46,000 for the contract year has simply been divided into four equal payments.

Further, KLS issues payment to the KBF, before they receive the quarterly activity reports/invoices from the KBF. The KBF is on an automatic payment module and is sent payment before KLS can verify the accuracy of the quarterly activity reports and invoices.

45 CFR § 1627.3 (c) states in part that “recipients shall be responsible for ensuring that sub recipients comply with the financial and audit provisions of the Corporation. The recipient is responsible for ensuring the proper expenditure, accounting for, and audit of delegated funds”.

Comments to the DR stated that, prior to 2008, the subgrant was between KLS and the Kansas Bar Foundation (“KBF”). Beginning with the 2007-2008 the subgrant is now between KLS and the Kansas Bar Association (“KBA”). The quarterly payment to the KBA was removed from the automatic payment module beginning with the payment made for the period ending September 30, 2008. The payment is now generated upon receipt and review of the quarterly report and billing provided by KBA.

Finding 21: A limited review of the General Ledger sub account “Miscellaneous Expenses – Administration” for the years 2006, 2007, and 2008 revealed that a substantial number of payments lacked either adequate supporting documentation or did not meet the standards governing allowability of costs as outlined in 45 CFR § 1630.3.

LSC regulations at, 45 CFR § 1630.2(g)(2)(3), defines questioned costs as costs charged by a recipient to Corporation funds which the Corporation has questioned because the cost is not supported by adequate documentation or the cost incurred appears to be unnecessary or unreasonable and does not reflect the actions that a prudent person would take in the circumstances.

In addition, 45 CFR § 1630.3 states in part that expenditures by a recipient are allowable under the recipient’s grant or contract only if the recipient can demonstrate that the cost is the type generally recognized as ordinary and reasonable for the operation of the recipient.

The chart below details payments made utilizing LSC funds which do not conform to the requirements of LSC regulations.

2006	\$ Amount	Description	KLS Comments
	942.33	Two identical HP desktop PCs were purchased, each costing \$942.33. Adequate documentation was available only for one of the two PCs purchased.	The documentation for the second PC has been obtained from the vendor and a copy is attached.
	35.00	The program exceeded its credit limit on one of their credit cards and an "over limit fee" of \$35.00 was assessed.	A "last minute" airline ticket needed to be purchased in order for an attorney to attend a rescheduled Social Security hearing that had been moved out of state. The credit card used was the only one available at the time. The "over limit fee" should have been charged to KHPA, not LSC. A correcting entry will be made in 2008.
	670.00	Three months of temporary housing in Topeka for the ED were paid with LSC funds when this expense was neither supported by a Board resolution nor by a policy in the Personnel Manual.	Marilyn Harp was appointed Interim ED by the KLS Board of Directors in September 2006. During this time she continued to serve as Managing Attorney in the Wichita office. During this time, Ms. Harp was working in Topeka at least 3 days per week. Pursuant to KLS policy, she would have been eligible to request reimbursement for hotel and per diem during this period. It would be reasonable to expect to pay \$80 per night for a hotel during this time. Per diem is paid at a rate of \$25 per day. Based on this information, KLS could have incurred approximately \$3,780 during this period. We feel the decision to pay this portion Ms. Harp's temporary housing was a very prudent business decision.
	2.37	Late payment fee - UPS	A correcting entry will be made in 2008 to charge this expense to the Social Security and credit LSC.
	64.47	The documentation stated: "open lock(s)" and "repin" but failed to specify which door had to be unlocked.	The documentation was reviewed and the field office involved was contacted. It was determined a private office within the office was locked by a new employee. Once this occurred

			they realized they had no key to this door. While the locksmith was on-site to open the door it was decided to have the lock keyed to the office entrance key. We feel this was a legitimate expense to LSC.
Total Amount	1,714.17		

2007	\$ Amount	Description	KLS Comments
	624.00	Commercial Now Account – insufficient funds charge	This charge was incurred due to the delay in the receipt of Access to Justice funds. A correcting entry will be made in 2008 to charge this funding source and credit LSC.
	528.64	Interest on line of credit	The need to implement the line of credit was due to delay in the receipt of Access to Justice funds. A correcting entry will be made in 2008 to this funding source and credit LSC.
	504.00	Columbian Bank & Trust – overdraft fees	This charge was reversed by Columbian Bank on 11/29/2008. ¹⁶ Documentation is attached. Beginning immediately these charges and reversals will no longer be shown as LSC.
	192.00	Columbian Bank & Trust – overdraft fees	This charge was reversed by Columbian Bank on 12/14/2008. ¹⁷ Documentation is attached. Beginning immediately these charges and reversals will no longer be shown as LSC.
	912.00	Commercial Now Account – overdraft fees	This charge was reversed by Columbian Bank on 12/14/2008. ¹⁸ Documentation is attached. Beginning immediately these charges and reversals will no longer be shown as

¹⁶ Columbian Bank statement, pg. 5, indicates the correct date is 11/29/07.

¹⁷ Columbian Bank statement, pg. 5, indicates the correct date is 11/30/07.

¹⁸ Columbian Bank statement, pg. 3, indicates the correct date is 12/14/07.

			LSC.
Total Amount	2,760.64		

2008	\$ Amount	Description	KLS Comments
	\$132.68 \$218.22 \$254.05 \$272.06	The Kansas Bar Association Reduced Fee Program (“RFP”) provides attorneys at a reduced cost to qualified low income people on certain types of cases. The RFP is administered by each of KLS’ local offices. Applicants who qualify for the RFP are charged a fee—which may be paid with a credit card. In order for KLS to be able to accept payments by credit card, they must access a “point of sale” terminal to process card transactions. KLS pays a monthly fee to access the terminal.	While KLS does accept credit card payments for RFP cases, credit cards are also used by non-RFP clients to pay court filing fees, publication fees and other case related costs. At this time, rather than attempting to determine the non-RFP related expenses, KLS will make a correcting entry to charge this expense to the RFP.

Because these expenditures were charged to the LSC account, it is necessary that the payment records meet the documentation requirements of the LSC Accounting Guide at Chapter 3, Paragraph 5.4. In addition, the LSC regulations, noted above, require KLS to demonstrate that the expenses listed above as “Miscellaneous Expenses” for the years 2006, 2007 and 2008 (1) are necessary and reasonable and (2) reflect the actions that a prudent person would take in the circumstances. In its comments to the Draft Report, KLS must provide such explanations for each of the payments noted above, and if no explanation is provided, KLS must provide evidence that the charges have been removed from the LSC account and charged to a non LSC funder.

In its comments to the DR, included in the chart above, KLS provided appropriate responses to the questions raised regarding miscellaneous expenses.

Finding 22: The review of the Accounting Manual disclosed that it is outdated and in need of revision.

The Accounting Manual was last updated in 2002. The program has integrated its accounting system (Great Plains) with its Case Management System (LegalTrek) over the course of the last 3 years and the Accounting Manual no longer accurately reflects the new accounting processes and policies. The Accounting Manual should be updated not only to accurately reflect the new processes and policies, but it needs to also be brought into compliance with the LSC Accounting Guide for LSC Recipients.

Comments to the DR stated that the KLS Accounting Manual will be updated to reflect the new accounting policies and processes that have been implemented over the last three years. The project is expected to be completed by July 1, 2009.

Finding 23: Bank reconciliations for April, May, and June 2008 were reviewed and were found to be performed timely and accurately.

Bank reconciliations for the operating account were reviewed for the months of April, May, and June 2008 and were found to be performed timely and accurately as required by the LSC Accounting Guide for LSC Recipients.

Comments to the DR did not address this finding.

Finding 24: Although KLS has adequate segregation of duties and internal controls, there is room for improvement.

Analysis of the Internal Control Worksheet that the KLS CFO completed on-site revealed that there is room for improvement vis-à-vis the segregation of duties. The individual signing the cash receipts log, preparing the bank deposit ticket, and making the deposit to the bank should not be the same individual who compares the bank-stamped duplicate deposit ticket with the cash receipts log.

Further, bank statements should be delivered unopened to a management official for review prior to the reconciliation – not to the individual performing the bank reconciliation.

Internal control procedures should be revised according to the updated KLS Accounting Manual.

Comments to the DR stated duties have been segregated between the accountant and accountant assistant and clarified in their 2009 job descriptions.

Finding 25: 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).

None of the sampled files reviewed contained a prayer for attorney fees. Discussions with the Executive Director and fiscal review also confirmed that KLS is not involved in this prohibited activity.

Comments to the DR did not address this finding.

Finding 26: Sampled cases complied with the requirements of 45 CFR Part 1612 (Restrictions on lobbying and certain other activities).

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. LSC has also prescribed certain specific recordkeeping requirements and forms for fee-generating cases. The recordkeeping requirements are mandatory. Recipients must either use the forms developed by LSC or other forms approved by its auditor. *See* LSC Memorandum to All Program Directors (December 8, 1997).

None of the sampled files and documents reviewed, including the program's legislative activity reports, evidenced any lobbying or other prohibited activities. Discussions with the Executive Director also confirmed that KLS is not involved in this prohibited activity.

Comments to the DR did not address this finding.

Finding 27: Sampled cases complied with the requirements of 45 CFR Parts 1613 and 1615 (Restrictions on legal assistance with respect to criminal proceedings, and actions attacking criminal convictions).

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

None of the sampled files reviewed involved legal assistance with respect to a criminal proceeding, or a collateral attack in a criminal conviction. Discussions with the Executive Director also confirmed that KLS is not involved in this prohibited activity.

Comments to the DR did not address this finding.

Finding 28: Sampled cases complied with the requirements of 45 CFR Part 1617 (Class actions).

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

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

Comments to the DR did not address this finding.

Finding 29: Sampled cases complied with the requirements of 45 CFR Part 1632 (Redistricting).

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

None of the sampled files reviewed revealed participation in litigation related to redistricting. Discussions with the Executive Director also confirmed that KLS is not involved in this prohibited activity.

Comments to the DR did not address this finding.

Finding 30: Sampled cases complied with the requirements of 45 CFR Part 1633 (Restriction on representation in certain eviction proceedings).

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

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

Comments to the DR did not address this finding.

Finding 31: Sampled cases complied with the requirements of 45 CFR Part 1637 (Representation of Prisoners).

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

None of the sampled files reviewed involved participation in civil litigation, or administrative proceedings, on behalf of an incarcerated person. Discussions with the Executive Director also confirmed that KLS is not involved in this prohibited activity.

Comments to the DR did not address this finding.

Finding 32: Sampled cases complied 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.¹⁹ This restriction has been contained in all subsequent appropriations acts.²⁰ This new restriction is a strict prohibition from being involved in a case in which the program actually solicited the client. As stated clearly and concisely in 45 CFR § 1638.1: "This part is designed to ensure that recipients and their employees do not solicit clients."

None of the sampled files, including documentation, such as community education materials and program literature indicated program involvement in such activity. Discussions with the Executive Director also confirmed that KLS is not involved in this prohibited activity

Comments to the DR did not address this finding.

Finding 33: 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

¹⁹ *See* Section 504(a)(18).

²⁰ *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).

advocate, a legal right to suicide, euthanasia, or mercy killing, or advocate, or any other form of legal assistance for such purpose. *See* 45 CFR § 1643.3.

None of the sampled files reviewed involved such activity. Discussions with the Executive Director also confirmed that KLS is not involved in these prohibited activities.

Comments to the DR did not address this finding.

Finding 34: 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. Interviews conducted further evidenced and confirmed that KLS was not engaged in any litigation which would be in violation of Section 1007(b) (8) of the LSC Act, Section 1007(b) (9) of the LSC Act, or Section 1007(b) (10) of the LSC Act.

Comments to the DR did not address this finding.

IV. RECOMMENDATIONS²¹

As a result of this review and consistent with the findings of this report, it is recommended that KLS:

1. Use a compliance checklist that encompasses CSR requirements when closing cases to ensure all necessary information is documented in the file.

Comments to the DR did not address this recommendation.

2. Use consistent intake forms throughout the program.

Comments to the DR stated KLS is in the process of implementing a Virtual Private Network (VPN). This should be completed by mid January and will allow secure remote access to LegalTrek, the KLS CMS. This will allow those staff at remote intake sites to complete intakes in the CMS ensuring consistent intake throughout the process.

3. Ensure staff is trained on proper usage of closing codes.

Comments to the DR stated the LSC Grant Administrator will be working to ensure staff is trained on proper usage of closing codes. This will be accomplished during monthly teleconference meetings with field office database administrators and managing secretaries. KLS will also utilize our Customer Treatment and Orientation Training as its platform for these discussions.

²¹ 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

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

1. Ensure that advocates screen for income prospects pursuant to 45 CFR § 1611.7(a)(1).

The comments to the DR stated that inquiring as to an applicant's income prospects is part of the income screening process conducted by KLS Central Intake Staff. KLS further stated in its comments that to better document this process a field will be added to LegalTrek, the KLS case management system, to be checked by intake staff to indicate the prospective income inquiry has been made.

Implementation of the changes indicated in KLS' comments will assist in program compliance with the requirements of its own eligibility guidelines, as well as those contained in 45 CFR Part 1611. If LSC revises its interpretation of the portion of the regulation regarding screening of prospective income, programs will be advised.

2. Ensure that all PAI components provide adequate oversight and follow-up of referred cases pursuant to the requirements of 45 CFR § 1614.3(d)(3).

Comments to the DR stated that the KLS Retainer Contract Procedural Manual will be expanded to include pro bono components of the PAI plan. The Manual updates will be completed by March 31, 2009. Oversight and follow up of referred cases will be discussed at an upcoming staff teleconference. Requirements were also discussed at a recent meeting of field office managers.

3. Review all open cases to identify those that cannot be timely closed. Those cases identified as dormant should be closed in such a manner that they are not reported to LSC in the CSR submission. KLS must de-select appropriate cases from 2008 CSR and ensure that they are included in future CSR submissions.

Comments to the DR stated each field office managing attorney and the database administrator have been directed to review all current open cases to ensure that cases in which the activity has ceased in 2008 are closed in LegalTrek by the deadline given by the LSC Grant Administrator. Further comments stated that KLS utilizes two closed/advised dates within LegalTrek, the Administrative Closed/Advised Date and the LSC Closed/Advised Date. If during the review it is determined that the case activity ceased prior to January 2008, the Administrative Closed/Advised Date will reflect the current date as the date the case is being closed in LegalTrek and the LSC Closed/Advised Date will reflect the date the case activity actually closed. CSR submission is based on the LSC Closed/Advised Date.

4. Ensure that all cases reported to LSC document the legal advice or assistance provided to the client pursuant to CSR Handbook (2001 Ed.), ¶ 5.1(c).

Comments to the DR stated the LSC Grant Administrator utilizes several features within LegalTrek to identify cases that may not contain the appropriate documentation of legal advice or assistance. Cases identified as not containing the necessary documentation of service provided will be excluded from the 2008, as well as any future CSR reports.

KLS further commented that they will use the cases identified by the LSC team as lacking the necessary documentation to provide training and examples to case handlers and database administrators.

5. Cease the practice of paying \$200.00 sign-on bonus payments to private attorneys under the Retainer Contract Program. Any payments made to private attorneys in 2008 must be deducted from the 2008 PAI calculation.

Comments to the DR stated that the KLS Retainer Contract Procedural Manual will be expanded to include pro bono components of the PAI plan. The comments indicated that the Manual updates will be completed by March 31, 2009. The comments further stated that oversight and follow up of referred cases will be discussed at an upcoming staff teleconference and that the requirements were also discussed at a recent meeting of field office managers.

6. Take the KBF off the automatic payment module. Review KBF's quarterly invoices to ensure that expenses are accurate and appropriate before issuing payments, as required by 45 CFR § 1627.3(c).

Comments to the DR stated prior to 2008 the subgrant was between KLS and the Kansas Bar Foundation ("KBF"). Beginning with the 2007-2008 the subgrant is now between KLS and the Kansas Bar Association ("KBA"). The quarterly payment to the KBA was removed from the automatic payment module beginning with the payment made for the period ending September 30, 2008. The payment is now generated upon receipt and review of the quarterly report and billing provided by the KBA.

7. Update and revise its Accounting Manual to accurately reflect the new accounting policies and processes that have been implemented over the last three years as stipulated in the LSC Accounting Guide for LSC recipients.

Comments to the DR stated the KLS Accounting Manual will be updated to reflect the new accounting policies and processes that have been implemented over the last three years. The project is expected to be completed by July 1, 2009.

8. Segregate some of the duties the accountant and accounting assistant in order to ensure that no one individual simultaneously has both the physical control and the recordkeeping responsibility, as required by the Accounting Guide for LSC recipients.

Comments to the DR stated duties have been segregated between the accountant and accountant assistant and clarified in their 2009 job descriptions.

9. Ensure that screeners only substitute a notation of receipt of a means-tested government benefit for a total asset test when allowable by the program policy and LSC regulations.

Comments to the DR stated KLS Eligibility Guidelines will be revised to clarify the requirement of a total asset screening unless the applicant's **sole source** of income is from a governmental program for low income individuals or families. (Emphasis in original.) The revised guidelines will be submitted to the KLS Board of Directors at their January 16, 2009 meeting. All staff involved in client intake have been advised of the clarification. The LSC Grant Administrator will review all potential 2008 CSR cases marked Public Benefit Assets where the applicant/household has income from a source other than a governmental program for low income individuals or families to determine if assets can be documented in the file. If the assets cannot be documented these cases will be excluded from KLS' 2008 CSR.

10. Revise the citizenship attestation form used by law clinics to include a line for date of signature.

Comments to the DR stated the LSC Grant Administrator has requested the law clinics add a line to include the date of the citizenship attestation on their forms.

11. Demonstrate that the expenses listed as "Miscellaneous Expenses-Administration" for the years 2006, 2007, and 2008 are necessary and reasonable and reflect the actions that a prudent person would take in the circumstances.

Comments to the DR regarding miscellaneous expenses are included in the chart on pages 34-36 of this Final Report.